

Before Mehtab S. Gill & Rakesh Kumar Jain, JJ

SUNITA RANI,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

C.W.P. No. 8647 of 2006

17th March, 2008

Constitution of India, 1950—Art. 226—Instructions dated 1st March, 2005 issued by State of Punjab—Husband of petitioner suffered from chronic renal disease—Treatment from DMCH not approved/ recognized by Government —Claim for outdoor treatment rejected— Government instructions dated 1st March, 2005 allowing reimbursement of outdoor treatment taken from DMCH for complicated chronic diseases with effect from 1st April, 2004— Respondents reimbursing for indoor treatment for period prior to coming into force of instructions dated 1st March, 2005—Action of respondents denying reimbursement for outdoor treatment is totally arbitrary, unreasonable and unsustainable in eyes of law—Treatment taken by husband of petitioner due to grave emergency cannot be denied on ground that hospital was not on approved list of Government —Petition allowed.

Held, that it is strange that the respondents have paid for the indoor treatment taken by the deceased husband of the petitioner from Dayanand Medical College and Hospital, Ludhiana for the period from 25th February, 2003 to 12th March, 2003 and from 16th March, 2004 to 20th March, 2004, which is admittedly prior to the coming into force of the instructions dated 1st March, 2005 with effect from 1st April, 2004 and have denied to pay for the treatment as outdoor patient from the same hospital for the period 1st January, 2003 to 24th March, 2003, 13th March, 2003 to 19th May, 2003 and 24th June, 2003 to 10th February, 2004 on the ground that the said hospital is not approved and the period of outdoor treatment is prior to 1st April, 2004. The action of the respondents in this regard is totally arbitrary, unreasonable and unsustainable in the eyes of law and we hold the same as such.

(Paras 11 & 12)

Further held, that the deceased husband of the petitioner was suffering from chronic disease and due to grave emergency, Dayanand Medical College and Hospital, Ludhiana which was nearer to his place was found to be best for saving his life. Due to kidney failure deceased husband of the petitioner had taken treatment in emergency from Dayanand Medical College and Hospital at Ludhiana which though has been recognized later on, cannot be denied reimbursement of expenses incurred as an outdoor patient only for the reason that the same institution was not recognized at the relevant time.

(Paras 13 & 14)

S. S. Behl, Advocate, *for the petitioner*.

B. S. Chahal, DAG, Punjab.

RAKESH KUMAR JAIN, J.

(1) The petitioner has filed this petition under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari seeking quashment of letters Annexures P-4 and P-5 and also for directing the respondents to reimburse the medical expenses incurred by the husband of the petitioner on his treatment.

(2) Petitioner is the widow of Karam Singh, who was a Vocational Master in Government Senior Secondary School, Samrala, District Ludhiana. On 10th November, 1999 Karam Singh had renal transplant at Dayanand Medical College and Hospital at Ludhiana. Till the time of his death, which took place on 20th February, 2005, he had taken treatment from the same Institution. According to the petitioner, Karam Singh had obtained all the complicated Chronic Disease Certificates for each year from the Medical College/Rajindra Hospital, Patiala as it was required under the rules through, he was continuously treated at the Dayanand Medical College and Hospital, Ludhiana as the same was near-most hospital from the residence of the petitioner. Documents Annexures P-1 to P-3 are the certificates for the period from 5th February, 2002 to 29th January, 2003, 22nd April, 2003 to 19th April, 2004 and from 6th April, 2004 to 3rd April, 2005 respectively. The petitioner had pleaded that husband of the petitioner ever since his operation was treated at Dayanand Medical College and Hospital, Ludhiana

and had claimed his medical reimbursement from time to time. In this process, he had submitted for medical expenses bills for reimbursement with the office of the respondents through proper channel. The details of the expenses incurred as an Outdoor patient are given as under :—

Sr. No.	Period of treatment	Amount	Despatch No. & Date
1	1-1-2003 to 24-2-2003 13-3-2003 to 19-5-2003	31,147.00	625/15-7-2003
2	24-6-2003 to 10-2-2004	52,572.00	805/12-5-2004

Expenses incurred as an indoor patient

1	25-2-2003 to 12-3-2003	29,212.00	624/15-7-2003
2	16-3-2004 to 20-3-2004	9,260.00	813/26-5-2004

(3) Since the aforesaid medical bills were not reimbursed by the respondents, a legal notice dated 16th December, 2004 was served and thereafter, the petitioner filed C.W.P. No. 1525 of 2005 which was disposed of on 27th January, 2005 with the following order :—

“Present :

Arvinder Singh, Advocate, for the petitioner.

