
(2001) 07 PAT CK 0134
In the Patna High Court
Case No : C.W.J.C. No. 8813 of 2001

Ram Narayan Sah

APPELLANT

Vs

Sate of Bihar and Others

RESPONDENT

Date of Decision : 20-07-2001

Acts Referred:

Medical Attendance Rules — Rule 26

Citation : (2001) 3 PLJR 621

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Bindhyachal Singh and Umesh Kumar, for the Appellant; J.D. Singh, for the Respondent

Judgement

Aftab Alam, J.—The Petitioner is a Class III employee under the State Government and at the material time he was posted as the Revenue Clerk (Karamchari) in the circle office, Jehanabad. In November, 1996 he suffered from some heart problem and on the advice of the local Doctor he came to Patna and was admitted in the Indira Gandhi Institute of Cardiology, PMCH. From the Indira Gandhi Institute of Cardiology, PMCH he went to Delhi and was treated at the All India Institute of Medical Sciences. The reference of his case for treatment at the All India Institute of Medical Sciences was made on the basis of the certificate of the authorised Medical Officer, a copy whereof is at Annexure-10 to the supplementary affidavit. It is, however, admitted that the Petitioner was not examined by a Medical Board for reference of his case to All India Institute of Medical Sciences. But according to the Petitioner it was an emergency and there was no time for making any request for constitution of the Board and then waiting for the report of the Board.

2. It is the case of the Petitioner that he incurred an expense of about Rs. 75,000/- in his treatment at the All India Institute of Medical Sciences, New Delhi and he accordingly made a request for reimbursement of the medical expenses after grant of post facto sanction for his treatment outside the State.

3. Mr. Bindhyachal Singh, learned Counsel appearing for the Petitioner plainly admitted that under the Medical Attendance Rules framed by the State Government normally it was not permissible to claim reimbursement of medical expenses for treatment outside the State but the learned Counsel submitted that it was still within the discretion of the State Government to relax the provisions of the Medical Attendance Rules and to allow reimbursement of medical expenses incurred by the Petitioner and in this regard he invited my attention to Rule 26 of the Medical Attendance Rules which is as follows:

26. Power of Government to grant concessions relating to medical attendance or treatment not authorised by these rules,--Nothing in these Rules shall be as preventing the State Government from granting to any person to whom they apply any concession relating to medical attendance or treatment which is not authorised by these Rules.

4. Counsel for the Petitioner also relied upon a notification, dated 7.7.1987 which allowed treatment outside the State under certain circumstances.

5. Mr. Singh also brought to my notice an earlier order passed by this Court in *Vandana Kumari v. State of Bihar* and Ors. 1991 (1) PLJR 475 wherein this Court had asked the Government to exercise the discretion and to disburse the expenses for the treatment of the daughter of the Petitioner in that case. The decision cited by Mr. Singh was rendered on an entirely different set of facts and that decision does not seem to have any application to the facts of the present case.

6. Learned Counsel is, however, correct to the extent that in terms of Rule 26 of the Medical Attendance Rules, the claim of the Petitioner is required to be examined by the Government and the Government is obliged to take a decision on the Petitioner's request for, the reimbursement of his medical expenses.

7. It is stated that the Petitioner has already made such a request by filing a representation before the Director-in-Chief Health and Family Welfare, Patna, Bihar. Copies of the representations dated 13.6.1997, 14.8.1999 and 10.4.2001 are at Annexures-5, 5/A and 8.

8. On hearing counsel for the parties this writ petition is disposed of with a direction to the Director-in-Chief, Department of Health and Family Welfare to have the Petitioner's claim duly examined and to pass appropriate orders on his representation without any undue delay and preferably within two months from the date of receipt/production of a copy of this order. In case the Petitioner's representation/claim is disallowed the Director-in-Chief will pass a speaking order briefly assigning the reasons for his decision.