
(2014) 12 RAJ CK 0017
In the Rajasthan High Court
Case No : .CWrit Petition No. 7638 of 2011

Rameshwari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2015) LabIC 1092

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : S.D. Goswami, Advocates for the Appellant; Manoj Bhandari, Advocates for the Respondent

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner seeks a direction to be issued to the respondents to reimburse the medical expenses occurred on account of treatment of her husband Shri Ram Kumar. The petitioner's husband Shri Ram Kumar Sharma was an employee of Vidhyut Vitran Nigam Ltd. It is stated in the petition that while Shri Ram Kumar was in service, he suffered cardiac pain and was admitted at the Vivekanand Hospital, Bhadra from 14.4.2009 to 19.4.2009. Since, there was no facility to treat cardiac ailment at Bhadra, he was shifted to the Life Line Hospital, Hisar (Haryana). He remained admitted in the CCU of the said hospital from 19.4.2009 to 25.4.2009 but without improvement in his condition. In this situation, as a life saving measure the petitioner's husband was referred to Fortis Escorts Hospital, Jaipur where he remained admitted between 25.4.2009 to 7.5.2009. Under medical advise, he was subjected to surgical procedure of Mitral Valve Replacement Surgery. The petitioner's husband had earlier visited the Fortis Hospital in March 2009 as he suffered cardiac pain while visiting Jaipur. He was advised Mitral Valve Replacement surgery. Thus, he moved an application before the Assistant Engineer, Jodhpur DISCOM Bhadra requesting him to sanction advance medical expenses for his heart operation with an estimate slip dated 21.3.2009. The Superintending Engineer, Hanumangarh forwarded a letter dated 17.4.2009

Annex. 2 to the Deputy Director Personal (HQ), Jodhpur who in turn forwarded it to the Chief Account Officer, Jodhpur for sanction of medical advance to the tune of Rs. 2,20,000/- but the same was returned back vide letter dated 23.4.2009 with various objections.

2. On 7.5.2009 the petitioner's husband passed away. The petitioner served a legal notice on the respondents for granting medical reimbursement but without any response. Being dissatisfied with the inaction of the respondents, the petitioner has approached this Court by way of this writ petition.

3. Counsel for the petitioner submits that the petitioner's husband was suffering from RHEUMATIC Heart Disease, Severe Mitral Stenosis Severe Mitral Regurgitation, Moderate Tribunal with normal LV function. He was advised by the Doctors to undergo emergent Mitral Valve Replacement Surgery but he was not granted medical advance. He further submits that Fortis Escort Hospital, Jaipur is an approved hospital with code number 425 and it is shown at Sr. No. 28 of list of approved hospitals (Annex. 6) for the employees of Jaipur DISCOM and thus reimbursement of the medical expenses incurred by the employee of any of the subsidiary companies of the Vidhyut Vitran Nigam Ltd. at the said hospital has to be granted.

4. Counsel for the petitioner relies upon the decision rendered by this Court in the case of Jawahar Lal Bohra v. State of Rajasthan being S.B. Civil Writ petition No. 6350/2005 decided on 26.3.2014 wherein this Court held that apparently and avowedly, the medical attendance Rules providing for reimbursement of the medical expenses to the Government servant and retired pensioners, is a beneficial and welfare legislation meant for the welfare of the Government servants and, therefore, a liberal, sympathetic and objective interpretation for the applicability of these Rules, has to be made by the Courts and a pedantic or narrow approach of the matter would not subserve the interest of justice. In the aforesaid case the employee concerned was allowed reimbursement of medical expenses in terms of the Rajasthan Civil Services (Medical Attendance) Rules, 1970 in almost similar circumstances. Learned counsel thus prays that the writ petition be accepted and while setting aside the impugned orders Annexure-6 and Annexure-8, the respondents be directed to reimburse the petitioner's medical bills in accordance with sub-clause (3) of Rule 10 of Rules of 2008.

5. Mr. Bhandari, learned counsel appearing for the DISCOM vehemently opposed the submissions advanced by the learned counsel for the petitioner and urged that the petitioner was not entitled to get reimbursement of the medical bills as her husband's treatment was not undertaken in an approved hospital.

6. I have heard learned counsel for the parties and have gone through the material available on record.

7. It is evident that in the list Annexure-6 annexed with the writ petition, Fortis Escort Hospital, Jaipur is shown as one of the hospitals approved for the employees of Jaipur DISCOM. Vide order Annexure R/1 dated 30.8.2002 the

Board of Directors, Jd. V.V.N.L. adopted the following resolution to deal with the medical claims of its employees:--

"The Board of Directors, Jd. VVNL in its 24th meeting held on 12.08.2002 has decided to allow the re-imburement of expenses incurred by an employee for treatment of himself/herself or members his/her family of such a disease treatment of which is available in the Govt. Hospital within the State but the employee opts to take treatment in a hospital/institution (other than a Govt. Hospital) within/outside the State.

Reimbursement of such expenditure shall be subject to the following conditions:--

"(i) The amount to be reimbursed shall be restricted to the extent of the estimated amount indicated in the certificate to be issued by the Principal of Govt. Medical College/Director, Medical & Health Services to expenditure for similar treatment taken at a Govt. Hospital.

