
(2015) 02 RAJ CK 0110
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2994/2010

Satya Narayan Dadhich

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-02-2015

Acts Referred:

Citation : (2015) 02 RAJ CK 0110

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : I.R. Choudhary, for the Appellant; N.S. Rajpurohit, AGC, Advocates for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner seeks a direction to be issued to the respondents to reimburse the medical expenses borne by him in his treatment, which he had to undergo in an emergent condition at the Manipal Heart Foundation Hospital, Bangalore in August 2000.

2. The petitioner is a retired Deputy Director from the Education Department of the State of Rajasthan. He retired from service in August 1995 and was issued with a PPO No. 70135 and also a medical diary by the respondents. He is a permanent resident of Jodhpur.

3. It is averred in the writ petition that the petitioner had gone to Bangalore to meet his elder son in the month of June 2000 where he fell ill and was admitted in an emergent condition at the Manipal Heart Foundation Hospital, Bangalore. He remained admitted at the said hospital and as a life saving measure, he was subjected to Coronary Artery Bypass Grafting Surgery wherein a total sum of Rs. 93,000/- was spent. The petitioner submitted the bills of medical expenses to the respondent department and claimed reimbursement thereof but the same was turned down by communication (Annex. 2) dated 21.12.2001 for the reason that the Manipal Hospital was not a recognized hospital. A legal notice was also

served upon the respondent department on behalf of the petitioner. However, the respondent department turned down the prayer for reimbursement by communication (Annex.5) dated 1.6.2009 stating that the medical assistance is provided to in service employees of the department only and the cases of the retired employees were required to be dealt with by the Finance Department. Hence, the petitioner has approached this Court for issuance of a writ/order to the respondents to reimburse the medical bills of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner had gone to Bangalore to visit his son and there, he had to undergo treatment in an emergent condition and as such, it was absolutely impossible for him to have approached a government hospital in the State of Rajasthan or a recognized hospital for the treatment of his sudden ailment. He relies on the decision of this Court in the case of *Jawahar Lal Bohra v. State of Rajasthan* (S.B. Civil Writ petition No. 6350/2005) decided on 26.3.2014 and prays that the writ petition deserves to be accepted and the respondents be directed to reimburse the medical expenses incurred in the treatment of the petitioner in accordance with Rajasthan State Pensioners Medical Concession Scheme.

5. Learned counsel for the respondents has vehemently opposed the submissions advanced by the learned counsel for the petitioner. However, he candidly conceded that in similar matters, this Court has directed reimbursement of the medical expenses borne by the retired employees at the rate which is applicable for similar treatment in recognised hospitals.

6. The controversy regarding the entitlement of the retired government employees to receive medical reimbursement has already been settled by this Court in a catena of decisions including the judgments rendered in the case of *Gyanendra Kumar Pareek Vs. State of Rajasthan and Others*, and in the case of *Anil Kumar Surolia Vs. State of Rajasthan and Others*, .

7. It is not in dispute that the petitioner, a retired employee, had gone to Bangalore to visit his son where he suffered a sudden cardiac discomfort. He was admitted in an emergent situation at the Manipal Heart Foundation Hospital, Bangalore remained hospitalized and was subjected to CABG as stated above. Definitely and without any doubt, it was on account of an emergent condition that the petitioner had to be subjected to treatment at a hospital outside the State of Rajasthan. In such situation, the petitioner is entitled to be reimbursed with medical expenses borne by him in his treatment at the Manipal Heart Foundation Hospital, Bangalore in accordance with the Rajasthan State Pensioners Medical Concession Scheme.

8. This Court considered the issue of emergent situation in the case of *Gyanendra Kumar Pareek Vs. State of Rajasthan and Others*, and held that when a family member suffers from sudden ailment, the prime objective of the other family member would be to save his/her life. At that time, services of whichever hospital is suited could be utilized because emergency knows no law

and no procedure and when human life is at stake, in such situation, ultimate responsibility of the State cannot be washed off. This Court relied upon the decision of the Division Bench of this Court in Anil Kumar Surolia Vs. State of Rajasthan and Others, wherein the Division Bench observed as under:--

"Government cannot insist upon an employee to get himself treated at recognized government institution. All that the Government in these circumstances can do is to reimburse the concerned employee at the rates that may be applicable in the recognized government institution. Reference in this connection may be made to the judgment of the Hon"ble Supreme Court in Surjit Singh Vs. State of Punjab and Others, and State of Punjab and Ors. v. Mohan Lal Jindal reported in (2001) 9 SCC-217. Consequently, the reimbursement of the medical expenses borne by the State Government employees and pensioners has to be done even if the treatment is undertaken at unrecognized hospital outside the State even though reference may not have been taken prior to treatment." 9. Thus, as per scheme of medical concession applicable to the retired employees, the only hurdle against the petitioner for being granted reimbursement of the medical bills is that he was subjected to treatment at an unrecognised hospital outside the State and that too without a reference being made. However, as has been noted above, the Division Bench of this Court has already laid the issue to rest by observing that even if the treatment is taken at an unrecognized hospital and without any reference, the reimbursement thereof has to be done at the rates prescribed in the Concession Scheme. Another order came to be passed by the State Govt. on 21.12.2009 which completely puts the controversy to rest and reinforces the petitioner"s claim for reimbursement. The order is quoted hereinbelow:--

"No. F.1(6) FD(Rules)/2012 Jaipur dated 21 DEC 2009

Subject:- Reimbursement of cost of implants and reimbursement of medical attendance and treatment in private hospitals to pensioners/family pensioners under Rajasthan Pensioners Medical Concession Scheme.

State Government has decided to extend the facility of Medical Attendance and treatment to State pensioners/family pensioners in private or charitable hospitals, as applicable to State Government servants under Finance Department order No. F.6(4)FD(Rules)/03 Pt.-I dated 27.11.2009 pertaining to the period prior to 19.06.2009.

Such claims of treatment shall be considered and decided by the Sub-Committee of the Trust."

10. Thus, the action of the respondents in refusing to reimburse the medical bills of the petitioner cannot be approved as being unjust, arbitrary and contrary to the letter and spirit of the Concession Scheme.

11. Consequently, the petitioner is entitled to be reimbursed with medical expenses borne by him in his treatment at the Manipal Heart Foundation

Hospital, Bangalore in accordance with the Rajasthan State Pensioners Medical Concession Scheme.

12. As an upshot of the above discussion, the writ petition is allowed and it is directed that the respondents shall reimburse the amount of medical expenses borne by the petitioner for his own treatment at the Manipal Heart Foundation Hospital, Bangalore in accordance with the Rajasthan State Pensioners Medical Concession Scheme. The reimbursement shall be made within a period of four weeks from the date of receipt of copy of this order. However, as the petitioner has approached this Court after an undue delay, he is not entitled to any interest.

13. No order as to cost.