
(2004) 04 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3035 of 2001

Raj Pal Wadhawan

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 28-04-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2004) 137 PLR 869

Hon'ble Judges : Surya Kant, J

Bench : Single Bench

Advocate : Ashok Sharma Nabhwala, for the Appellant; Rupinder Kaur Wasu, Addl.A.G., for the Respondent

Final Decision : Allowed

Judgement

Surya Kant, J.—The petitioner has knocked the door of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release medical reimbursement of seven bills pertaining to the period from September 3, 1999 to September 12, 2000 amounting to Rs. 101771/- alongwith interest @18% per annum

2. The petitioner retired on attaining the age of superannuation from service on 30.4.1991 when he was holding the post of Joint Director Local Department, Government of Punjab. His wife Smt. Pushpa Wadhawan suffered acute renal failure and was put on dialysis in March, 1999; the wife of the petitioner was admitted on August 5, 1999 at Ram Saran Dass Kishori Lal Charitable Hospital, Amritsar and surgery was performed upon her on August 7, 1999 thereby transplanting her kidneys; she was discharged from the hospital on August 16, 1999 and in the follow up card, the doctors attending on her, prescribed post operational medicines, which are required to be taken by the patient strictly and continuously; that the Punjab Government had issued instructions on 13.2.1995 (Annexure P2) for reimbursement of the medical expenses for out-door treatment of chronic diseases as well as for the reimbursement of indoor

treatment in private hospitals; the medical bills from March, 1999 till September, 1999 were reimbursed by the respondents but the subsequent 7 bills for an amount of Rs. 101771/-, the details of which are given in para 5 of the writ petition were returned with an objection that these bills do not pertain to indoor treatment, hence the medical reimbursement was inadmissible; whereas out of the seven bills in question, 5 have been duly countersigned by the Civil Surgeon, Amritsar and have also been cleared by the District Medical Board, the last two bills have not been accepted; the Medical Board examined the patient, namely the wife of the petitioner and issued a certificate dated 28.11.2000 (Annexure P10) of complicated chronic disease after check-up; the petitioner's claim regarding reimbursement of the post operational expenses is fully justified yet the respondents have refused to reimburse the same in a totally arbitrary and illegal manner.

3. Upon notice written statement has been filed on behalf of respondents No. 1 and 2. A preliminary objection has been taken that the period in question pertains to the outdoor treatment, therefore, no reimbursement is admissible in terms of the instructions issued by the Government of Punjab on 31.12.1997 (Annexure R1), as according to these instructions, it has been decided to grant Fixed Medical Allowance to the employees and pensioners @ Rs. 250/- per month w.e.f. 1.1.1998 onwards; CWP No. 12122 of 1999, which was instituted on somewhat similar facts was allowed by a learned Single Judge directing the payment of medical expenses incurred as an out-door patient w.e.f. 1.1.1998 onwards and that the review application moved by the State of Punjab was also dismissed by the learned Single Judge. Thereupon, LPA No. 931 2001 titled as State of Punjab v. Dr. Satnam Singh Walia, was filed, which was admitted but no ad-interim stay in relation to the judgment of the learned Single Judge was granted. On merits, it is averred that the claim of the petitioner has been rejected in view of the later instructions dated 31.12.1997 (Annexure R-1) and not on the basis of previous instructions dated 13.2.1995 (Annexure P-2). According to the respondents medical reimbursement claim relating to post-operational expenses is not admissible and that the Civil Surgeon, Amritsar is not the final authority to counter sign the bills.

4. I have heard Mr. Ashok Sharma Nabhewala, learned counsel for the petitioner and Mrs. Rupinder Kaur Wasu, Addl. Advocate General Punjab for the respondents and have perused the record.

5. During the course of hearing, Mr. Nabhewala learned counsel for the petitioner argued that the subsequent instructions issued by the Government of Punjab dated 31.12.1997 (Annexure R-1) have already been subjected to judicial review of this Court in the case of Dr. Surekha v. State of Punjab 1999(3) R.S.J. 294, wherein a learned Single Judge of this Court accepted the claim regarding reimbursement of medical expenses incurred w.e.f. 1.1.1998 onwards; for out-door patients; notwithstanding the embargo sought to be put up by the State in terms of the afore-mentioned instructions.

6. On the other hand, Mrs. Wasu, submits that though a learned Single Judge in Dr. Surekha's case (supra) as well as another learned Single Judge in CWP No. 12122 of 1999 Dr. Satnam Singh Walia v. State of Punjab, have taken the view that no distinction can be made between the persons who have undergone treatment whether as out-door patients or as indoor patients and that somewhat similar claims though have been accepted in the above stated two cases, in view of the pendency of the Letters Patent Appeal preferred by the State in the later case, this Court may not accept the pre-mature claim of the petitioner.

7. I am however not been impressed by the submission made on behalf of the respondents and find that the learned Single Judge in Dr. Surekha's case (supra) substantiated his view by following a Division Bench judgment of this Court in Ravi Kant v. State of Haryana and Ors. (1998)120 R.L.R. 160 as well as a Single Bench judgment in Renu Saigal v. State of Haryana (1998)120 P.L.R. 660 from another unreported Division Bench judgment in Jaqsir Singh Sandhu v. Punjab State Electricity Board, in C.W.P. No. 15938 of 1998, decided on 1.2.1999. In my view, there exist no reason either in law or in equality for keeping the matter pending to await the decision in LPA No. 931 of 2001 when the LPA Bench has already declined to grant ad-interim stay regarding operation of the judgment of the learned Single Judge challenged in that Letters Patent Appeal. I am of the view that the present case, which is otherwise squarely covered by the dicta of the afore-mentioned two Single Bench judgments should also be allowed in the same terms.

8. That apart, the distinction carried out by the State Government "indoor" and "outdoor" patients in its instructions dated 31.12.1997 (Annexure R1) for the purposes of reimbursement is simply too artificial as it fails on the dictum of "equality" when examined on the touch-stone of Article 14 of our Constitution and does not satisfy the ingredients of "reasonable classification." It is true that a welfare State, depending upon its means and resources, will be within its right to restrict the scope and enlargement of its beneficial schemes. However, having taken a conscious decision to extend a particular benefit, only an artificially carved out class of people can not be allowed to harvest the fruit whereas the same is denied to similarly situated persons.

9. For the reasons stated above, this petition is allowed. The respondents are directed to release the medical reimbursement in relation to seven bills pertaining to the period from 3.9.1999 to 12.9.2000 amounting to Rs. 1,01,771/- within a period of three months from the date of receipt of a certified copy of this order, failing which the respondents shall also be liable to pay interest thereupon @ 9% per annum of claim till the date of actual payment. No costs.