
(2016) 07 TP CK 0001
In the Tripura High Court
Case No : W.P. (C) 228 of 2013

Sri Ajit Kumar Paul

APPELLANT

Vs

State of Tripura

RESPONDENT

Date of Decision : 01-07-2016

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2016) LIC 3190

Hon'ble Judges : U.B. Saha, J.

Bench : Single Bench

Advocate : Mr. A Bhowmik, Advocate, for the Appellant; Mr. DC Nath, State Counsel, for the Respondent

Final Decision : Allowed

Judgement

U.B. Saha, J.—By filing this writ petition, the present petitioner, an Assistant Teacher of Barbhaya High School, prayed for quashing the letter dated 25.06.2012 (Annexure-P/8 to the writ petition) issued by the Director of School Education, Govt. of Tripura (respondent No. 2 herein) to the District Education Officer, South Zonal District Office, (respondent No. 3 herein) whereby the respondent No. 2 had returned the medical reimbursement bill of the petitioner with a request to re-submit the same along with the referral certificate and consequent thereto to give direction to the respondents to allow the reimbursement of the medical bill of the petitioner.

2. Heard Mr. A Bhomwik, learned counsel for the petitioner as well as Mr. DC Nath, learned State counsel for the respondents.

3. The facts needed to be discussed are as under: The petitioner entered into service as Assistant Teacher in the year 1988 and was posted at Barbhaya High School, Udaipur. On 10.12.2011 he suffered severe chest pain and was immediately shifted to Tripura Sundari District Hospital, Udaipur with the help of his friends and relatives, where he was admitted and kept in ICU till 14.12.2011.

Multiple tests were done on the petitioner and it was found that the petitioner suffered a heart attack. As the physical condition of the petitioner was deteriorating every second, the doctors of the Tripura Sundari Hospital advised the family members of the petitioner to shift him to Kolkata for better treatment as the facilities available in the Tripura Sundari Hospital were not sufficient to take care of the health of the petitioner or else he would die. As per the verbal suggestion of the doctor of the Tripura Sundari Hospital, Udaipur the family members of the petitioner, without wasting any time shifted him to Kolkata and took him at the Rabindra Nath Tagore International Institute of Cardiac Sciences, Kolkata (RTIICS). On 20.12.2011 the petitioner was checked by Dr. Anup Khetan, Cardiology Department, RTIICS, Kolkata and the doctor found that the petitioner needed to be immediately admitted in the hospital for conducting Coronary Angiogram Report (CAG). Accordingly the petitioner was admitted in the RTIICS, Kolkata on 21.12.2011. It is further stated by the petitioner that his physical condition was very bad and was deteriorating very rapidly and there was no time to abide/maintain the official formalities even to give any intimation or information to the respondents. After medical checkups and CAG, on 21.12.2011 the doctors of RTIICS, Kolkata suggested the petitioner to undergo operation immediately. Accordingly, the petitioner was discharged from CAG Section and advised to get admitted to the PTCA Section of the Hospital. Ultimately, the petitioner underwent heart operation on 23.12.2011 and thereafter on 25.12.2011 the petitioner was discharged from the RTIICS, Kolkata.

4. The petitioner spent an amount of Rs. 1,78,029/ (Rupees One Lac Seventy Eight Thousand and Twenty Nine only) towards his treatment and as such the petitioner approached the respondents for reimbursement of the said amount which was spent by him towards his treatment with all necessary papers including prescriptions and bills along with his TA Bill amounting to Rs. 11,515/- (Rupees Eleven Thousand Five Hundred and Fifteen only). The said bill of the petitioner was forwarded by the respondent No. 4 to the respondent No. 2. The respondent No. 2 vide his memo dated 21.01.2012 accorded sanction of the TA Bill in favour of the petitioner without taking into consideration his medical reimbursement bill. It is also stated that though the respondent No. 2 accorded sanction towards the travelling allowances but the treasury has stopped the payment verbally directing the petitioner to produce the referral certificate and as such the petitioner has also not received his travelling allowance bill. Finally, the respondent No. 2 informed the respondent No. 3 that the respondent No. 2 was returning back the Medical Reimbursement bills of the petitioner with a direction to the petitioner to resubmit the said bill along with all referral documents. Hence, the writ petition.

