
(2000) 03 AHC CK 0111
In the Allahabad High Court
Case No : C.M.W.P. No. 9732 of 1999

Raghvendra Lal Srivastava

APPELLANT

Vs

Principal Secretary (Education) Government of Uttar Pradesh
and another

RESPONDENT

Date of Decision : 09-03-2000

Acts Referred:

Citation : (2000) 2 AWC 1526 : (2000) 2 UPLBEC 1505

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : Salil Kumar Rai, for the Appellant; S.N. Srivastava, S.C., for the Respondent

Final Decision : Allowed

Judgement

V. M. Sahai. J.

1. The petitioner is posted as Senior Assistant in the office of District Non-Formal Education Officer, Basti. He is a heart patient. He had to undergo open-heart surgery on 21.4.1993 at Sanjay Gandhi Post Graduate Institute of Medical Sciences, Lucknow (in brief SGPGI). He moved an application on 7.7.1993 to respondent No. 1 through District Basic Education Officer, Slddharth Nagar, claiming reimbursement of the amount spent by him on open-heart surgery in pursuance of U. P. Government Services (Medical Attendance) Rules. 1946, He submitted original receipts and documents in support of expenses incurred in the operation. The District Basic Education Officer forwarded the letter to the Additional Director of Education (Basic) Allahabad. When nothing was heard, the petitioner filed another application on 24.9.1993 which was forwarded by the District Basic Education Officer, Slddharth Nagar on 12.10.1993 who forwarded it to Additional Director (Basic) Allahabad to take appropriate action so that the claim of the petitioner could be settled. The Director of Education. U. P.. Allahabad with reference to the letter dated 12.10.1993 wrote a letter on 25.1.1994 to District Basic Education Officer, Slddharth Nagar, asking for the

records of the petitioner and the recommendation made by Director of Medical Health and Family Welfare, U. P. The petitioner along with letter dated 4.2.1994 addressed to Director Medical Health and Family Welfare. U. P., sent a photocopy of the receipts and other documents relating to surgery and expenses and prayed that he be reimbursed. This letter was forwarded by the Director to District Basic Education Officer. Siddharth Nagar by letter dated 8.2.1994. The Additional Director (Chikitsa Upchar) working in the office of Director, Medical Health and Family Welfare, U. P., Lucknow, by his letter dated 28.1.1995 recommended payment of Rs. 42,277 (Rupees forty two thousand two hundred and seventy seven only) out of Rs. 60,445.05 claimed by the petitioner, and this letter was sent to Additional Director of Education (Basic). Allahabad. The Assistant Director (Services). Directorate of Education. U. P. Lucknow, wrote to respondent No. 2 by his letter dated 4.12.1996 for expeditious disposal and payment to the petitioner in accordance with law. When no action was taken for more than a year by respondent No. 2. the petitioner sent another letter on 2.2.1998 requesting for reimbursement of his medical expenses. No action was taken by the respondents inspite of reminder dated 26.10.1998. Therefore, the petitioner filed the instant writ petition for issuing a direction to the respondents for reimbursement of the petitioner's medical expenses incurred by him in relation to open-heart surgery at SGPGI as far back in 1993.

2. Learned counsel for the petitioner Shri Salil Kumar Rai has urged that in spite of recommendation having been made by the Director of Medical Health and Family Welfare. U. P. Lucknow on 28.1.1995. the amount has not been released by the respondents to the petitioner arbitrarily. He, therefore, seeks a direction from the Court the payment of amount along with 18% Interest. On the other hand. Shri S. N. Srivastava learned standing counsel has urged that for non-payment of medical reimbursement to the petitioner, the respondents have already taken action and two officers have been suspended. It has further been stated in the counter-affidavit that duplicate copy of the letter of recommendation dated 28.1.1995 issued by the Director was got prepared and the matter has been referred to the State Government for sanctioning the amount.

3. When the petition came up for preliminary hearing before Hon'ble R. R. K. Trivedi J., he passed an order on 16.3.1999 directing the respondents either to pay a sum of Rs. 42,277 to petitioner or show cause within three months. But no payment has been made to petitioner. The respondents did not show cause within three months. A counter-affidavit was sworn by the Assistant Director. Series-2. Directorate of Education U. P., Allahabad on 31.7.1999. The facts stated in the petition are not disputed. The delay is explained in paragraph 3 (iii) of the counter-affidavit and it is stated that the recommendation and the letter of Assistant Director of Education (Basic), Gorakhpur, was sent to the Director of Education U. P., Allahabad on 19.7.1993 and it was received in the office of Director on 2.8.1993 but due to negligence of certain employees, it was misplaced. Consequently, two of the employees have been suspended and

duplicate copies have been sent on 12.5.1999 and 26.5.1999 and as soon as the sanction is received from the Government, the payment shall be made.

4. There is no dispute that the petitioner under the rules is entitled for reimbursement for open-heart surgery. It is further not disputed that even though the petitioner had claimed Rs. 60.445.05. the appropriate authority recommended for reimbursement of Rs. 42,277 only. The respondents themselves admit that the relevant papers were received by the Director of Education in 1993 but they were probably misplaced, may be deliberately, by the employees who have been suspended. Even the duplicate copies were made available and papers were sent in May, 1999 after the petitioner approached this Court for direction to State Government for reimbursement of medical expenses. This counter-affidavit was sworn on the last day of July, 1999 but there is no explanation for non-sanctioning the amount. The learned standing counsel could not make any statement even today whether the amount has been sanctioned. If not why. The petitioner is only an Assistant in the office. The open-heart surgery was performed in 1993. Even though the expenditure incurred was Rs, 60.445.05, the petitioner did not object to recommendation of Rs. 42.277 only, He is running for more than six and half years for reimbursement of the amount spent by him on his medical treatment. Since there is no explanation, It has to be accepted that petitioner is entitled to the amount recommended by the Additional Director (Chikitsa Upchar). Lucknow. It appears due to long delay, the responsibility is being avoided. This is not fair to the petitioner. It is unfortunate that even when there is no dispute, the authorities for the reasons best known to them are not acting promptly. This leads to unnecessary litigation and expenses. This Court directed the respondents to pay within three months, or show cause. The respondents did not pay due attention to this order. In any case, the papers having been forwarded in May, 1999. there appears no justification for sanctioning authority to keep quiet. There is no option but to direct respondents to make payment of the recommended amount immediately.

5. Learned counsel for the petitioner claims that on a sum of Rs. 42,277. he is also entitled for interest at the rate of 18% per annum which is opposed by the learned standing counsel. The delay in payment is due to the conduct of the employees in the respondents office. The papers were received In 1993 In Directors office but no action could be taken for six years. The employees have no doubt been suspended but that does not redress the grievance of the petitioner. He has to be compensated for this delay. In any case, once the Director of Medical Health and Family Welfare, U. P., Lucknow. approved this amount in 1995. It was the responsibility of the authorities to ensure its payment. In my opinion Interest of Justice will be served If an Interest of 12% per annum is awarded to the petitioner from the date the Additional Director (Chikitsa Upchar). Lucknow, recommended the amount of medical reimbursement.

6. In the result, the writ petition succeeds and is allowed. Writ of mandamus is

issued to respondent No. 1 to sanction sum of Rs. 42.277 medical reimbursement to the petitioner along with 12% interest and pay it within a period of two months from the date a certified copy of this order is produced before respondent No. 1. It is clarified that 12% interest payable to the petitioner shall be calculated from 28.1.1995, when the Additional Director (Chikitsa Upchar). Lucknow, recommended the medical reimbursement.

7. The petitioner shall be entitled to his costs.