
(2012) 11 P&H CK 0042
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 11512 of 2011

R.K. Jain

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 29-11-2012

Acts Referred:

Citation : (2012) 11 P&H CK 0042

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Harsh Aggarwal, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

Augustine George Masih, J.—Petitioner has approached this Court impugning the order dated 19.1.2006 (Annexure P-7) passed by the Executive Engineer, Construction Division No. 14, Canal Colony, Kurukshetra-respondent No. 2 vide which the earlier sanction issued for reimbursement of the medical bills submitted by the petitioner was withdrawn, on the ground that those reimbursement bills pertain to the Out Patient Department treatment incurred by the petitioner. Challenge has also been made to the order dated 27.3.2006 (Annexure P-8) passed by respondent No. 2, wherein the claim of the petitioner for the medical reimbursement bill amounting to Rs. 7031/-for the period 1.2.2005 to 27.1.2006 has been rejected, on the ground that the petitioner is getting "Fixed Medical Allowance" along with his pension disentitling him of the claim in the light of the instructions issued by the Government of Haryana. It is the contention of the counsel for the petitioner that petitioner retired as Sub Divisional Officer, Irrigation Department, Haryana on 31.5.1997. Petitioner suffered a heart ailment and was diagnosed chronic hypertension with severe aortic regurgitation with aortic valve, for which he had to undergo valve replacement operation. Petitioner was examined by the Civil Surgeon, Kurukshetra and he was granted approval vide memo dated 23.6.2004

(Annexure P-1) for Specialist consultation on treatment as per State Government instructions. On the basis of the said certificate, petitioner was admitted in Maharaja Aggarsain Heart Institute and Research Centre, New Delhi on 7.7.2004 and was advised aortic valve replacement surgery at an early date. On the basis of the said diagnosis the petitioner underwent aortic valve replacement operation on 17.9.2004 from the Maharaja Aggarsain Heart Institute and Research Centre, New Delhi. The expenses incurred by the petitioner on the said surgery was required to be reimbursed to the petitioner as per government instructions which was done. Thereafter the petitioner presented himself before the Civil Surgeon, Kurukshetra, who certified that the disease from which the petitioner is suffering falls under the category of chronic disease as per government letter No. 2/160-1H B/89 dated 11.8.1992. This certificate is dated 2.2.2005 (Annexure P-4).

2. The petitioner, as per the post operative advice, is on medicines, which he has to take life long, as is apparent from the certificate dated 4.10.2004 (Annexure P-3) issued by the Maharaja Aggarsain Heart Institute and Research Centre, New Delhi. Petitioner had been taking medicines for the follow up treatment of the surgery which he had underwent and accordingly submitted bills for reimbursement of the medical charges. The bills, which were submitted by the petitioner, were approved and sanction was granted by the Executive Engineer, Construction Division No. 14, Irrigation Department-respondent No. 2 vide orders dated 11.11.2005 Annexures P-5 & P-6 respectively. However, subsequently vide order dated 19.1.2006 (Annexure P-7) the said sanction has been withdrawn on the ground that the petitioner is claiming reimbursement of his medical bills for the expenses incurred as out door patient whereas he is getting a fixed medical allowance which disentitles his claim. The subsequent medical bills for the period 1.2.2005 to 27.1.2006 have also been rejected vide letter dated 27.3.2006 (Annexure P-8) on the ground that he is getting a fixed medical allowance along with his pension and, therefore, is not entitled for reimbursement of post aortic valve replacement medical reimbursement bill of Rs. 7031/-, which he had submitted. This the counsel for the petitioner submits is not sustainable in the light of the fact that the disease with which the petitioner has been suffering from, has been certified by the Civil Surgeon, Kurukshetra vide certificate dated 2.2.2005 to be a chronic disease and for which he has to take regular medication. The action of the respondents rejecting the claim of the petitioner is not sustainable in the light of the Division Bench judgment of this Court in Raghuvir Prasad Mittal vs. State of Haryana and others; 2008(3) SCT 362, as also in Renu Saigal Vs. The State of Haryana and Others, wherein instruction restricting the medical reimbursement in cases of chronic disease for out door patient has been quashed. He accordingly, prays that the writ petition deserves to be allowed by quashing the impugned orders.

3. Counsel for the respondents, on the other hand, submits that the petitioner is not entitled to the claim as has been made by him in the present writ petition as the petitioner is getting fixed medical allowance along with his pension and as

per Haryana government instructions dated 11.8.1992 (Annexure R-II), the petitioner is not entitled to the reimbursement of his medical bills. Petitioner has also not opted for the change in mode of payment of medical allowance as per the instructions dated 9.2.1995 (Annexure R-III) and, therefore, the petitioner cannot claim the medical reimbursement as has been projected by him in the present writ petition. He, therefore, prays for dismissal of the writ petition.

4. I have heard the submissions made by the counsel for the parties and with their assistance have gone through the records.

5. Facts are not in dispute and, therefore, need not be referred again. The only objection, which has been taken by the respondents for rejecting the claim of the petitioner, is that the petitioner is getting fixed medical allowance along with his pension and, therefore, is not entitled to reimbursement of the expenses incurred by the petitioner on post operative treatment and pertain to the treatment as an out door patient. This stand of the respondents cannot be accepted in the light of the judgment passed by this Court in Renu Saigal's case (supra) wherein this aspect in the government instructions dated 11.8.1992 restricting the amount of reimbursement of out door treatment in government hospitals to only Rs. 500/- per month, which is of follow up treatment for chronic disease stands quashed. A Division Bench of this Court in the case of Raghuvir Prasad Mittal's case (supra) also supports the claim as has been made by the petitioner in the present writ petition. This Court in CWP No. 8469 of 2011 Smt. Ombai vs. State of Haryana and others, decided on 6.11.2012, dealing with the same situation, had relied upon a Division Bench of this Court rendered in C.B. Gupta Vs. State of Haryana and Others, has held that the rejection of out door patient reimbursement bill for a chronic disease as a follow up treatment to the operation of the treatment taken as an indoor patient only on the ground that monthly medical fixed allowance is being paid to the employee is unsustainable, had allowed the writ petition.

6. In view of the above, the present writ petition is allowed. The impugned orders dated 19.1.2006 and 27.3.2006 (Annexure P-7 & Annexure P-8 respectively) are hereby quashed. Direction is issued to the respondents to consider the claim of the petitioner for reimbursement of the amount spent by the petitioner as an outdoor patient and as a follow up and an integral part of indoor treatment for the treatment of aortic valve replacement of heart which is a chronic disease within a period of one month from the date of receipt of certified copy of this order. The bills if returned to the applicant will be resubmitted by him within a period of one week. On considering the claim of the petitioner in case the said claim is accepted, the consequential benefits be released to him within a further period of 15 days. The decision so taken be conveyed to the petitioner forthwith.