5. The State respondents, by way of filing counter affidavit, denied the claim of the petitioner only on the ground that the petitioner was not referred by the medical board. Thus, he is not entitled to the medical reimbursement bill as claimed. The respondent has also supported the action of the Treasury Officer.

6. Mr. Bhowmik, learned counsel for the petitioner, while urging for the relief sought for, would contend that the petitioner was denied the reimbursement of his medical bill only on the ground that he had left the State for medical treatment on his own without being referred by the Standing Medical Board of the State. He submits that admittedly in the State there is no facility for cardiac treatment except in a private hospital established recently and at that relevant point of time the said private hospital was also not established in the State of Tripura. Having no other alternative, the petitioner had to go outside the State for treatment on his own to save his life as he was verbally advised by the doctor of the Tripura Sundari Hospital, Udaipur. He further submits that the instant case is fully covered by the decision of this Court in *Modan Mohan Bhowmik v. State of Tripura and Ors*, (2011) 2 GLR 738 wherein it has been noted that denial of reimbursement of medical bill to an employee on mere technical ground is denial of right to life which includes right to health.

7. He again submitted that a similar question came up for decision in the case of *Shri. Amal Barua v. State of Tripura and Ors*. [WP(C)135/2013] wherein the petitioner of that case was denied the medical reimbursement on the ground that he had left the State for his treatment without being referred by the State Medical Board and this Court after hearing the parties directed the State respondents to allow medical reimbursement to the petitioner of that case and also to make payment at the rate of the referral hospital.

8. Mr. Nath, learned State counsel also conceded that the instant case is fully covered by the decision of this Court in *Shri Amal Barua* (supra).

9. In the case of *Shri Amal Barua* (supra) this Court considered the judgment of the Apex Court in *Surjit Singh v. State of Punjab and Ors*, (1996) 2 SCC 336 wherein the Apex Court while dealing with almost similar issue held as under:-

"The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which barefacedly, makes its meeting difficult to happen. The appellant also did not have to stand in queue in the government hospital of AIIMS and could go elsewhere to an alternative hospital as per policy. When the state itself has brought Escorts on the recognised list, it futile for it to contend that the appellant could in no event have gone to Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary. In the facts and circumstances, had the appellant remained in India, he could have gone to Escorts like many others did, to save his life. But instead he has done that in London incurring considerable expense. The doctors causing his operation there are presumed to have done so as one essential and timely. On that hypothesis, it is fair and just that the respondents pay to the appellant, the rates admissible as per Escorts. The claim of the appellant having been found valid, the question posed at the outset is answered in the affirmative. Of course the sum of Rs. 40,000 already paid to the appellant would have to be adjusted in computation. Since the appellant did not have his claim dealt with in the High

Court in the manner it has been projected now in this Court, we do not grant him any interest for the intervening period, even though prayed for. Let the differences be paid to the appellant within two months positively. The appeal is accordingly allowed. There need be no order as to costs."

10. For better appreciation, it would be proper to reproduce paragraphs 12 and 13 of Shri Amal Barua (supra). Accordingly, the same is reproduced hereinunder:-

"12. The aforesaid decision of the Apex Court on medical reimbursement is the first decision wherein the Apex Court considered the case of an employee of Punjab Government who was suffering from heart trouble. He even without approval of the Punjab Government went to London on his own. After coming back from London, he submitted the medical for reimbursement. The Punjab Government refused to pay the bill for there was no approval of the Government as because the case was not referred by the Medical Board as required under the Rules.

