
(1995) 05 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 260 of 1995

Ravi Mohan Duggal

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 30-05-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 112 PLR 586

Hon'ble Judges : M.L. Koul, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : S.C. Chhabra, for the Appellant; Randhir Singh, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

M.L. Koul, J.—The petitioner is a regular employee of the Punjab Roadways and at present is working as Conductor in the Ferozepur Depot. In the month of September, 1992 he suffered some cardiac problem. As the same was found serious, on the advice of doctors, he went to Escort Heart Institute, New Delhi, where angeography of the petitioner was done. He took treatment there with effect from 27.9.1992 to 29.9.1992 at a total cost of Rs. 12,650/-. The essentiality certificate was issued by the Institute contained in Anaexure P-1. The receipts of payment of admission fee and deposit on account of Angeography are mentioned in Annexures P-2 and P-3. On the Angeography report it was opined by the doctors that the petitioner required immediate by-pass Heart-surgery. The petitioner being a poor man collected money from his friends and near relations, he inquired as to which was the better Institute for such treatment and his family members found it appropriate to take him to Apollo Hospital, Madras, where he remained admitted from 6.11.1992 to 8.12.1992 and was operated upon for his bypass heart surgery by Dr. M.R. Girinath, The Chief Cardio-Thoracic Surgeon of the said Hospital. In this behalf the petitioner had again incurred an expenditure amounting to Rs. 66,764/- with regard to which essentiality certificate was

issued by the concerned doctor of Apollo Hospital, Madras contained in Annexure P-4. The receipts of the payments are given in Annexures P-5 to P-9.

2. The General Manager of the Punjab Roadways vide letter No. 28066 ACC dated 20.8.1993 requested respondent No. 3 i.e. the Director Health and Family Welfare, Punjab, to sanction the bill of the petitioner with regard to his by-pass heart surgery. All the medical bills were sent to him. Again the said General Manager vide his letter No. 336/Sec. II dated 7.3.1994 wrote to respondent No. 4 i.e. the Director, State Transport, Punjab, Chandigarh seeking permission for putting up the medical reimbursement case of the petitioner before the Medical Board as established by the Health Department. The petitioner had incurred all medical expenditure in the last quarter of 1992 and despite the fact that a long period of two years had elapsed, the medical expenditure incurred by him has not been reimbursed to him. After having undergone such a serious operation, a patient is expected to take due rest and avoid unnecessary strain or frustration in life but the petitioner has been continuously suffering all this. The petitioner has not been able to pay back to his well-wishes who helped him financially at the time of crisis. The petitioner has referred to the instructions of the Punjab Government dated October 08,1991, whereby both Escort Heart Institute, New Delhi and Apollo Hospital, Madras have been recognized by the State of Punjab where-from the treatment can be taken by the government employees in case of heart ailment. As the respondents did not reimburse the medical bills to the petitioner, therefore, he came with this writ petition for issuance of a writ of Mandamus directing the respondents to reimburse Rs. 79,440/- with compound interest to him, which he has spent for undergoing the by-pass surgery and Angeography at Apollo Hospital, Madras and Escort Heart Institute, New Delhi, respectively.

3. In their written statement filed by respondent Nos. 1 and 2 i.e. the State of Punjab and Director, Treasury and Accounts, Punjab have admitted the fact that the petitioner incurred all medical expenditure in the last quarter of 1992 as per the bills submitted by him. Respondent No. 3 is the competent authority to make the payment. It is admitted by respondent No.4 that he has already referred the matter to respondent No.3, who informed that it would take three months to complete all the requirement needed for making the payment to the petitioner as per the rates accepted by the P.G.I.

4. Respondent No.2 in its written statement has stated that the petitioner is an employee of the State Transport Department, Punjab, so the Director, Treasury and Accounts has nothing to do with the case of the petitioner.

5. Heard learned counsel for the parties and bestowed our thoughtful consideration over the record on the file.

6. At the outset, it can be said that the petitioner is a small employee of the State Transport Department, Punjab and had undergone Angeography in Escort Heart Institute, New Delhi in September, 1992. On the report of the said

Hospital, it was necessary for the petitioner to go for a by-pass surgery for which the Institute selected by him was Apollo Hospital, Madras. Both the Institute as per Government instructions dated 18.10.1991 have been recognised by the Government of Punjab for the treatment of the diseases mentioned in the list approved by the Finance Department and the heart ailment is covered under that. Shortly, the instructions contained in Annexure P-13 are enumerated as below:-

"Policy for reimbursement of medical expenses incurred on medical treatment taken abroad and in hospitals other than those of the Government of Punjab, both within and outside the State was laid down. However, as per the 12th item of these instructions, a list of those diseases for which specialised treatment was not available in the Government hospitals, was to be prepared in addition to identifying medical institutions/hospitals/clinics of repute where such specialised treatment was available.

The Government has now prepared a list of those diseases for which the specialised treatment is not available in Punjab Government hospitals but it is available in certain identified private hospitals, both outside the State. It has, therefore, be decided to recognize these hospitals for the treatment of the diseases mentioned against them in the enclosed list for Punjab Government Employees/Pensioners and their dependents."

