
(1999) 08 P&H CK 0076
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6963 of 1999

Smt. Sudershan

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 19-08-1999

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1999) 123 PLR 445

Hon'ble Judges : Swatanter Kumar, J

Bench : Single Bench

Advocate : B.D. Sharma, for the Appellant; Anmol Rattan, AAG, for the Respondent

Judgement

1. In this writ petition under Articles 226/227 of the Constitution of India, the petitioner herein prays for quashing of the order annexure P/13 dated 21-8-1998 passed by the respondents. Vide this letter the respondents rejected the claim of the petitioner for reimbursement of the expenditure incurred by the husband of the petitioner on his medical treatment at Sir Ganga Ram Hospital, New Delhi. Vide letter dated 21-8-1998 the respondents gave just one reason for rejection of the claim of the petitioner, which reads as under :-

"In reference to your letter dated 17-6-96 M.E. (2) dated 4-9-97 on the above subject.

It is regretted that the government is unable to agree to the proposal of the department."

2. The petitioner challenges this action of the respondents as being arbitrary, unreasonable and in fact contrary to the policy of the government. It is also pleaded that by its very acts and representations the State is estopped from withholding or rejecting the payment of the medical bills claimed by the petitioner.

3. In order to appreciate this contention, reference to basic facts would be

necessary. Smt. Sudershan is the petitioner, who is widow of Shri Puran Desh who was working as Assistant in sub-Divisional Education Officer, at Rohtak, in the State of Haryana. The husband of the petitioner was suffering an ailment of renal failure. He was examined at PGI MS Rohtak in the year 1995 and was referred to All India Institute of Medical Sciences, New Delhi, hereinafter referred to as AIIMS, for treatment vide letter dated 16-10-1995. The reason given in the letter was that the dialysis facility was not available at PGI MS, Rohtak. On 30-10-1995 the AIIMS referred the husband of the petitioner to some other centre in view of the paucity of the space in AIIMS for regular dialysis, as medically required. The husband of the petitioner, left with no alternative and keeping in mind the urgency of the treatment, got himself treated from Sir Ganga Ram Hospital, New Delhi, After improving a little he submitted his bill for reimbursement on 15-3-1996. This claim was declined. The husband of the petitioner subsequently submitted bill for reimbursement. Vide letter dated 7-11-1996 reimbursement of the medical bill amount of Rs. 15426.60 was accorded in connection with the treatment of the husband of the petitioner at Sir Ganga Ram Hospital, New Delhi. Copy of this letter is annexed as Annexure P. 4 to the writ petition.

4. The husband of the petitioner thereafter submitted different bills, four in number, for a sum of Rs. 32,448.65, Rs. 22,716.75, for a 12.483.05 and Rs. 20,442.60 for receiving treatment from the same hospital. Unfortunately the petitioner's husband died on 19-7-1997. It is alleged by the petitioner that her husband was not able to seek proper treatment because of financial difficulties.

The bills were recommended for payment by the District Education Officer, Rohtak, but even after reminder dated 16-1-1998, no payment was made and finally on 21-8-1998 the aforesaid letter was written to the petitioner. Aggrieved from this action of the respondents, the petitioner has challenged Annexure P. 13 in the present writ petition.

5. To this claim of the petitioner, the respondents have replied that Sir Ganga Ram Hospital, New Delhi is not a recognised medical institute of the State of Haryana and as such the petitioner cannot be paid reimbursement of the medical bills submitted for treatment of her husband. Other facts are not disputed.

6. At the outset it must be noticed that Annexure P. 13 is totally an unreasoned order and does not give any opportunity to the petitioner to meet the validity of this order in furtherance to the policy of the Government. However, in the counter now it has been stated that Sir Ganga Ram Hospital is not a recognised institution in the panel of the State of Haryana and as such the petitioner cannot be paid the dues.

7. It is a common case of the parties that the State of Haryana has a policy of reimbursing the payment of the medical bills submitted by an employee if he gets himself treated from the hospitals, stated in Annexure R. 1/1 to the extent of All India rates plus 75% of the excess amount thereto and the employee is

called upon to bear 25% of such expenses himself and the Government is not liable to reimburse the same. This policy of the Government has been placed by the State itself as Ex. R. 1/1 to the reply filed to the writ petition.

8. What emerges from the aforesaid facts is that the Government has reserved its right to make payment even on the bills which are for treatment from hospitals other than the Government hospitals like PGI, Chandigarh and AIIMS, New Delhi. The precise question that falls for determination is whether the Government in the present case had given its consent or represented to the petitioner's husband that he could continue with his treatment or get his treatment from Sir Ganga Ram Hospital in view of the peculiar facts and circumstances of the case or not.