13. In the aforesaid case, the Apex Court also pointed out that it is always not necessary to wait for the approval of the Medical Board. It is also not necessary to stand in the queue before the Medical Board because it is well known situation that the Medical Board shall meet according to its convenience and in the mean time the patient may die. The Apex Court also stated in the said judgment that there is no need to go for a particular approved institution. He can go to any institution of his choice, but he will be paid the medical reimbursement according to the rate of the approved institution."

11. In *Ranjit Kr. Debnath Baidya v. State of Tripura & ors*, (2008) 4 GLR 868, the Gauhati High Court noted that there is no doubt that an employee is supposed to follow the Rules/Scheme/administrative orders passed by the authorities relating to reimbursement of medical bill(s). But that does not mean that even if his bypass operation (CABG) or any other treatment was emergently required to save his life, he should not go for that and he has to stand in queue in the referred hospital and has to wait till his turn will come for admission and treatment in the referred hospital to follow the memorandum of the authority at the cost of his life.

12. In *Nimai Chandra Sarkar v. State of Tripura*, (2009) 6 GLR 160, the aforesaid observation was reiterated and in the case of *Anil Kr. Sarkar v. State of Tripura and ors*, (WP(C) No. 426 of 2006), it has been noted that the petitioner of that case shall be entitled to reimbursement of his medical expenses in terms of the memorandum of Finance Department at the rate of SSKM Hospital, Kolkata prevalent at the relevant time irrespective of the fact whether the petitioner of that case treated himself either in the referral hospital or in any other hospital.

13. In *Harendra Ch. Das v. The State of Tripura*, [W.P(C) 208 of 2008], the Gauhati High Court held :

"Having regard to the above decision of the Supreme Court in *Surjit Singh*

(supra), I find that the refusal by the State Authorities to reimburse the costs of medical treatment on the ground of not being referred to by the Medical Board cannot be sustained and accordingly, I am of the view that the petitioner is entitled to obtain reimbursement of costs of medical treatment, incurred by him for his medical treatment at Kolkata."

14. In a case, when an employee entitled to medical reimbursement goes for his treatment outside the State without taking reference from the standing Medical Board, in that case, the authority has to see as to whether the said employee was in a position to wait for reference and also as to whether the treatment for which he had to go outside the State was available in the State hospital. If the treatment of cardiac diseases like bypass surgery is not available in the State hospital, in that case, an employee should not be denied reimbursement of medical bill towards his treatment outside the State on mere technical grounds. Rather, it would be proper to reimburse the medical bill at the rate of referral hospital as the right to life includes right to health in view of the decision of the Apex Court in *State of Punjab and ors v. Mahinder Singh Chawla, etc.*, AIR 1997 SC 1225 wherein the Apex Court while considering a case relating to denying of a medical reimbursement bill held that right to life includes right to health.

15. Admittedly, neither in the Govt. hospital nor in Govt. medical college, treatment of cardiac problems is available though at present there is a private hospital where the cardiac treatment is available and for that also, a patient has to wait when a specialist comes from outside. Reference by the standing Medical Board to a referral hospital itself cannot be a ground for not granting medical reimbursement to him, rather the Govt. should see whether the employee (patient) took treatment outside the State which is not available in the State of Tripura. In such a situation, the Govt. should not deny the medical reimbursement of its employees merely on the technical ground. This Court is of the further opinion that the claim of the petitioner is a genuine one as he is entitled to medical reimbursement and admittedly RTIICS, Kolkata is a referral hospital of the Government of Tripura.

16. In view of the above, the letter dated 25.06.2012 is hereby set aside so far the petitioner is concerned. The respondents are directed to allow the medical reimbursement bill of the petitioner including the travelling allowance bill on the basis of the bills submitted by the petitioner and make payment of the same at the rate of referral hospital within a period of two months from the date of receipt of this order.

17. In the result, the writ petition is allowed.

18. No order as to costs.