
(1998) 07 P&H CK 0044
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1910 of 1998

Ravi Kant

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 08-07-1998

Acts Referred:

Punjab Services (Medical Attendance) Rules, 1940 — Rule 2(3)

Citation : (1998) 120 PLR 160

Hon'ble Judges : V.K. Bali, J;M.L. Singhal, J

Bench : Division Bench

Advocate : H.S. Sidhu, for the Appellant; Madan Dev and Sanjeev Gupta, for the Respondent

Final Decision : Allowed

Judgement

M.L. Singhal, J.—Petitioner Ravi Kant who is Secretary in the Sirsa Central Co-operative Bank Limited, Branch Mandi Dabwali, Tehsil and- District Sirsa has prayed for the issuance of writ, order or direction especially in the nature of mandamus directing the respondents to make payment of Rs. 1,13,400.55 P. to him with 18% interest on account of the expense incurred by him on his treatment represented by medical bills Annexures P-2 to P-9. He has prayed that interest should be awarded to him from the date when the said bills were submitted. He has further prayed that an interim relief to the tune of Rs. 9,000/- per mensem be also sanctioned to him on account of expenses which he is incurring on his treatment every month. It is alleged in this writ petition that he was suffering from kidney failure. He remained on dialysis in the P.G.I. Chandigarh from 17.5.1995 to 19.2.1996. Earlier he got dialysis at Chandigarh Dialysis Centre, Sector 16, Chandigarh on 11.4.1995. His brother donated kidney for saving his life. His brother's kidney was transplanted on him on 20.2.1996. Upto 24.6.1996, he remained under the supervision of Nephrologist in P.G.I. Chandigarh when he was allowed to join duty. On 26.6.1996 he joined duty with the Sirsa Central Co-operative Bank Limited. Respondents paid medical expenses

to the tune of Rs. 1,41,000/- incurred by him during the period 20.2.1996 to 24.6.1996. Under the medical advice of the doctors of P.G.I., Chandigarh, he is taking medicine worth about Rs. 9,000/- in a month which is a regular feature. Respondents are not making payment of the amount incurred by him on his treatment as represented by medical bills Annexure P2 to P9 totaling Rs. 1,13,400.55 P. He submitted these bills as counter-signed by the Registrar, Department of Nephrology, P.G.I. Chandigarh as well as Medical Superintendent, P.G.I. Chandigarh. It has been certified by the Nephrologist of P.G.I. Chandigarh that these medicines are absolutely essential for keeping him alive. These medicines are life saving for him. Medicines which the petitioner is taking are a must for the survival of graft. It is alleged that the Govt. of Haryana is discriminating with him inasmuch as they are not paying him an amount spent by him on his treatment saying that it is out-door expenditure whereas they have allowed this expense incurred by one Sudarshan Lal working in the Haryana State Electricity Board, Mandi Dabwali. Medical bills, sanctioned in favour of Shri Sudarshan Lal are Annexures P-11 and 12. In nut shell, the grievance of the petitioner is that the respondents should reimburse him for the medical expense which he incurs or which he has incurred on his treatment as an out-door patient and the respondents should not refuse his claim on the spacious plea that the same is admissible only to in-door patients when his case is a case of chronic renal failure.

2. Respondents 2 and 3 contested this petition urging that no writ petition is maintainable as the rules which are stated to be in force are not applicable to respondents 2 and 3. Respondent No. 2 is a society governed by the provisions of Haryana Co-operative Societies Act, 1984 as amended upto date. There is no provision under the Common Cadre Rules of the bank to reimburse for medical expenses. Provisions of Punjab Services Medical Attendance Rules, 1940 (as applicable to the Haryana Government Employees) are not applicable to the case of the petitioner. As per the rules when the petitioner is getting Rs. 100/- per month as fixed medical allowance with his salary, he is not entitled to any medical expenses incurred by him as an out-door patient. He is drawing Rs. 100/- per mensem as medical allowance in lieu of what he is incurring or he may incur on the treatment of his family as out-door patients or on his own treatment as outdoor patient.

3. We have heard the learned counsel for the parties and have gone through the record.

4. In this case, we are required to decide whether the petitioner can claim to be reimbursed for the medical expense which he incurs or which he may have to incur to the tune of about Rs. 300/- daily as an out-door patient. In medical bills Annexures P-2 to P-9, doctor has certified that the medicines prescribed by him were absolutely essential for the recovery of the patient/prevention of serious deterioration in the condition of the patient. Doctor has certified that he is suffering from chronic renal failure/ESRD. He has also certified that the

medicines are not in the nature of tonic or food or vitamins etc. and the medicines have no cheaper and effective substitute. In Punjab Services Medical Attendance Rules, 1940, as applicable to Haryana Government employees treatment has been defined as follows :-

Rule 2(3). "Treatment" means the use of all medical and surgical facilities available at the Hospital in which a Government servant is treated and includes :-

(i) the supply of all such medicines and vaccines (as are in the price lists of the Medical Store Depot) and such medical comforts as are certified by the Civil Surgeon to be necessary but no alcoholic stimulants).

