
(2019) 03 MP CK 0030
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 1810 Of 2018

Ramsingh

APPELLANT

Vs

State Of Madhya Pradesh And Another

RESPONDENT

Date of Decision : 07-03-2019

Acts Referred:

Citation : (2019) 03 MP CK 0030

Hon'ble Judges : S.C.Sharma, J;Virender Singh, J

Bench : Division Bench

Advocate : Arpit Oswal, Abhishek Tugnawat

Final Decision : Allowed

Judgement

1. The appellant before this Court, a Government Servant, serving on the post of Deputy Commandant, posted at Rustamji Armed Police Training College, Indore came up before this court by filing a writ petition bearing WP No.14825/2018, claiming total amount of expenditure incurred by him towards his treatment. His medical claim was partly rejected vide order dated 30.11.2017.
2. The facts of the case reveal that during the pendency of the writ petition, the respondents came up with a plea that they have recalled the order dated 30.11.2017 and they have passed some other order dated 23.05.2018, and in those circumstances, the petition was dismissed as infructuous.
3. The learned single judge has dismissed the writ petition as infructuous, in light of the fact that the impugned order was recalled by the respondents. The learned single judge has not considered the issue relating to other reliefs prayed by the petitioner.
4. The fact of the case reveals that while the petitioner was posted as Assistant Commandant in the Fire Services Department, received a call on 24.04.2017 and immediately rushed to the spot, and received a massive heart attack. He was hospitalized to a nearby hospital namely Union Super Specialty Hospital for

treatment. He was admitted in ICU and Angioplasty was carried out. He submitted bills to the tune of Rs.2,00,218/- to the respondents and by order dated 30.11.2017, the claim of the petitioner was rejected.

5. The respondents have passed an order for payment of Rs.54,000/- to the petitioner inspite of the fact that bill was to the tune of Rs.2,00,218/-. As stated earlier, during the pendency of the writ petition, the order dated 30.11.2017 was recalled and the respondents have now paid by virtue of order dated 23.05.2018 a sum of Rs.72,000/- to the petitioner, meaning thereby, there was a partial enhanced by few thousands of rupees.

6. The reply to the writ petition reveal that the respondents have allowed the claim of the petition keeping in view MP Civil Services Medical Attendance Rules, 1958 as stated by them and as the petitioner was treated in a private hospital, they have denied the claim of the petition in part.

7. The facts stated in the writ petition in para nos.5.2 and 5.3 about the incident of fire on 24.04.2017 and thereafter, the petitioner suffered an heard attack have not been denied by the respondents in their return. It has also not been denied that the petitioner's fellow fire fighters took him to the nearest hospital where he was admitted in ICU and Angioplasty was carried out. All these facts have not been denied by the respondents.

8. Thus, in short, the Officer who was on duty suffered a heart attack and was immediately admitted by his colleagues in a nearby private hospital. The admission of the petitioner in private hospital was beyond the control of the petitioner. He never went himself to the hospital and the other fellow fire fighters admitted him in the hospital, and therefore, taking shelter of the technicalities, the State cannot deny the legitimate claim of a Government Servant who has submitted a bill for medical reimbursement towards his ailment, which he suffered while on duty.

9. The Apex Court in almost similar case, where the reimbursement was denied on account of the fact that the bill was submitted in respect of non-empanelled hospital of Central Government, Health Services has allowed the writ petition in the case of Shiva Kant Jha Vs. Union of India and others reported in AIR 2018 Supreme Court 1975. Para nos.13, 14 and 15 of the aforesaid judgment reads thus:-

"13) It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required

and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15) In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs.4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only."

10. In the aforesaid case, total bill was to the tune of Rs.13,84,440/-. The petitioner therein was paid Rs.5,84,885/-, meaning thereby, he was denied 7,99,555/-, which was paid by him to Fortis Escorts Hospital, New Delhi and in those circumstances, the Apex Court has directed the respondents for payment

of the entire medical bills.

11. In light of the aforesaid judgment, this Court is of the opinion that the respondents were under an obligation to pay the entire amount towards the expenditure incurred by the petitioner. The Apex Court in the aforesaid case has held that the government employee during his lifetime and after his retirement is entitled to get the benefit of medical facilities and no fetter can be placed on his rights, as has been done in the present case.

12. Admitting the petitioner in the private hospital was the need of the hour and was rightly shifted to a private hospital. Ultimately, his life was saved, and therefore, this court is of the opinion that the subsequent order passed by the respondents dated 23.05.2018 also deserves to be and quashed hereby.

13. The respondents are directed to pay the entire amount reflected in the bill of the petitioner i.e. Rs.200218/- along with interest @ 8.5% per annum from the date the bill was submitted till the amount is actually paid to the petitioner. The exercise of paying the amount along with interest be concluded within 90 days from today, failing which the rate of interest shall be 12.5% per annum from the date the bill was submitted, till the amount is actually paid to the petitioner. In case the amount is not paid in time and the State is forced to pay interest @ 12.5% per annum, the State shall be free to fix the responsibility upon the Officer who upon an enquiry is held liable for the delay in the matter for payment as directed by this Court and the amount so paid by the State Government can be recovered after following the process of law from the Officer concerned.

14. Writ appeal stands allowed. No order as to costs.