
(2008) 08 RAJ CK 0046
In the Rajasthan High Court

Smt. Sulochana Devi Divedi (Pathak)	APPELLANT
Vs	
State of Rajasthan and Others	RESPONDENT

Date of Decision : 11-08-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2008) 08 RAJ CK 0046

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gopal Krishan Vyas, J.—Heard learned Counsel for the parties.

2. By way of filing present writ petition, petitioner is claiming reimbursement of medical expenses. The said claim was rejected by the respondents vide order dated 26th July, 2005 (Annexure-2) on the ground that the case of petitioner was not referred by the competent medical authority for further treatment in the hospital out side State where petitioner got medical treatment. The claim of the petitioner was rejected vide order dated 26th July, 2005 on the ground that the hospital in which petitioner got treatment is not in the list of recognized hospital as per scheme of Govt. of Rajasthan.

3. The petitioner is pensioner and she was allowed pension vide PPO No.851095. The petitioner along with her husband went Ahmedabad to meet their relatives (Manju who is sister of petitioner) where on 04th October, 2004 petitioner all of sudden suffered serious chest pain, therefore, she was taken to nearby hospital which is known as Sterling Hospital, Memnagar, Ahmedabad.

4. In the hospital, as per advise of the doctors immediate operation of coronary angioplasty was performed to save life of petitioner in which petitioner spent sum of Rs. 1,78,352/- and being pensioner she applied for reimbursement of medical expenses incurred for her treatment at Ahmedabad as per Rajasthan State Pensioner Welfare Medical Concession Scheme. But her claim has been rejected

on illegal grounds, therefore, it is prayed that order dated 26th May, 2005 Annexure-2 whereby respondents have refused to accept claim of petitioner may kindly be set aside.

5. Learned Counsel for the petitioner argued that in emergent situation to save life of the petitioner it was felt necessary to get treatment without referring matter by the competent authority as provided in the scheme. Learned Counsel for the petitioner has invited attention of this Court towards the judgment of this Court reported in WLC 2003 (1) 51 (Gajraj Chand Bhandari v. State of Rajasthan and Ors.) and another judgment reported in 2000 (3) RLW 1708 (Smt. Nirmala Kumar Raizada v. Director Pensions & Pensioners Welfare and Ors.) in which the learned Single Judge of this Court has held that in emergent situation, it should not be expected from the employee to observe the formalities to get his case recommended for treatment from outside the State. Therefore, refusing reimbursement of medical bills is violation of Article 14 and 21 of the Constitution of India. Learned Counsel for the petitioner further argued that mere on technicalities, the petitioner has been denied payment of medical expenses for which she is legally entitled under the Scheme framed by the Welfare State.

6. Per contra learned Counsel for respondents vehemently argued that when there is scheme formulated by State Government then it is the duty of employee to follow the provisions of the said scheme to claim any reimbursement of medical bills under the Scheme. In this case as per learned Counsel for the respondents, the case of petitioner was not recommended by any competent authority for treatment outside the State and petitioner at his own got treatment outside the State at Ahmedabad without even referred by any competent authority, therefore, petitioner is not entitled for any payment of medical bills as claimed by her.

7. After hearing both learned Counsel for the parties, I have considered rival submissions made by petitioner as well as by respondents.

8. In this case, admittedly as per facts in emergent situation, petitioner got treatment of heart disease at Sterling Hospital, Memnagar, Ahmedabad in which huge amount was paid by her and being retired government employee she is entitled for reimbursement of the said amount as per the scheme. Upon perusal of reply and impugned order the denial has been made on the ground that petitioner took treatment from private hospital outside the State in Gujrat in the hospital which is not recognized in the Scheme.

9. I am in full agreement with the proposition laid down by the Co-ordinate Bench of this Court in case of Smt. Nirmala Kumar Raizada v. Director Pensions & pensioners Welfare and Ors. (supra) in which the Co-ordinate Bench of this Court in which it has been held that in emergent situation, if any treatment is taken by the pensioner outside the state, then, also he is entitled for medical reimbursement. Para - 6 of the aforesaid judgment is as follows:

6- jktLFkku jkT; isa"kuIZ dUls"ku Ldhe jkT; ljdkj dh foKfIr fnukad 19@11@1981 }

kjk tkjh dh xbZ Fkh A mDr Ldhe ds fu;e 4 ,? esa is"kulZ }kjk jkT; ls ckgj fd;s tkus okys jksxks ds bykt dk mYys[k gS A mDr Ldhe dk fu;e 16 fuEu izdkj gS%

The Board of Trustees may grant to a pensioner any concession relating to medical treatment or attendance which is not provided in this Scheme in individual cases of extreme hardship on merits.

