
(2007) 09 DEL CK 0008
In the Delhi High Court
Case No : LPA 1211 of 2006

V.K. Seth through LRs.

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 03-09-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 09 DEL CK 0008

Hon'ble Judges : Dr. M.K. Sharma, C.J.; Sanjiv Khanna, J

Bench : Division Bench

Advocate : V.K. Shali, for the Appellant; Jyoti Singh and Ankur Chhibber, for the Respondent

Judgement

Mukundakam Sharma, C.J.—We have heard learned Counsel for the parties on this appeal, which is filed by the appellant praying for a direction to the respondents to reimburse the medical expenses incurred on the husband of the appellant.

2. It is pointed out that the husband of the appellant had to undergo an immediate kidney transplant in Sir Ganga Ram Hospital. The husband of the appellant was a pension beneficiary of the High Court. The High Court staff is entitled to CGHS benefits. In WP(C) No. 4349/1988, the High Court had issued directions that CGHS facilities should be extended to all employees of the Delhi High Court. After retirement, Mr. V.K. Seth complied with all formalities and even deposited money with CGHS, Head Quarters but the papers were returned stating that matter is pending consideration at Ministry level.

3. The husband of the appellant was indoor patient in the said hospital from 3rd May, 1997 to 11th August, 1997 in two spells for which a claim for reimbursement was submitted in June 2002. There was some delay in making the aforesaid claim for reimbursement as the husband of the appellant was undergoing treatment throughout though as an outdoor patient. After filing of the writ petition, interim orders were passed directing the respondent to grant

CGHS benefits. During the pendency of the writ petition, Mr. V.K. Seth expired.

4. By impugned order dated 17th January, 2006 the writ petition was dismissed on ground of delay and laches. The learned Single Judge before whom the writ petition was filed upheld the said contention on the ground that no valid reason was given for not submitting the claim within the stipulated time.

5. We have heard the learned Counsel for the parties. The husband of the appellant herein claims that he was entitled to medical reimbursement as he had undergone medical treatment in the said hospital. The claim is for an amount of Rs. 1,79,000/-, which was admittedly incurred while undergoing the aforesaid treatment of kidney transplant. After the aforesaid transplant was done, husband of the appellant survived for about five years and then he expired. Due to the aforesaid reason, now his legal representatives are on record as appellants. They have submitted that the aforesaid claim could not be lodged immediately as Shri V.K. Seth was undergoing treatment in the hospital both as indoor and outdoor patient and as his movement was restricted, he could not take up the matter immediately.

6. Considering the facts and circumstances of the case and particularly in view of the fact that this is a case of a patient who had undergone kidney transplant operation for which he was required to look after his health as also keep himself away from all types of infection, the appellant has been able to explain why husband of the appellant could not take up the matter immediately for reimbursement of medical expenses. Considering the nature of the claim from a person who was suffering from an acute medical problem, it should have been considered more sympathetically by the respondent. The delay in lodging the claim could be explained by the appellant as the husband of the appellant was suffering from an acute medical problem, he could not lodge the claim immediately after his treatment and, Therefore, we set aside the order passed by the learned Single Judge. (See observations of the Supreme Court in Karnataka Power Corporation Ltd. v. K. Thangappan (2006) 4 SCC 822 as to when delay or laches is a factor to be considered for exercise of discretionary powers under Article 226 of the Constitution of India)

7. We issue a direction to the respondent to consider the claim of the appellant on merits. The aforesaid claim shall be considered as one-time claim and only to the extent of medical reimbursement. Counsel for the appellant also states that the appellant would not claim any interest for the period between 1997 and 2002. We also make it clear that the respondent may consider the claim of the appellant only for the purpose of reimbursement of actual expenses incurred by him and not for any other amount/claim. No interest will also be paid by the respondent on the amount, if any, found due and payable to the appellant as a measure of medical reimbursement for the aforesaid purpose. The said amount, if payable, shall be paid within eight weeks from the date of receipt of copy of this order. We also make it clear that we have passed this order mainly on consideration of humanitarian aspect and also in view of the fact that the

husband of the appellant had lodged a claim for undergoing kidney transplant and the fact that after five years of the operation, husband of the appellant expired.

8. In terms of the aforesaid order, the appeal stands disposed of.