(ii) In case the treatment is not taken in a Govt. Hospital in the State at the patient's choice, the reimbursable amount would be equivalent to expenditure admissible in the Govt. Hospital. The hospitals at which treatment may be taken and the diseases identified for such treatment shall be the following:--

A. Hospitals

1. Santokba Durlabhji Memorial Hospital Jaipur.
2. Bhagwan Mahaveer Center Hospital & Research Centre, Jaipur.
3. Monilek Hospital & Research Center, Jaipur.
4. Tongia Hospital & General Hospital, Jaipur.
5. AIJMS, New Delhi.
6. Escort Hospital & Research Centre, New Delhi.
7. Apollo Hospital, Delhi.
8. Tata Memorial Hospital, Mumbai.
9. Vellore Hospital, Madras.
10. Bhandari Hospital, Jodhpur.
11. Goyal Hospital & Research Centre Pvt. Ltd., Jodhpur."

8. In the list of approved hospitals set out in the order, the name of Fortis Hospital does not appear. Thereafter the order Annexure R/2 dated 15.12.2008 was issued empanelling few more hospitals. In the said list also the name of Fortis Hospital does not appear. The respondents have taken a stance that Fortis Escort Hospital was not in the approved list between 25.4.2009 to 7.5.2009, the duration in which the petitioner's husband underwent the treatment. However, the fact remains that the list Annex. 6, which is annexed with the instant writ

petition, is not disputed by the respondents in the reply. If the respondents intended to demonstrate to this Court that Fortis Escort Hospital was not in the approved list of the hospitals, they could have controverted the averments raised in the writ petition in reference to the list Annex. 6. In reply to the ground (b) of the writ petition, wherein the list Annex. 6 is referred to, the respondents have taken a simple stance that the said hospital is in the approved list of Jaipur Vidhyut Vitran Nigam Ltd. and not Jodhpur Vidhyut Vitran Nigam Ltd.

9. Vide Annex. R/2, which was issued on 15.12.2008, Jodhpur Vidhyut Vitran Nigam Ltd. has empanelled a number of hospitals in its list of approved hospitals at Jaipur. However, the respondents are silent as to which of the hospitals were approved for the employees of Jodhpur Vidhyut Vitran Nigam Ltd. during the period in which the petitioner's husband remained admitted in the Fortis Hospital. Furthermore, as per the resolution Annex. R/1, whereby the Board of Vidhyut Vitran Nigam Ltd. took a decision for reimbursement of the medical expenses incurred by an employee, all that is required is that in case, the treatment is not taken in a Government hospital in the State at the patient's choice, the reimbursement amount will be equal to the expenditure incurred in the Government hospital.

10. The respondents have not disputed that they adopted the list Annex. 6 for the employees of Jaipur Vidhyut Vitran Nigam Ltd. Since the order Annex. R/1 refers to the employees of Vidhyut Vitran Nigam Ltd. as a whole, it would be highly unjust, arbitrary and violative of Article 14 of the Constitution of India to deny the benefits of list Annex. 6 to any of the employees working in the subsidiary companies of Vidhyut Vitran Nigam Ltd., be it Jodhpur Vidhyut Vitran Nigam Ltd., Ajmer Vidhyut Vitran Nigam Ltd. or Jaipur Vidhyut Vitran Nigam Ltd.

11. The fact remains that at Bhadra, where the petitioner's husband was posted there was no facility for treatment of cardiac ailment. Further, fact remains that the petitioner's husband was admitted at Government Hospital, Bhadra in the serious cardiac condition in an emergency. He expired very shortly thereafter. The Superintending Engineer, Hanumangarh recommended reimbursement of expenses incurred towards the treatment of Ram Kumar at Fortis Escort Hospital vide order Annexure-2. As per the order Annexure R-1 reliance whereof has been placed in the reply, the reimbursement of the expenses is only permissible to the extent of expenditure for similar treatment taken at Government Hospital. Thus, it is clear that if an employee chooses to take treatment at better facility then he should not be deprived of reimbursement of the medical expenses to the extent which would have been spent for similar treatment in the Government hospital.

12. In the case of Jawahar Lal Bohra v. State of Rajasthan being S.B. Civil Writ Petition No. 6350/2005 Jawahar Lal Bohra v. State of Rajasthan & Ors. decided on 26.3.2014, this Court directed complete reimbursement to the employee for the expenses borne by him for the treatment of his heart ailment at Asian Heart Institute, Mumbai. In the case at hand the respondents' unreasonable stance has resulted into a widow of a former employee being made to run from pillar to

post from reimbursement of the expenses borne in the treatment of her husband for the last nearly five years. It is indeed painful that after losing her husband while he was undergoing treatment, the petitioner has been victimised by the stubborn hard headed attitude of the company's officers in not reimbursing the medical expenses incurred towards her husband's treatment. There was no justification for the denial whatsoever. The conduct of the respondent authorities in taking a harsh unreasonable attitude in denying the petitioner, reimbursement of her medical expenses deserves to be deprecated. Furthermore for the period during which the reimbursement was not paid to the petitioner, she is entitled to receive interest as well.

13. Accordingly, while accepting the writ petition, it is hereby directed that the respondents shall forthwith reimburse the amount of medical expenses borne in the treatment of the petitioner's husband at the Fortis Escort Hospital, Jaipur in terms of Annexure R/1. The medical expenses shall be reimbursed at the rates prescribed for similar treatment at the recognised Government hospital for the relevant period. Reimbursement shall be made to the petitioner within a period of four weeks from the date of receipt of copy of this order. Furthermore, the amount paid to the petitioner shall also carry interest @ 9% w.e.f. the date on which the bill was presented to the date of realisation. If the payment is delayed beyond the period of four weeks, the amount due shall carry interest @ 12%. No order as to cost.