
(2006) 09 MAD CK 0317

In the Madras High Court

Case No : Writ Petition No. 36685 of 2006 and M.P. No. 1 of 2006

R. Krishnamurthy

APPELLANT

Vs

The Govt. of Tamil Nadu

RESPONDENT

Date of Decision : 29-09-2006

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2006) 09 MAD CK 0317

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : V. Sanjeevi, for the Appellant; G. Shankaran, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Jyothimani, J.—This petition is filed for a direction directing the respondents to reimburse the petitioner's medical expenses by sanctioning financial assistance for undergoing Heart Surgery in International Centre for Cardiac Thoracic and Vascular Diseases at Ambattur under Tamil Nadu Government Pensioners Health Funds Scheme as per G.O.Ms. No. 207 Finance (Pension) Department, dated 22.4.1997 to the petitioner without reference to the list of accredited institutions.

2. The case of the petitioner is that he is the member of the Tamil Nadu Government Pensioners Health Fund Scheme and admittedly as per the said scheme, the petitioner is entitled for reimbursement of the medical expenses spent by him subject to the maximum of Rs. 50,000/- or 75% whichever is less. Admittedly, the petitioner is the member of the said scheme and he has also undergone treatment. However, according to the petitioner, the claim of the petitioner is not considered by the respondents on the ground that he has undergone the said treatment in a hospital which is not accredited under the Government Order. It is also the case of the petitioner that even though at the time of undergoing the treatment, the institution was not accredited. Subsequently, it was approved. This issue has already been decided by the

Madurai Bench of this Court dated 22.03.2006 following the judgement of the Supreme Court in 1996 (1) SLR OF 786 in (Surjit Singh v. State of Punjab and Ors.) wherein it was held that the right of treatment was a right guaranteed under Article 21 of the Constitution of India and during the time of emergency, the petitioner cannot be expected to stand in the queue in the Government Hospital and the petitioner therefore had the right to take steps in self preservation.

3. In similar circumstances while dealing with the similar scheme, this Court by order dated 14.03.2005 passed in W.P. No. 1175 of 2004 in Radhakrishnan v. The Director General of Police and Anr. and also in W.P. No. 6318 of 2003 by order dated 18.08.2003 in D. Rajarathinam v. Management of Metro Transport Corporation Ltd., Chennai-2, held that the listing of hospitals cannot be the policy of the Government, when the purpose of the social legislation is to reimburse the amount of expenses which are incurred for having undergone the treatment. This Court has also taken a decision in the above referred cases that the policy of the Government is not relating to the fixing of the hospital but it can only be relating to the providing of medical treatment and therefore the amount incurred towards medical expenses were directed to be reimbursed, however to the extent to which the petitioner is eligible.

4. For the foregoing reasons, the writ petition stands allowed with a direction to the respondents 2 and 3 to make reimbursement and pay all medical expenses incurred by the petitioner in respect of Heart Surgery undergone by him, however, subject to the maximum limit to which he is entitled to as per the scheme if there is no legal impediment and pass orders within a period of eight weeks. No costs. Consequently, connected miscellaneous petition is closed.