
(2003) 08 RAJ CK 0037
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2645 of 2000

V.P. Saxena

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 18-08-2003

Acts Referred:

Citation : (2004) 2 RLW 1167 : (2003) 4 WLC 756

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : S.P. Sharma, for the Appellant; M. Rafiq, AAG, for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—This is yet another case of insensitive and bureaucratic attitude of the officers of the respondents. The petitioner, after his retirement from government service in the year 1992, was recommended for Heart Surgery at All India Institute of Medical Science (AIIMS), New Delhi. However, due to strike of Resident Doctors in the AIIMS from 7.2.1999, the petitioner, in emergent circumstances, had to undergo the Surgery at Escorts Hospital, New Delhi, on 23.2.1999. As has come on record, even till 23.2.1999 the Doctors at AIIMS were on strike. After operation, the petitioner submitted his medical expenses bills for reimbursement. Having been refused to make the reimbursement as per relevant rules, as applicable at the relevant time, the present writ petition has been filed by the petitioner seeking relief accordingly.

2. It has been submitted on behalf of the petitioner that as per order dated 12.5.1998 certain amendments were made in the Rajasthan State Medical Pensioners Concessions Scheme thereby the existing words and figures "@ 80% of hospital expenditure or Rs. 50,000/- whichever is less", appearing in Sub-para (1) of Para 4 (A) were substituted by the words and figures "@ 80% of hospital expenditure or Rs. 1.20 lacs whichever is less". It was only as per the above amendment made in the Medical Concession Scheme, the petitioner has claimed

Rs. 1.20 lacs as reimbursement of his medical expenses incurred on the heart operation conducted at the Escorts Hospital, New Delhi.

3. In reply to the writ petition it has been submitted that as per clarification made vide Circular dated 3.3.1999, if a government servant or retired government servant at his own wanted to get himself treated at a private Medical Institute, he shall be entitled to reimbursement of the expenses equivalent to what is spent on such treatment in All India Institute of Medical Sciences and the difference shall have to be borne by the patient. It has further been submitted that as per the estimate submitted by the petitioner, the expenses for subject treatment in the AIIMS was only Rs. 70,000/- and on that basis, the petitioner was entitled to 80% of the said amount i.e. Rs. 56,000/-, which has already been paid to the petitioner.

4. There is no dispute that the Escorts Heart Hospital, New Delhi is on the approved list of the State Govt. for those employees who are already in service. However, strangely the same has not been approved for the pensioners. Be that as it may, in the present case admittedly the petitioner was recommended for heart operation to AIIMS. However, due to strike in the AIIMS, there was no option for the petitioner but to get himself operated at Escorts Heart Hospital, New Delhi. It was not the personal choice of the petitioner to go for operation at Escorts Heart Hospital, New Delhi. Under the compelling circumstances, the petitioner had to get operated at Escorts, which is also on the approved list of the State Government.

5. Even otherwise, the Circular dated 3.3.1999 as relied on by the respondents, was issued after the operation already having been conducted on the petitioner on 23.2.1999. There could not have been any justification for laying down two different criterias for government servants who are still in service and those who have retired and getting pension. However, the State Government, in the given circumstances, could have given exemption under the emergent circumstances under which a person has to go for such operation.

6. A Division Bench of this court in the case of Shankar Lal v. State of Rajasthan (1), has also observed that denial of reimbursement of expenses incurred on medical evidence and treatment bonafide and genuinely by the public servant for availing treatment for himself or any member of his family at recognised hospital/ institution in the circumstance like the present case on such technical grounds shall be clearly arbitrary, unreasonable and unjust.

7. After having carefully considered the entire facts and circumstances of the present case, in my opinion, the denial of the relief as claimed by the petitioner, is wholly unjustified. Accordingly, the writ petition is allowed. The petitioner is held entitled for reimbursement upto to amount of Rs. 1,20,000/- as per the Circular dated 12.5.1998, as referred above. The respondents are directed to make the payment of remaining amount within 30 days from the date of receipt of certified copy of this order.