
(2001) 05 P&H CK 0141
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7000 of 1999

Raghubir Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 03-05-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227

Citation : (2001) 05 P&H CK 0141

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. D.S. Rajput, for the Appellant; Miss Gurveen H. Singh, AAG, for the Respondent

Judgement

R.L. Anand, J.—Raghubir Kumar-petitioner has filed the present writ petition under Articles 226 and 227 of the Constitution of India against the respondents and he has made a prayer to this Court for the issuance of a writ in the nature of Mandamus directing the respondents, to reimburse the medical bill amounting to Rs. 92,7867- to the petitioner, which amount was incurred by him in connection with his disease pertaining to transplantation of kidney.

2. The case set up by the petitioner is that in the month of March/April, 1996, he was working as Warder in the Central Jail, Gurdaspur. He applied for allowing him the option of the "open medical" for the reasons that earlier he was suffering from kidney disease. The kidney disease flared up. Resultantly, he had to undergo an operation in which the transplantation of kidney took place at the PGI, Chandigarh. It is the case of the petitioner that the applied for open medical claim in the month of April, 1996. The petitioner had to incur huge expenses. He submitted his medical claim to the tune of Rs. 92,786/-. This bill was submitted along with the vouchers, prescriptions, hospital records by the hospital authorities but the Inspector General of Police rejected the claim of the petitioner for reimbursement of medical expenses to the tune of Rs. 92,786/- simply on the ground that the petitioner opted for open medical on 13.11.1996 and the present

claim of the petitioner is prior to this date. The petitioner alleges that since he was suffering from kidney disease and he had to undergo major operation, therefore, he was entitled to be operated in PGI Chandigarh irrespective of the fact that he did not make option prior to his operation.

3. Notice of the writ petition was given to the respondents who filed the written statement and denied the allegations. According to the respondents, the petitioner was operated upon between February and March, 1996. At that time, he was enjoying the benefit of fixed medical allowance. He applied for "open medical" allowance after his surgery on 12.9.1996 as per the policy of 1985. This prayer was granted to him on 13.11.1996 and, therefore, the petitioner is not entitled to any medical reimbursement for the period of earlier to 12.9.1996 when he remained an outdoor patient.

4. I have heard the learned counsel for the parties and with their assistance I have gone through the record of the case.

5. It is the common of the parties that earlier the petitioner was getting fixed medical allowance. It is also admitted that petitioner underwent major operation in the PGI when his kidney was transplanted. Though, it is a question of dispute as to when the petitioner applied for open medical allowance yet I will have to examine the contention of the learned counsel for the respondents that petitioner has applied for open medical allowance 12.9.1996 because I find no copy in the petition to show that he made a request somewhere in the month of April/May, 1996 before the department. The question still survives for determination is whether the petitioner can take the benefit of outdoor patient. Treatment in this connection was given prior to 12.9.1996 when he was enjoying the benefit of fixed medical allowance. Learned counsel for the respondents submitted that since the petitioner was getting the benefit of fixed medical allowance and he applied for the open medical allowance for the first time on 12.9.1996, he is not entitled to any benefit of the treatment which he has been getting as an outdoor patient. I do not subscribe to the arguments of the learned counsel for the respondents. The underlying object of fixed medical allowance is that he should be reimbursed against the petty expenses which he incurs from his own pocket in respect of minor diseases. We all know that these types of operations require sufficient funds which cannot be reimbursed from the fixed medical allowance is to the tune of Rs. 250/- per month.

6. In this view of the matter, I allow this petition and give directions to the respondent to give medical reimbursement of the bill of the petitioner towards outdoor expenses for the period prior to 13.11.1996 when the sanction was granted to the petitioner to switch over to the open medical. Necessary payment shall be made according to the rates of the PGI within 3 months from the date of receipt of the copy of this order. No order as to costs.

7. Petition allowed.