
(2008) 03 P&H CK 0149
In the Punjab And Haryana At Chandigarh

Vasu Dev Bhanot

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-03-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 2 PLR 322

Hon'ble Judges : Mohinder Pal, J; Hemant Gupta, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Mohinder Pal, J.—Claim in the present writ petition is for quashing the order dated September 12, 2005 (Annexure P-3) vide which claim of petitioner Vasu Dev Bhanot for medical reimbursement on account of the treatment of his wife, namely, Smt. Pushpa Bhanot from Fortis Hospital-Super Speciality in Heart, Mohali, (hereinafter referred to as "the Fortis Hospital") has been rejected and for issuing a direction to the respondents to make payment of the expenses incurred by the petitioner in connection with the treatment of Smt. Pushpa Bhanot.

2. The petitioner is a Central Government pensioner and member of Central Government Health Scheme (for short "CGHS"). Wife of the petitioner, namely, Smt. Pushpa Bhanot, while coming from Kharar (District Mohali) along with the petitioner, felt severe chest pain on February 24, 2005. She was rushed to the Fortis Hospital in an emergency condition with diagnosis of Essential Hypertension, Coronary Artery Disease and Unstable Angina Coronary. Angiography was done in emergency on February 24, 2005, which revealed Double Vessel disease followed by PTCA to LAD and LCX with Integrigillin. She underwent Angioplasty. Mounted stent ciper 2.75 x 18 cords and Mounted stent cipher 3.0 x 18 were used to save the life of petitioner's wife. She remained admitted in Fortis Hospital from February 24, 2005 to February 26, 2005. The petitioner spent Rs. 3,76,439/- on the treatment of his wife. The petitioner

submitted claim of medical reimbursement of the aforesaid expenses to the respondent-Department, which was rejected.

3. On notice, the respondent-Department contested the claim of the petitioner for medical reimbursement on the ground that the Central Government does not reimburse medical expenses on the treatment taken from private unrecognized hospitals. However, in case where treatment had to be taken in private unrecognized hospital in an emergency, the claims preferred may be referred to CGHS concerned, who after examining each case on merits, would recommend the admissible amount for payment to the beneficiaries. It has been further pleaded that the Medical Certificate (Annexure P-5) issued by the Fortis Hospital, which is a private hospital, not recognised by CGHS, is not valid under CGHS Rules for reimbursement of medical claims. As the petitioner took treatment in a private hospital from February 24, 2005 to February 26, 2006, he was not entitled for reimbursement of medical expenses. It has been further pleaded that the Additional Deputy Director General (HQ), Office of Director General Health Services (CGHS-I Section) (respondent No. 3), had consultations with the Head of Department, Cardiology, Safdarjang Hospital, New Delhi, who opined that the records did not suggest that Angioplasty was required as an emergency case. Use of cipher stents in LCS artery cannot be justified under CGHS guidelines.

4. We have heard Mr. Suneet Sharma, Advocate, appearing for the petitioner, and Mr. G.K.S. Taank, Advocate, appearing for the respondents and have gone through the records of the case.

5. While arguing before us, learned Counsel for the petitioner has argued that the objection regarding treatment in a private hospital could not be sustained in the eyes of law in view of the state of emergency arisen because of severe chest pain suffered by petitioner's wife on February 24, 2005, while coming with the petitioner from Kharar (District Mohali). She was rushed to Fortis Hospital in an emergency condition with diagnosis of Essential Hypertension, Coronary Artery Disease and Unstable Angina Coronary. Angiography was done in emergency on February 24, 2005, itself revealing Double Vessel disease followed by PTCA to LAD and LCX with Integrillin. She underwent Angioplasty. Mounted stent ciper 2.75 x 18 cords and Mounted stent cipher 3.0 x 18 were used to save Smt. Pushpa Bhanot. The petitioner had no time to take his wife to Post Graduate Institute of Medical Sciences and Research, Chandigarh (hereinafter referred to as "the P.G.I.) or any other recognized hospital or to get the patient referred through CGHS Dispensary as required under the relevant rules.

On the other hand, learned Counsel for the respondents, has stressed the point that as the treatment had been taken from a hospital which was not recognized by the respondent-Department, the claim for medical reimbursement was rightly rejected.

6. The petitioner was in Mohali when his wife developed acute chest pain. The Fortis hospital is also in Mohali and is known for treatment of heart diseases. The

first anxiety on the part of the petitioner was to get immediate medical attention for his wife. As stated above, when the petitioner's wife was admitted in Fortis Hospital in an emergency condition on February 24, 2005, she was diagnosed Essential Hypertension, Coronary Artery Disease and Unstable Angina Coronary. On February 24, 2005 itself, angiography was done in emergency. Angiography revealed Double V disease followed by PTCA to LAD and LCX with Integrillin. She underwent Angioplasty. Mounted stent ciper 2.75 x 18 cords and Mounted stent ciper 3.0 x 18 were used to save Smt. Pushpa Bhanot. Under these circumstances, it is not expected that the petitioner ought to have taken his wife to Post Graduate Institute of Medical Sciences and Research, Chandigarh (hereinafter referred to as the P.G.I.), which is situated at a distance of about six/seven kilometers from Mohali, or to any other recognized hospital or to get the patient referred through CGHS Dispensary as required under the relevant rules. The hyper-technical stand taken by the respondents is wholly unreasonable and unjustified. Strangely enough, the respondents have also taken a stand in the written statement that the Additional Deputy Director General (HQ), Office of Director General Health Services (CGHS-I Section) (respondent. No. 3), had consultations with the Head of department Cardiology, Safdarjang Hospital, New Delhi, who opined that the records did not suggest that Angioplasty was required as an emergency case and that use of cipher stents in LCS artery cannot be justified under CGHS guidelines. We have perused the Certificate dated March 25, 2006 (Annexure P-5) issued by the Fortis Hospital, which reads as under:

This is to certify that Mrs. Pushpa Bhanot vide UHID No. 68304 was admitted on 24th February, 2005 in Fortis Hospital-Super Speciality in Heart, Mohali in Emergency with diagnosis of Essential Hypertension, Coronary Artery Disease and Unstable Angina Coronary. Angiography done in Emergency on 24th February, 2005 revealed Double vessel disease followed by PTCA to LAD and LCS with Integrillin.

7. This certificate is issued by Dr. Jagmohan Varma, M.D., D.M. (Cardiology), Senior Consultant & Director, Cardiac Catheterization Laboratories, Forties Hospital. Since petitioner's wife had undergone Angioplasty and mounted stent ciper 2.75 x 18 cords and mounted stent ciper 3.0 x 18 were used, the genuineness of the bills issued by Fortis Hospital cannot be disputed. It is settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant or his dependant has suffered an ailment which requires emergency treatment, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure thus incurred by the Government servant, while in service or after retirement, requires to be reimbursed by the State to the employee. We cannot lose sight of the fact that the wife of the petitioner had been diagnosed to be suffering from heart ailment and had to be got admitted in Fortis Hospital as an emergency case and required a specialized treatment. It was also not expected of the petitioner to request to the authorities at that point of time for; granting him permission to take treatment for his wife from a particular hospital.

8. In view of the above, we hold that refusal of claim of the petitioner for reimbursement of medical expenses incurred for the treatment of his wife is unreasonable, unjust and arbitrary. (The impugned order is violative of Article 14 of the Constitution of India.

9. We, accordingly, allow this writ petition and set aside the order whereby claim of the petitioner for medical reimbursement has been rejected., The respondents are directed to reimburse to the petitioner the amount equal to the rates of P.G.I., Chandigarh.