(2005) 08 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 14426 of 2003

Ram Karan — APPELLANT

Vs

Managing Director, Pepsu Road Transport Corporation and Another — RESPONDENT

Date of Decision : 16-08-2005

Acts Referred:
Constitution of India, 1950 — Article 21

Citation : (2005) 141 PLR 580

Hon'ble Judges : S.S. Nijjar, J;Nirmal Yadav, J

Bench : Division Bench

Advocate : R.S. Chauhan, for the Appellant; Arun Nehra, for the Respondent

Final Decision : Allowed

Judgement

Nirmal Yadav, J.—Can the Pepsu Road Transport Corporation (in short ''PRTC'') which is controlled and ran by the State of Punjab take the plea of financial stringency as a ground for not implementing the instructions issued by the State of Punjab in respect of reimbursement of medical expenses, is the precise question for consideration in the present writ petition.

2. The petitioner was appointed as Conductor in the P.R.T.C. in the year 1958. He was promoted as Inspector on 25.9.1976. He was retired from the services of the Corporation on attaining the age of superannuation on 31.5.1999. The petitioner was suffering from heart problem. He was admitted to All India Institute of Medical Sciences, New Delhi. Angiography was conducted on him on 21.11.2000. He was duly reimbursed the medical expenses incurred on the aforesaid treatment. The petitioner was diagnosed to be suffering from the disease known as ''Cardiomyophathy (Myocardial Infarction)'', which is a chronic disease. He was getting treatment regularly from the Rajindera Hospital, Patiala as an outdoor patient. A certificate to this effect dated 21.2.2001 was issued by Dr. Manmohan Singh, Head of Department of Cardiology, Rajindra Hospital, Patiala which was renewed on 7.3.2002. The petitioner submitted medical bills on

27.9.2002, 8.10.2002, 9.11.2002, 8.1.2003, 9.2.2003, 9.3.2003 and some more thereafter in respect of the expenses incurred on his treatment. Out of the aforesaid medical bills, some of the bills amounting to Rs. 1 1,616/-, Rs. 990/-, Rs. 1072/- and Rs. 2062/- were not reimbursed to the petitioner. The petitioner approached the respondents and made a detailed representation for reimbursement of the amount spent on his treatment. The also sent a legal notice on 14.8.2002 (Annexure P1)

3. The Government of Punjab, Department of Health and Family Welfare (Health Branch) issued instructions dated 1.9.2000 (Annexure P2) for treatment of complicated chronic diseases as out-door patient. As per Annexure A to the said instructions, complicated chronic diseases have been enlisted. Cardiomyopathy (Myocardial Infarction) from which the petitioner is suffering, is one of the complicated chronic diseases mentioned in the aforesaid Annexure-A. As per the instructions, the expenses incurred on outdoor as well as on indoor treatment exceeding Rs. 6,000/- per annum are reimbursable subject to the conditions mentioned therein. In spite of the instructions, the respondents have not reimbursed the expenses incurred by the petitioner on his treatment.

4. The respondents in their written statement have admitted most of the averments made in the writ petition. However, it is stated that the employees/ pensioners of P.R.T.C. are being paid fixed medical allowance of Rs. 250/- per month with effect from 1.1.1998 as per the instructions issued by the Punjab Government vide circular dated 31.12.1997. Apart from the fixed medical allowance, the Punjab Government vide instructions dated 1.9.2000 had been allowed reimbursement of medical expenses exceeding Rs. 6000/- per annum to its employees. However, the respondent-Corporation has not implemented the above instructions on account of its weak financial position and accordingly, the claim of the petitioner for reimbursement of medical expenses incurred by him as an out door patient has been rejected by the Corporation.

5. Learned Counsel for the petitioner argued that the respondent Corporation has adopted and implemented all the instructions issued by the State of Punjab. Even the fixed medical allowance is paid to all its employees/pensioners as per the instructions issued by the Punjab Government. The only plea taken by the respondent-Corporation while rejecting the petitioner''s claim is that due to financial constraints, it is unable to reimburse the expenses incurred by the petitioner on his medical treatment as an outdoor patient. The Corporation which is controlled and run by the State Government cannot take the plea of weak financial position for grant of fundamental rights of the citizens. In support of his argument, learned Counsel for the petitioner referred to a number of decisions of this Court in cases of Surjit Singh v. Managing Director, Pepsu Road Transport Corporation and Ors., C.W.P. No. 5364 of 2003, decided on 01.02.2005; Ravi Kant v. The State of Haryana and Ors. 1998(3) R.S.J. 705 C.B. Gupta Vs. State of Haryana and Others, ; Sat Parkash Arora v. State of Haryana 2001(1) R.S.J. 185 and Renu Sehgal v. State of Haryana 1998(4) R.S.J. 557.

6. On the other hand, the respondent-Corporation submitted that the instructions dated 1.9.2000 cannot be implemented on account of weak financial position of the Corporation.

7. We have heard the learned Counsel for the petitioner and perused the material on record.

8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the ''right to live'' of every individual. The term ''life'' as mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of Chameli Singh and others etc. Vs. State of U.P. and another, , has held as under:

"In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society.

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Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being.."

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for

not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, Ratlam (1980)4 S.C.C. 163 Dr. B.L. Wadehra Vs. Union of India and others, , All India Imam Organization and others Vs. Union of India and others, , Kapila Hingorani v. State of Bihar, 2003 (3) R.S.J. 42. As far as back as in the year 1993, the Apex Court in All India Organisation''s case (supra) observed as under:

"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created."

10. We are surprised at the insensitive attitude adopted by the respondent-Corporation in respect of its own employees/pensioners. An employer is not only to look forward to the economic growth but also to look after the welfare of its employees including health, social security and other human needs. It is the obligation of the State or its functionaries to work within the scope of their authority to combat and overcome the miseries of its employees. The Courts in such a situation are obligated to issue necessary directions to mitigate the extreme hardship of the employees involving violation of their human rights by the State or its functionaries like the respondent-Corporation, which are fully controlled by it.

In view of the discussion made above, the writ petition is allowed. The respondents are directed to disburse the amounts spent by the petitioner on treatment of his complicated chronic disease within a period of one month from the date of receipt of a certified copy of this order.

