
(2003) 04 RAJ CK 0028
In the Rajasthan High Court
Case No : Civil Writ Petition No. 825 of 2002

Saroj Sharma and Others

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 21-04-2003

Acts Referred:

Citation : (2004) 3 RLW 1661

Hon'ble Judges : Anil Dev Singh, C.J.; K.S. Rathore, J

Bench : Division Bench

Advocate : R. Bhargava, for the Appellant; A. Rastogi, for the Respondent

Judgement

Anil Dev Singh, C.J.—Late Shri Shyam Swaroop Sharma was posted as A.D.J., Dholpur in the year 1999. On 25.11.1999 he was admitted in the General Hospital, Dholpur, where he was diagnosed for Renal disease. He remained in the Dholpur General Hospital for a period of more than one month. Ultimately, he was referred to SMS Hospital, Jaipur by the General Hospital, Dholpur. On 7.1.2000, a committee consisting of three Doctors was constituted to examine the deceased. The committee found the deceased suffering from N.I.D.D.M. Type II, Diabetic Retinopathy, Hypertension, Diabetic Nephropathy, End stage Renal disease. It was also opined by the committee that the Chronic Renal Failure was at an advanced stage. They also opined that Shri Sharma required to undergo an operation for Kidney Transplant. In January, 2000, he was released from SMS Hospital in order to enable him to be treated at All India Institute of Medical Sciences (AIIMS). After being released from SMS Hospital, the deceased is stated to have contacted AIIMS for seeking suitable treatment. It is also claimed that he was told that for Kidney Transplant operation, he must arrange a donor, who may be ready and willing to donate a Kidney. It is also alleged that AIIMS apprised the deceased that for want of a donor, Kidney Transplantation was not possible. Since according to the petitioners, a donor was not available, the deceased approached Apollo Hospital at Delhi. Dr. R.V.S. Yadav examined the deceased and advised him for Tc-99 m DTPA RENAL DYNAMIC STUDY as according to him he found late

Shri Sharma a patient of Chronic Renal Failure. It appears that operation could not be performed at Apollo. The operation also could not be performed at AIIMS due to long wait. The waiting period could run upto 10 months. In view of this position, the deceased got himself admitted at Medical College, Amritsar. At Amritsar, he underwent operation for Kidney Transplantation on 5.9.2000. Thereafter, on 16.11.2000, Shri Sharma was compulsorily retired from Government service.

2. By preferring an application on the administrative side of the High Court, Mr. Sharma raised a claim for reimbursement of expenses incurred by him towards the operation and dialysis. The High Court referred the claim of Shri Sharma to the State. In course of time, the State sanctioned a sum of Rs. 60,000/- against the claim of Rs. 6,25,000/-. In the mean time on 5.7.2001 Mr. Sharma breathed his last. The petitioners, who are the wife and children of Mr. Sharma, have preferred the instant writ petition since they were not satisfied with the amount which was sanctioned by the Government.

3. We have heard learned counsel for the parties. Additional Advocate General appearing on behalf of the State of Rajasthan submitted that there is a list of approved hospitals where a Government servant is permitted to take treatment and undergo operation, if so advised. He also submitted that the Medical College Hospital, Amritsar is not an approved hospital where operation of Shri Sharma was performed. It is however admitted that AIIMS is on the approved list of hospitals where the deceased could have been operated upon. It is not denied that in case the deceased had been operated at AIIMS, the State Government would have honoured the bills. In view of this position, the petitioners are entitled to receive an amount equivalent to the amount which AIIMS charges for a Kidney Transplant. We order accordingly.

4. The respondent No. 2 shall ascertain from AIIMS as to what amount it is charging for a Kidney Transplant operation. As soon as information is received from AIIMS, the payment shall be made to the petitioners. The information shall be collected by the respondent No. 2 From AIIMS within a period of one month. A copy of this order shall be furnished to learned Additional Advocate General, as soon as an application is made by him.

5. With these observations, the writ petition stands disposed of.