9. The petitioner claims that she was helpless and had a right to survive and, therefore, was compelled to seek treatment in Sir Ganga Ram Hospital for the limitation created by the State or by its instrumentality. The deceased never wanted to go to private hospital. In fact he, at the very outset, got examined at PGI, MS, Rohtak. It could not afford treatment to the patient as it had no such provision in the hospital. That hospital referred the petitioner to AIIMS, New Delhi, again in autonomous body and an instrumentality of the State. The AIIMS again showed its inability to treat the patient and referred him to go to an other hospital with the following remarks :-

"Treatment : No RT prospects Needs MHD Referred to some other centre for regular dialysis in view of paucity of space at dialysis unit at AIIMS. Sd/- Dr. Sanjiv Saxena, Assistant Prof. Department of Nephrology, All India Institute of Medical Sciences, New Delhi-1100029."

10. In furtherance to the above, the patient got himself treated from Sir Ganga Ram Hospital, New Delhi and there is no dispute to the fact that he received treatment for dialysis to renal failure as indoor patient. The first bill submitted by the patient for a sum of Rs. 15426.60 was sanctioned and payment made to the husband of the petitioner for the period 12-8-1995 to 28-11-1995 (Annexure P-4 to the petition). He submitted subsequent bills and vide letter dated 22-1-1997 the Administrative Officer for Secretary Education, Haryana, had forwarded the bills for sanction of the Government as in the previous case. Copy of this letter was sent to the petitioner with the following remarks :-

"A copy of this letter is forwarded to District Education Officer, Rohtak in reply to their letter dated 2.96/2956-57 dated 3-12-1996. In this regard it is requested that the N.O.C. from A.I.I.M.S., New Delhi is dated 30-10-95. Therefore, the employee may be said to get his treatment/dialysis at A.I.I.M.S., New Delhi or in the alternative obtain a fresh N.O.C. for getting his dialysis from a private centre. This is very urgent.

Sd/- Administrative Officer, for Director, Secondary Education, Haryana, Chandigarh."

11. From the above narrated facts, it is clear that but for the compelled circumstances and faced with the fear of death, the petitioner in consonance with the instruction by the respondent had taken a no objection certificate for AIIMS, New Delhi and had reported for treatment for dialysis at regular intervals at Sir Ganga Ram Hospital. I am unable to understand the contention raised on behalf of the respondents that the husband of the petitioner was disentitled from receiving the payment because he had received treatment for a private hospital, which was not recognised by the Government. If the petitioner had received the treatment from approved and recognised hospital by the State, the question of depriving of payment or getting the no objection certificate from PGI MS, Rohtak or AIIMS New Delhi would not have arisen. The very fact that state required the patient to obtain no objection certificate for AIIMS and its inability to give treatment to the patient certainly cannot deprive the patient of his reimbursement subject to the limitations of Annexure R.1/1. After passing of the first bill without any occasion patient to get himself treatment from a particular hospital and having asked the patient to furnish the no objection certificate, there is not only implied but a specific consent on the part of the Government which would justify the claim of reimbursement of the patient.

12. Another factor which has to be taken note of by this Court is that the petitioner was admittedly treated for renal failure and to that effect the report of all the Government hospitals are consistent. Further more, It has also been conceded that the patient had actually received dialysis on account of renal failure from Sir Ganga Ram Hospital for the period mentioned in the bills. The cumulative effect of above conduct of the Government is that the Government would be estopped from rejecting the claim of the patient on this ground.

13. The spirit behind Annexure R.1/1, the policy of the Government, is to grant reimbursement of the medical bills where the treatment has been taken in hospitals other than Government hospitals and as specified in the said letter. Thus, the action of the respondents in granting permission subject to the conditions stated in the aforestated letters from Sir Ganga Ram Hospital, does not run in any way contrary to the policy stated in Annexure R. 1/1. It is merely an extension of the policy existing to the facts and circumstances of the present case. Thus, I am unable to persuade myself to hold that the claim of the petitioner is unsustainable or is in contradiction to the policy Annexure R. 1/1.

14. For the reasons aforestated, this writ petition is allowed. The respondents are hereby directed to make the payment of the bills submitted by the petitioner or her husband, in relation to treatment of her late husband, in accordance with the provisions of Annexure R. 1/1 and upon compliance of formalities so required. No order as to costs.

15. Petition allowed.