

(2016) 12 PAT CK 0033

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.15695 of 2013

Rajendra Prasad Singh

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 05-12-2016

Acts Referred:

Bihar Medical Attendance Rules, 1947 — Rule 26

Citation : (2017) 1 PLJR 307

Hon'ble Judges : Mr. Shivaji Pandey, J.

Bench : Single Bench

Advocate : Mr. Shambhu Sharan Singh, Advocate, for the Petitioner; Mr. Anjani Kumar, AAG-4 and Mr. Sanjay Kr. 2, AC to AAG-4, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Shivaji Pandey, J.(Oral) - Heard learned counsel for the petitioner and counsel for the respondents.

2. In this case, the petitioner is seeking relief for reimbursement of the cost what he has incurred in the surgery treatment of gall bladder of his wife at R.G. Stone Hospital, New Delhi.

3. The petitioner is an employee of the State Government governed by the Bihar Medical Attendance Rules. As per Rule 26, the scope of granting relief for reimbursement of the cost of treatment has been widened which empowers the State Government to reimburse the cost of treatment by the State, inasmuch as, relax the coverage against those who are not covered under that Bihar Medical Attendance Rule. It is not in dispute that the wife of the employee is entitled to the reimbursement of the cost of treatment from the State. She had fallen ill on account of some problem in the gall bladder, got her treatment at the hospital, namely, R.G. Stone Hospital, New Delhi, there Rs. 60,000/- cost was incurred. The petitioner has been denied relief on two grounds, first before going for treatment, permission was not taken from the State Government and, secondly,

the Hospital where she was treated was not a authorised hospital for treatment, accordingly, the relief has been refused.

4. In the counter affidavit, the State has not taken same stand. One thing is very important, when a person suffers from serious disease such as heart attack, cancer, kidney problem or other serious disease, he cannot wait for permission of the State Government and only act will be that he will rush for treatment in the proper hospital even if that hospital is not authorised, whatever rate has been fixed in the authorised hospital to that extent reimbursement has to be given by the State Government. First ground that the petitioner has not obtained prior permission is of no substance. As it has been stated that the wife of the petitioner was suffering from serious disease and, in an emergent situation, the life saving was more important than to wait for permission. She was admitted, got treatment at New Delhi hospital. In such a situation, refusal of reimbursement is completely dehors to the scope and scheme of Bihar Government Attendance Rule. This issue has been gone into on many occasions by this Court such as in the case of Arun Kumar Mishra v. The State of Bihar & Ors. reported in 2011(3) PLJR 264; Nilima Ambestha v. State of Bihar & Ors., 2011(3) PLJR 517; Pushpa Sinha v. The State of Bihar & Ors., 2011(3) PLJR 588 and Dr. Onkareshwar Prasad v. The State of Bihar & Ors. 2011(3) PLJR 948. In all the judgments, in one voice this Court said that the medical treatment is first, permission is the second. In that view of the matter, the State Authorities can grant the post facto permission after proper verification of the material that was brought by the petitioner.

5. Accordingly, this Court directs the respondents to verify the record which has been filed by the petitioner and if it is found that she has been treated in the aforesaid hospital, reimbursement should be given at the rate prescribed by the authorised hospital. If this hospital has been authorised, certainly whatever amount has been incurred, would be reimbursed.

6. All the process should be completed within a period of two months from today.

7. With the aforementioned observation and direction, this application is disposed of.