

**(2021) 11 GAU CK 0058**

**In the Gauhati High Court**

**Case No : Writ Petition (Civil) No. 6030 Of 2021**

Urmila Devi

APPELLANT

Vs

State Of Assam And 6 Ors

RESPONDENT

**Date of Decision : 17-11-2021**

**Acts Referred:**

**Citation : (2021) 11 GAU CK 0058**

**Hon'ble Judges : Achintya Malla Bujor Barua, J**

**Bench : Single Bench**

**Advocate : S N Krishnatraya**

**Final Decision : Disposed Of**

## **Judgement**

1. Heard Mr. S N Krishnatraya, learned counsel for the petitioner. Also heard Mr. A R Tahbildar, learned counsel for the respondents no. 1 and 4 being the authorities under the Higher Education Department, Government of Assam, Mr. D P Borah, learned counsel for the respondents no. 5, 6 and 7 being the authorities under the Health Department, Government of Assam and Mr. A Chaliha, learned counsel for the respondent no. 3 being the authorities under the Finance Department.

2. The husband of the petitioner Late Dhiraj Kumar Sharma who was an Assistant Professor in the Statistics Department of Bajali College Pathsala was ill during his service tenure and was suffering from 'neuro-endocrine tumour of Pancreas with cholelithiasis terminal CBD stricture'.

3. The Board of Doctors in the Gauhati Medical College and Hospital considering the seriousness of the illness of the husband of the petitioner had issued Referral Medical Certificate requiring him to undergo treatment in the Apollo Hospital at Chennai or in the AIIMS at Delhi or in the Health Care Global ENT Ltd. Hospital at Bengaluru. Accordingly, a letter dated 19.01.2012 was issued by the In-Charge Superintendent of Gauhati Medical College & Hospital allowing the husband of the petitioner for treatment in either of the aforesaid three hospitals. Accordingly,

the husband of the petitioner underwent the treatment upto 11.12.2013 at periodical intervals at Health Care Global ENT Ltd. Hospital at Bengaluru. Ultimately, the husband of the petitioner died on 16.03.2017.

4. For the medical expenses that the husband of the petitioner had to incur for his treatment as indicated above, a claim amounting to Rs.6,75,981/-(Rupees Six Lakhs Seventy Five Thousand Nine Hundred Eighty One) was made as under the service conditions the husband of the petitioner was entitled to a reimbursement of the medical expenses.

5. The Joint Director of Health Services, Barpeta by his communication dated 11.13.2015 had informed the Director of Higher Education, Assam that out of the amount of Rs.6,75,981/- /-(Rupees Six Lakhs Seventy Five Thousand Nine Hundred Eighty One) claimed, an amount of Rs.78,244/- (Rupees Seventy Eight Thousand Two Hundred Forty Four) would be inadmissible. The communication specifically stated that the amount of the medical expenses for reimbursement as admissible as per the Health Department would be Rs.5,97,737/- (Rupees Five Lakhs Ninety Seven Thousand Seven Hundred Thirty Seven).

6. Mr. A R Tahbildar, learned counsel for the Higher Education Department refers to a subsequent communication from the Joint Director of Health Services, Assam to the Director of Higher Education, Assam dated 10.05.2016 which provided that the Health Care Global ENT Ltd. Hospital at Bengaluru was not an approved referral hospital of the Government of Assam and therefore, by enclosing the earlier letter dated 02.05.2016 the Government was requested to take a decision in the matter. The Director of Higher Education by a communication dated 15.09.2016 addressed to the Secretary to the Government of Assam in the Higher Education Department with reference to the office memorandum dated 30.06.2007 sought for necessary information from the Finance (Budget) Department and also raised an issue that the Health Global Enterprises Limited, HCG Towers at Bengaluru was not an approved referral hospital of the Government of Assam. But by the same communication the Government was requested to accord necessary sanction for an amount of Rs.5,97,737/-(Rupees Five Lakh Ninety Seven Thousand Seven Hundred Thirty Seven) and accordingly, the bank account of the deceased husband of the petitioner was also provided. Nothing further progressed and in the circumstance the present writ petition is instituted.

7. With regard to the issue raised by the Joint Director of the Health Services, Guwahati by his communication of 10.05.2016, we have taken note that by the Referral Medical Certificate issued from the office of the Superintendent, Gauhati Medical College & Hospital, Bhangagarh which was signed by the Referral Medical Board consisting of five members, the husband of the petitioner was referred to attend to his illness in any of the three hospitals namely Apollo Hospital at Chennai or AIIMS at Delhi or Health Care Global ENT Ltd. Hospital at Bengaluru.

8. The Superintendent of Gauhati Medical College & Hospital by another

communication of 02.05.2016 had also issued a clarification that, amongst others, the husband of the petitioner was also referred to the Health Care Global ENT Ltd. Hospital at Bengaluru. As the husband of the petitioner, amongst others, was also referred for treatment to the Health Care Global ENT Ltd. Hospital at Bengaluru by the duly constituted and competent Medical Board of the Gauhati Medical College & Hospital, and accordingly, amongst others, the husband of the petitioner was required to go to Health Care Global ENT Ltd. Hospital at Bengaluru for his treatment, and he having availed and in fact having gone for the treatment to the said hospital, we are of the view that the respondent authorities conjointly and in a collective manner would now be debarred from raising an objection that the Health Care Global ENT Ltd. Hospital at Bengaluru was not an enlisted referral hospital of the Government of Assam. If it was not so, the authorities could have done the needful at the initial stage by referring the husband of the petitioner to the competent hospital.

9. The same having not been done and the deceased husband of the petitioner having changed his position to his detriment by accepting such requirement to avail his treatment at Health Care Global ENT Ltd. Hospital at Bengaluru as issued by the appropriate authority, it would be inappropriate at this stage now to allow the respondent authorities to raise such objection. It is not a case of the respondents that the deceased husband of the petitioner was not required or had not availed the medical benefits to which he was entitled nor there is any stand of the respondents that the claim was of fraudulent nature in any manner. The respondent authorities by requiring the husband of the petitioner to avail the medical treatment, also at Health Care Global ENT Ltd. Hospital at Bengaluru and the deceased husband of the petitioner having availed as was required of him by the respondent authorities, the respondent authorities collectively, the Health and Family Welfare Department, more particularly, have acquiesced themselves from raising an objection and refraining from honouring the medical reimbursement bill on a plea that Health Care Global ENT Ltd. Hospital at Bengaluru is not an enlisted referral hospital of the Government of Assam.

10. Considering the matter in its entirety and balancing the equity and also considering the aspect that it is more than five years now since the medical bill of the husband of the petitioner is pending for reimbursement where there is a communication by the Director of Higher Education dated 15.09.2016 for necessary sanction of the amount of Rs.5,97,737/-(Rupees Five Lakh Ninety Seven Thousand Seven Hundred Thirty Seven)and there being no question raised on the part of the authorities in the Health Department that otherwise, the deceased husband of the petitioner would not be entitled to a reimbursement for an amount of Rs.5,97,737/- (Rupees Five Lakh Ninety Seven Thousand Seven Hundred Thirty Seven), we direct the authorities in the Higher Education Department as well as the authorities in the Finance Department and the Health Department to do the needful to ensure that the sanctioned amount of Rs.5,97,737/- (Rupees Five Lakh Ninety Seven Thousand Seven Hundred Thirty Seven) be paid to the petitioner within a period of two months from the date of

receipt of certified copy of the order

11. The authorities in the three departments shall cooperate with each other and should not create any unwarranted obstacle.

12. Writ petition stands disposed of in the above terms.