7. It was, therefore, decided to recognize such hospitals with the concurrence of the Finance Department and the above two hospitals figured in the list. It thus becomes manifestly clear that any government employee is entitled to go for treatment for the diseases for which the specialised treatment is not available in the Punjab Government hospitals both within and outside the State. Once these two hospitals have been recognised for the treatment of heart disease, there was no impediment in the way of the petitioner not to seek the treatment from both of the Institutions for his heart ailment when on aneography it was found that his heart was sinking and therefore by-pass surgery was essential which he was supposed to undertake in a recognised hospital where such special treatment was available. No where these instructions provide that only those government employees can go for specialised treatment in such Institutions who have been referred to by a government doctor from any government hospital in the Punjab and the others who have gone of their own are not entitled to reimbursement of their expenditure incurred in such institutions. Rightly so a government servant is not supposed to wait and seek the permission of the doctor of a government hospital for immediate treatment for such ailment like heart disease, cancer and other dangerous diseases, which need immediate treatment lest one may lose his life.

8. It is our considered opinion that the Government itself have felt that some specialised treatment is required for some disease which is not available in the Punjab Government hospital. It, therefore, recognised/identified private Institutions for such purpose to enable the government servants to go for

treatment immediately when such a treatment is required by them. Once both these Institutions are recognised and have provided treatment to the petitioner who has suffered first cardiac problem and after wards has undergone by-pass surgery and Essentiality Certificate have been issued by these Institutions to him and has provided the necessary receipts for the medical expenditure incurred by the petitioner, there was no difficulty for the respondent No.3 and 4 to reimburse his bill as per rules.

9. The Assistant Advocate-General, Mr. Randhir Singh by this court order dated 17.5.1995 was directed that he should impress upon departmental authorities that it would be in their own interest to settle the claim of the petitioner instead of getting an adjudication from the Court. Mr. Randhir Singh complied with the order and impressed upon the departmental authorities to settle the claim of the petitioner but of no avail. We fail to understand why respondent Np.3 is reluctant in passing the bills in favour of the petitioner. Once the bills are genuine and the Essentiality Certificates have been issued by both the hospitals there is no impediment in the way of the respondents to reimburse the bills in favour of the petitioner.

10. We are of the considered view that in such matters the authorities at the helm of affairs should have a human heart and take humanitarian and liberal attitude in disposing of such matters immediately where the genuine bills of the, government employees are involved for reimbursement and that too once the government servant had undergone by-pass surgery. It should have definitely weighed with the authorities that the petitioner is a poor Conductor and it is not within his means to incur a big amount of Rs. 80,000/- which he definitely had borrowed or received from his friend and relatives, who must be after him for payment for at the time of crises they helped him but are not able to receive back. The authorities should not be governed by the technicalities but should adopt a human attitude in deciding such matters immediately knowing that the human life is involved in such matters and it is the bona fide and fundamental right of the government servant to get free medical aid as enshrined in the Constitution.

11. No law or any judgment was shown or there is any rule otherwise where from we can be persuaded to hold that the government employee is not entitled to reimbursement for expenditure incurred by him in the hospitals which have been recognised by the State. The respondents have unnecessarily delayed the payment without rhyme or reason and had they been very vigilant they would have reimbursed the money to the petitioner within three months after the bills were submitted by him for reimbursement. The State cannot be permitted to turn back and decline the reimbursement to its employees especially in case of emergency for treatment like heart problem. No reason or any law has been pointed out which could deprive the rights of the petitioner as a government servant. Free medical aid is all along available to a government and he can go to any hospital to his benefit which has been recognised by the government and get

his ailment treated.

12. Once the Escort Hart Institute, New Delhi and Apollo Hospital, Madras are recognised Institutions and the government has authorised the government servant to go for treatment to these Institutions, the State cannot refuse reimbursement of the expenditure incurred by a government servant for it is the bona fide duty of the government to pay for the beneficial act of an employee as a Welfare State. All the rules and regulations are to be considered in favour of the government employee liberally and to the benefit of the government employee and the State is not permitted to have an iron heart in such matters. The State has admitted the full expenditure to have been incurred by the petitioner in both the hospitals. The treatment and urgency for the same has been accepted by the respondents. They nowhere claimed that such an amount has not been incurred by the petitioner for his treatment. Once the petitioner was suffering from a serious heart attack he could not consult the doctor in government hospital and sit at his home or wait for the permission of the government to seek the treatment in the recognised hospital lest that would cause danger to his life and in many cases it could even cause death. In such a situation it was quite justified for the petitioner to take treatment in a recognised hospital and save his life.

13. There is no rhyme or reason why the respondents are not releasing the bills in favour of the petitioner though they have wasted his three years and even then the bills are not reimbursed to him. Hence the action of the respondents in refusing to reimburse the amount of medical bills to the petitioner is arbitrary, unjust and unreasonable. The only frivolous defence taken by the respondents that they have referred the matter to P.G.I. is not sustainable in the eye of law. Every act of the respondents in refusing reimbursement to the petitioner is arbitrary and they are attempting to defeat justice in favour of the petitioner. The action of the respondents in not providing reimbursement to the petitioner of his medical bills for expenses which he had incurred for his treatment legally and is entitled under the law is deplorable.

14. Hence this writ petition is allowed and the respondents are directed to make payment of the medical expenses incurred by the petitioner for his treatment within a period of three months of the submission of the certified copy of this order before the Secretary, Health Department, Punjab. As an inordinate delay has been caused in reimbursement of the bills by the respondents and the precious time of the petitioner has been wasted and he has been made to incur unnecessary expenditure in prosecuting this writ petition, therefore, the petitioner is awarded 18 per cent interest as well on the amount of medical expenses after the expiry of period of three months from the date of application for medical reimbursement till the date of actual payment.