
(2013) 09 P&H CK 0050
In the Punjab And Haryana At Chandigarh
Case No : C.W.P No. 7112 of 2011 (O and M)

V. Mohini

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 26-09-2013

Acts Referred:

Citation : (2014) 173 PLR 643 : (2014) 1 SCT 504

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : Anand Bhardwaj, for the Appellant; Shruti Goel, AAG Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Ajay Tewari, J.—The petitioner was a patient of chronic Ulcerative Colitis and was constantly under treatment for the same and the claim in the petition is for re-imbursement of medical expenses incurred in an un-approved hospital. Counsel for the petitioner, at the very outset, states that the petitioner is not seeking to claim any re-imbursement for the treatment got in Inscol Hospital since no procedure was carried out there.

2. As per the averments made in the petition, the petitioner came to know of some better surgical technique available at Satguru Partap Singh Apollo Hospital, Ludhiana (which is an un-approved hospital), where her surgery was conducted in two phases. She got first phase of the surgery conducted and was to report back after few months. During this period, as per the petitioner, she complained of high fever, vomiting, chest pain etc. and was admitted to Inscol Hospital, Chandigarh where she was conservatively treated and discharged and thereafter she went for second phase of the surgery which was also conducted upon her. The counsel has argued that the Civil Surgeon did not certify the procedure which the petitioner had undergone at Ludhiana as an emergency and consequently, the respondent-State of Haryana refused to consider the case of the petitioner for medical re-imbursement since as per them, no emergency

procedure had been carried out at an un-approved hospital. He has further argued that the petitioner seeks medical re-imbursement at PGI rates.

3. Counsel for the respondents has argued that since the medical reimbursement policy does not envisage grant of any reimbursement in the event of treatment taken from an un-approved hospital except in the case of emergency as certified by Civil Surgeon, the petitioner is not entitled to any payment.

4. In my opinion the stand of the State is unjustified. The latest policy of the Haryana Government dated 6.5.2005 on the subject broadly envisages that if treatment is taken from a government hospital it shall be fully re-imbursed and if treatment is taken from an approved hospital then the employee would be liable to be reimbursed at the PGI/AIIMS rates plus 75% of the balance, if any. The third category as per this policy is of unapproved hospital and any treatment taken therefrom is reimbursable at PGI rates with, however, the condition that the same should be certified to be an emergency treatment by the Civil Surgeon. The fact that a person gets the non-emergent surgery done from an un-approved hospital cannot be a blanket ground to deny him/her reimbursement. Of course, if some body goes in for surgery which is not necessary then such a stand can be appreciated, but if the surgery is not unjustified and, is otherwise medically required then the State should reimburse the same as per PGI/AIIMS rates. Reliance may be placed on a Division Bench judgment of this Court in Mahipal Singh Vs. State of Haryana and Others, , wherein it was held as follows:-

8. xx xx xx

In a case where the life of a human being is at stake, it is too technical to require such a person to hunt for a list of the approved hospitals and then decide which hospital to go in emergency situation. Sometimes such hospitals may not be able to accommodate the patient and at that time the attendant is not expected to first look into the list of approved/recognized hospitals for medical reimbursement and then proceed for treatment. Such procedures should not be expected to be followed in an emergency by the attendant of the patient. If such regulations are applied so strictly, it would result in a disastrous situation and the patient may die. The act committed in an emergency should not be weighed in terms of money, especially when human life is at stake. The provision of free medical treatment or reimbursement in lieu thereof being a beneficial act of the welfare State for its employees, the rules/instructions have to be construed liberally in favour of the employees, for granting them the relief. The authorities are not supposed to adopt a wooden attitude and stick to technicalities while dealing with human problems. There can be no mathematical precision while dealing with human beings....

5. To the same effect are judgments in the cases of Smt. Shail Bala Mittal v. The State of Haryana and others, passed in CWP No. 10745 of 2007, decided on 19.02.2009, Om Kumari v. State of Haryana and another, passed in CWP No. 1711 of 2011 decided on 23.07.2013 and Tej Ram Yadav v. State of Haryana

passed in CWP No. 130 of 2011 decided on 25.07.2013. In the case of Smt. Shail Bala Mittal (supra) no appeal has been filed and the payment has been made.

6. Smt. Shail Bala Mittal's case (supra) was a case where a retired government servant was admitted to the hospital in an emergency after she had fallen down and thereafter got her knees replaced and claimed reimbursement. There also the plea taken by the State was that the hospital was an unapproved hospital and there was no emergency. However, this Court allowed reimbursement at the PGI rates. In reply, there is a bald averment that the facts of this case are not applicable to the present case, without eliciting any distinguishing factor. Even while arguing the learned counsel for the respondents has not been able to bring out any factual dissimilarities in these cases. In view of the aforesaid binding precedents, this writ petition is disposed of with a direction to the respondents to get an opinion from the Civil Surgeon as to whether the surgery undergone by the petitioner was medically necessary or not. If the Civil Surgeon gives the opinion that the same was medically necessary then the reimbursement at the government rates be made to the petitioner even though the same was not an emergency surgery. Let the necessary exercise of getting the opinion and taking consequent action thereon in terms of the direction given above be completed within a period of three months from the date of receipt of a certified copy of this order.