

(2007) 05 RAJ CK 0069
In the Rajasthan High Court

Raghunath Prasad Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 30-05-2007

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2007) 3 RLW 2459

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ashok Parihar, J.—Petitioner has been denied reimbursement of medical bills on the ground that the patient (wife of the petitioner) as taken to the A1IMS, New Delhi without seeking opinion of the Medical Board. Time and again this court as also the Apex Court have expressed anxiety in such matters. In the case of saving of a human life at a given point of time it is not expected of an attendant to indulge in all such formalities. Such procedure should not be expected to be followed in an emergency by the attendant of the patient. In case of grave emergency whichever hospital comes to the mind of the attendant and which hospital is considered just for saving the life of the patient is the prime consideration. Such decisions some times crucial for saving the life of an individual. If the conditions imposed by the respondents in their Scheme are applied so strictly, the end result may be disastrous and in the situation the patient may even die. It is only in normal circumstances the procedure prescribed should be followed but the procedure should also not be made so cumbersome that one may get frustrated in adhering to such procedure. Emergency knows no law and no procedures. The emergency act when required to be committed should not be weighted in terms of money especially when human life is at stake. In such circumstances, even the ultimate responsibility of the State cannot be washed out. A Division Bench of this Court at Principal Seat at Jodhpur in D.B. Civil Special Appeal No. 457/2001, State of Rajasthan v. Navratan Mal Mehta decided on 11.5.2004, has also observed that preserve

health and obtain medical aid in furtherance of self preservation is part of right of life under Article 21 of the Constitution of India and, in the given circumstances, the petitioner is also entitled for reimbursement of medical expenses irrespective of the place where the treatment has been received. Even this court, in the case of *V.D. Saxena v. State of Rajasthan* 2003 (3) RLR 629 had held that denial of reimbursement on technical grounds is nothing but arbitrary, unreasonable and unjust.

2. In a welfare State, the welfare of the people is frustrated just because of bureaucratic approach of the concerned authorities. A person having put in whole life in the services of the State till he attains the age of superannuation always require human considerations. Technicalities of rules and regulations are not required to be followed just in a mechanical manner so as to frustrate the very purpose of the Scheme. Each case has to be examined on its own facts before taking any final decision. While granting such benefits under beneficial schemes, financial constraints are also always secondary.

3. The court has further observed that health and medical assistance is part and parcel of right to life and liberty and it is fundamental duty of the State to provide such facilities to its citizen, more particularly, the retired government employees, who have throughout their service tenure been contributing to the Scheme. It is expected of the State Government to frame rules in regard to giving medical benefits to the retired government employees also so that no arbitrary discretion is left with the Board of Trustees and the Committees, which decide claims of the pensioners. While considering the Rajasthan Pensioners Medical Concession Scheme, this court in the case of *Dr. B.K. Gupta v. State and Ors.* SB Civil Writ Petition No. 3138/2005 decided on 22.3.2007, further affirmed the above view.

4. Having considered entire facts and circumstances, the stand taken by the respondents on the face of it appears to be wholly unjustified and shows nothing but insensitive bureaucratic approach of the concerned authorities.

5. Accordingly the writ petition is allowed. The respondents are directed to reimburse the entire amount to the petitioner in the present matter as per medical bills so submitted. The petitioner may also submit an affidavit along with an application regarding authenticity of the bills with a further undertaking that in case any of the bills so submitted by the petitioner is found forged, he is liable to refund the amount with interest. The amount, as ordered above, be paid to the petitioner within 30 days from the date of receipt of certified copy of this order. If any amount has already been paid, the same may be deducted from the amount still due. The respondents shall also pay a cost of Rs. 20,000/- to the petitioner along with the payment, as ordered above.