
(2009) 09 RAJ CK 0086

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2650 of 2005

Smt. Rajvanti Devi

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Citation : (2009) 09 RAJ CK 0086

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—By this petition for writ the petitioner is claiming reimbursement of the medical expenses incurred in treatment of her husband Late Shri Jagdish Prasad.

2. The facts necessary to be noticed are that Shri Jagdish Prasad while working as Junior Engineer in the Department of Irrigation suffered with some kidney problem and, therefore, a recommendation was made by a competent medical board constituted at S.P. Medical College, Bikaner for renal transplantation. An advise was also given to undergo renal transplantation at Bombay Hospital, Bombay due to non-availability of such treatment in any government hospital of the State. Late Shri Jagdish Prasad applied for medical expenses advance as per provisions of the Rajasthan Civil Services (Medical Attendance) Rules, 1970 (hereinafter referred to as "the Rules of 1970") and a sum of Rs. 1,20,000/- was sanctioned. An operation for renal transplantation was made at Bombay Hospital, Bombay on 19.05.1999, however, the kidneys transplanted did not work due to rejection developed. In such circumstances Late Shri Jagdish Prasad was advised to visit Bombay Hospital after a period of three months for repeating renal transplantation operation. During the interregnum period of first renal transplantation operation and repeating transplantation, Late Shri Jagdish Prasad undergone dialysis at Kothari Hospital, Bikaner and Santokba Durlabhji Hospital, Jaipur, where an expenses of Rs. 48,853/- and Rs. 10,725/- respectively

incurred. After completion of three months from first renal transplantation operation Late Shri Jagdish Prasad was again admitted to Bombay Hospital, Bombay, however, this time too transplantation failed and Shri Jagdish Prasad died on 15.12.1999. For undergoing repeated renal transplantation treatment an amount of Rs. 1,12,307/- was spent, accordingly, after death of Shri Jagdish Prasad, the present petitioner claimed for reimbursement of the amount aforesaid and also the amount incurred in undergoing dialysis at Kothari Hospital, Bikaner and Santokba Durlabhji Hospital, Jaipur. Despite several representations no action was taken by the respondents, hence this petition for writ is preferred.

3. The contention of counsel for the petitioner is that Late Shri Jagdish Prasad undergone renal transplantation treatment at Bombay Hospital, Bombay under the recommendation of a competent medical board and, therefore, whatever expenses incurred in undergoing such treatment is required to be reimbursed as per the provisions of the Rules of 1970.

4. In reply to the writ petition, it is stated by the respondents that a some of Rs. 3,24,490/- has already been paid for undergoing kidney transplantation, however, no reimbursement is permissible for undergoing repeating transplantation and for undergoing treatment at Kothari Hospital, Bikaner and Santokba Durlabhji Hospital, Jaipur. During the course of arguments counsel for the respondents stressed that there was no recommendation by the medical board for undergoing second renal transplantation or the repeating renal transplantation. It is also urged that no reimbursement is permissible for undergoing dialysis at Kothari Hospital, Bikaner and Santokba Durlabhji Hospital, Jaipur as the same facility was already available at the government hospitals of the State.

5. Considered the rival contentions.

6. The respondents have not disputed that Late Shri Jagdish Prasad was advised for repeated renal transplantation operation because of failure of the first renal transplantation. It is not in dispute that so far as Bombay Hospital, Bombay is concerned, that is scheduled hospital under Appendix-XI of the Rules of 1970 and at the relevant time no facility of renal transplantation was available in any government hospital of the State. It is also not in dispute that for repeating renal transplantation an expenses of Rs. 1,12,307/- was incurred. The only objection raised by the respondents is that there was no sanction or recommendation by any competent medical board for second renal transplantation.

7. As a matter of fact the second/repeating renal transplantation in the instant matter was not a different treatment, but was in continuation of first renal transplantation as the same stood failed. The second transplantation was made only for the reason that first transplantation was not workable. If the first renal transplantation would have been successful then there would have been no second renal transplantation. Late Shri Jagdish Prasad immediately after undergoing first renal transplantation was advised by the doctors of Bombay

Hospital, Bombay to avail repeating transplantation due to non-workable of kidney transplanted. In these circumstances the second transplantation is nothing but a treatment in continuation to the first one. As such, no need was there to receive any second recommendation by the medical board for completion of renal transplantation, which was to be made as per the recommendation and advise given at first instance. The respondents, therefore, were wrong in declining reimbursement for the repeating transplantation. So far as for undergoing dialysis at Kothari Hospital, Bikaner and Santokba Durlabhji Hospital, Jaipur is concerned, suffice it is to state that if those hospitals are recognized hospitals of the Government of Rajasthan, then Late Shri Jagdish Prasad was entitled to receive reimbursement of the expenses incurred in a tune to the amount equivalent which would have been incurred for undergoing same treatment in a government hospital.

8. For the reasons stated above, this petition for writ is allowed with a direction to the respondents to reimburse a sum of Rs. 1,12,307/- to the petitioner for undergoing treatment for repeating/ second renal transplantation at Bombay Hospital, Bombay and also the reimbursement of medical expenses for undergoing dialysis at Santokba Durlabhji Hospital, Jaipur and Kothari Hospital, Bikaner, however, this amount shall not be more than to the expenses which would have been incurred for undergoing such treatment at a government hospital in the State of Rajasthan.