(ii) Such special treatment including electrical treatment and X-ray examination as is certified by the Civil Surgeon to be necessary and which may be provided by the staff of the Hospital.

(iii) such accommodation as is ordinarily provided in the Hospital and is suited to the status of the government servant;

(iv) the services of such nurses as are ordinarily employed by the Hospital but does not include diet, or treatment by Specialists, who are not on the staff of the Hospital, provided that;

If the Authorised Medical Attendant is of the opinion that the case of the patient is of such a serious or special nature as to require medical attendance by some person other than himself, or that the patient requires Anti-rabic treatment; he may, with the approval of the Director, Health Services, East Punjab which shall be obtained before hand unless the delay involved, entails danger to health of the patient;

(a) send the patient to the nearest Specialist or other Medical Officer in the Province by whom in his opinion, Medical attendance is required for the patient or in the case of anti-rabic treatment to the nearest station in the Province, where such treatment is available;

(b) if the patient is too ill to travel, summon such Specialist or other Medical Officer to attend upon the patient.

A patient sent under sub-clause (a) of clause (iv) above shall, on production of a certificate in writing by the Authorised Medical Attendant in this behalf be entitled to travelling allowance for the journey to the headquarters of the Specialist or other medical Officer and back".

5. It is thus clear that the treatment being obtained by the petitioner is treatment falling within the aforesaid definition and is reimbursable. Learned counsel for the respondents submitted that the petitioner is not entitled to reimbursement for the medical expense incurred by him as mentioned in bills Annexure P-2 to P-9 as this expenditure was incurred by him as an outdoor patient and a person who receives treatment as an outdoor patient when is in receipt of fixed medical allowance, is not entitled to be reimbursed for that

treatment. It has been submitted that only a person who receives treatment as an indoor patient, is entitled to be reimbursed, may be that he is in receipt of fixed medical allowance as per the medical reimbursement rules as applicable to him. It has been submitted that the petitioner is alleged to have taken treatment as an outdoor patient, he cannot claim reimbursement. It is true that the petitioner will not be entitled to reimbursement for this treatment if we go by the strict definition of "in-door and out-door patients". If we go by the strict definition of in-door and out-door patient, the petitioner will not be an in-door patient. Fixed Medical allowance to the tune of Rs. 100/- is meant to compensate the employee/his family only for the treatment of casual disease. Intention behind the provision of providing fixed medical allowance does not seem to be that employee/his family should not be compensated for such diseases which can prove fatal if constancy in treatment is not observed. It would bear repetition that petitioner is constantly taking medicines. He is on medicines. He has to take medicines daily. If he does not take medicines daily, his remaining alive will be seriously in danger. When he is constantly under treatment and treatment is indispensable for him, it has to be viewed as if he is receiving that treatment in the hospital. Petitioner placed his body and mind with his employer. It is for the employer to keep him in good health so that he is able to perform the duties expected of him. It is the duty of the employer to reimburse him for the medical expenses which he has to incur for keeping him in a fit state of body and mind so that he is able to discharge his duties enjoined upon him by the nature of his employment. Treatment being taken by him now is extension of the treatment which he was getting on account of kidney failure. Viewed from this angle also, this treatment has to be tagged on to the treatment he received earlier.

6. It has been submitted by the learned counsel for the respondents that the medical reimbursement rules as applicable to the Haryana Govt. employees are not applicable to the petitioner as he is an employee of the co-operative society which has its own medical reimbursement rules. Suffice it to say, pre-requisites of reimbursing the employees of the co-operative societies for the medical treatment incurred by them are the same as are to reimburse Haryana Govt. employees. So, this petition is allowed and the respondents are directed to reimburse the petitioner for the amount mentioned in the medical bills Annexures P2 to P9 amounting to Rs. 1,13,400.55 P. No interest to him on this amount. As regards the medical expense which he may have to incur as an outdoor patient for his treatment for the said disease, he will be entitled to be reimbursed if it is certified by his authorised medical attendant that the said treatment is absolutely necessary for keeping him alive and there is no other substitute for the medicines he is going in for his treatment.