mDr fu;e 16 ds vuq"khyu ls Li"V gS fd ,slk fpfdRlk mipkj ftldk mYys[k Ldhe esa ugh gS ;fn fdlh is"kulZ }kjk ,slh dfBu ifjLFkr;ksa esa izkIr fd;k tkrk gS tks xaHkhj gks rks mlds laca/k esa Hkh cksMZ ds V?LVht isa"kulZ dks dUls"ku ns ldsxs A jkT; ljdkj ds foRr foHkx }kjk tkjh vf/klwpuk fnukad 19@11@1981 dks tkjh djus dk mn~ns"; jkT; ljdkj ds Isokfu`Rr deZpkjh;ks dks fpfdRlk lqfo/kk iznku fd;k tkuk Fkk vkSj blh mn~ns"; dks ysdj jktLFkku jkT; is"kulZ esfMdy dUls"ku Ldhe ykxw dh xbZ Fkh tks cskMZ+ vkWQ V?LVht }kjk iz"kkflr dh tkuh Fkh A cksMZ dk ps;jeSu eq[; "kklu lfpo fu;qDr fd;k x;k gS rFkk funs"kd] is"ku ,.M isa"kulZ osYQs;j jktLFkku dks lnL; lfpo o ftyk/kh" k dks iz"kkld fu;qDr fd;k x;k gS A mDr Ldhe dks dsk" k dks Isokjr deZpkjh;ks ds ;ksxnku ls ^^ is"kulZ esfMdy Q.M^^ ds uke ls cuk;k x;k Fkk ftldk izk"kklfud [kpZ jkT; ljdkj dks ogu djuk Fkk vkSj ;g dYiuk dh xbZ Fkh fd mDr Ldhe lsYQ lsfQlsav gksxh A ckn] esa tc vkS"kf/k;ksa dh dher cwy jgk gks mlls ;g vis{kk ugh dh tk ldrh fd og izkpkZ;] ,l- ,e- ,l- esfMdy dkyst ;k fpfdRlk funs"kd ls esfMdy cksMZ xBr djus ds fy, dgsxk ;k ijh{k.k gsrq iafDrc} [kM+k jgsxk A izkFkZuh ds izdj.k esa Hkh tcfd og jktLFkku ls ckgj vpkud jksxxzLr gks xbZ Fkh vkSj mldh xEHkhj voLFkk esa mldk vkijS"ku fd;k tkuk Fkk A izkFkZuh ds fy, ;g laHko ugh Fkk fd og t;iqj vkrh vkSj esfMdy cksMZ xBr djus ds fy, dgrh A Ldhe fuekZrkvks us Ldhe cukus ls igys ,slh fo"ke ifjLFkr;ksa ij fopkj djus ds mijUr gh fu;e&16 fopfjr fd;k Fkk] fdUr [ksn dk fo"ke; gS fd foi{kxh.k us Ldhe dks lgh :i ls foosfpr ugh fd;k A izkFkZuh }kjk tks nLrkost izLqr fd;s x;s gS mu ij vfo"okl djus dk dksbZ vk/kkj gS] izkFkZuh dh vk;q 67 o"kZ gS vksj lhuh;j flvhtu ds dY;k.k dk /;ku j[kuk jkT; ljdkj dk drZO; gS mDr of.kZr fpfdRlk Ldhe jkT; deZpkjh;ks ds va"knku las cukbZ x;h gS vkSj esS] bl fuf"pr er dk gwWa fd mDr Ldhe ds rgr tks fpfdRlk lqfo/kk is"kulZ dks iznku dh tkrh gS og Hkh[k vFkok n;k ugh gS cfYd Isokfu`Rr deZpkjh;ks dk vf/kdkj gS vkSj mDr Ldhe ds izko/kkuks dk foospu Isokfu`Rr deZpkjh;ksa ds fgrks dks vkdf" kZr djrs gq, vU; fu;eks dh tfVyrkvks dks fo"ke ifjLFkr;ksa ess f"kfFky djus dk iz;kl fd;k tkuk pkfg, A izkFkZuh dks tks fpfdRlk lqfo/kk iznku u djrs gq, mlds esfMdy fcyks dks fujLr djus dk foi{kxh.k us d`R; fd;k gS og Hkkjrh; lafo/kku ds vuqPNsn 14 o 21 ds izfrdwy gS A jkT; ljdkj ds vf/kdkjh;ksa dks tu dY;k.k ds dk;kZs ds izfr mUeq[k jguk pkfg, vkSj g`n;ghurk o laosnu"kwU; tSlh laKkvks ls cpuk pkfg, A

10. In this view of the matter, this writ petition is allowed. The respondents are directed to reimburse the medical bills as per Scheme without insisting upon the fact that her case was not recommended/forwarded by the competent doctor for treatment outside the State in the private hospital and petitioner shall be paid the amount of medical bills as per rates of notified and recognized hospital under the Scheme within a period of two months from the date of receipt of certified

copy of this order.

11. No order as to costs.