In this writ petition, it is grouse of the petitioner that despite having submitted medical bills for reimbursement, nothing has been paid to him.

By stating his grievance, he had already sent a legal notice, Annexure P/4 dated 16th November, 2004 to the authorities concerned.

In view of facts mentioned in this writ petition, it is disposed of with directions to respondent No. 4 to decide claim of the petitioner towards medical reimbursement, as per law, by passing a speaking order. Needful be done within a period of two months from the date of receipt of a copy of this order.

If petitioner is found entitled to payment, as prayed, same be paid to him within a period of one month thereafter”.

(4) Since the aforesaid order was not complied with well within time, the petitioner had to file a contempt petition No. 1255 of 2005 against the Director, Public Instructions (respondent No. 5). During the pendency of the contempt petition, both respondent Nos. 5 and 4,—*vide* their letters dated 13th February, 2006 and 17th February, 2006 respectively, rejected the claim of the petitioner on the ground that the claim of the petitioner for medical reimbursement is against the instructions of the State Governments dated 9th October, 2001.

(5) In the present petition, the petitioner has thus sought a writ of certiorari for seeking quashment of the aforesaid two letters, which are attached as Annexure P-4 and P-5 respectively and also sought a writ of mandamus directing the respondent to reimburse the medical expenses incurred by the deceased husband of the petitioner on his treatment immediately alongwith appropriate rate of interest for the period of delay.

(6) On notice of motion, respondent Nos. 2, 4, 5 and 6 filed joint counter affidavit of Kulraj Kumar, Deputy Director (Voc) O/o Director of Public Instructions (S.E.), Punjab, Chandigarh in which four bills mentioned here-in-above in respect of Outdoor and Indoor treatment were admitted to have been received and it was clarified that the bills at serial Nos. 3 and 4 amounting to Rs. 29,212 and Rs. 9,260 towards expenses incurred as indoor patient have been sanctioned to the extent of Rs. 23907 and Rs. 6,252 at Government/AIIMS rated,—*vide* letter No. 5/50-2000 Voc (3) dated 6th June, 2005 and letter No. 5/50-2000 Voc (3) dated 18th July, 2005 and payments have also been made to the petitioner. With the written statement, a copy of the receipt duly signed by the petitioner is also annexed as Annexure R-I. Therefore, controversy was narrowed down to the bills mentioned at serial Nos. 1 and 2 pertaining to the Outdoor treatment regarding which it was averred in the written statement that the same cannot be reimbursed as per Government clarification dated 9th October, 2001 according to which the medical expenses incurred on the Outdoor treatment of complicated chronic diseases are reimbursible only in the cases where the claimants purchased the medicines in accordance with the certificate issued by the State Medical Colleges or PGI, Chandigarh or AIIMS, New Delhi and submits the medical bills after getting those verified from the same institution. It was clarified that the reimbursement was not to be made in

case of medical treatment taken from any other Hospital. It was further averred in the written statement that the medical expenses incurred by the petitioner's husband on serial Nos. 1 and 2 amounting to Rs. 31147 and Rs. 52572 on account of outdoor treatment of complicated chronic diseases taken during the period from 1st January, 2003 to 24th February, 2003, 13th March, 2003 to 19th May, 2003 and 24th June, 2003 to 10th February, 2004, could not be paid because the deceased husband of the petitioner had obtained the chronic disease certificate from Government Rajindra Hospital, Patiala but got the treatment from Dayanand Medical College and Hospital at Ludhiana and submitted the aforesaid bills after getting a certificate from Dayanand Medical College and Hospital Ludhiana, which is not recognised for the purpose of medical reimbursement of expenditure incurred for the outdoor treatment of complicated chronic diseases as per clarification dated 9th October, 2001. It was also asserted in the written statement that the Government instructions Annexure P-6 dated 1st March, 2005 are of no help to the petitioner whereby the Government of Punjab has decided that the reimbursement of the out door treatment taken from Dayanand Medical College and Hospital at Ludhiana for complicated chronic diseases shall be admissible and shall be applicable with effect from 1st April, 2004 in accordance with the certificate issued by the State Medical Colleges or PGI, Chandigarh or AIIMS, New Delhi whereas the claim of the petitioner is of a period prior to 1st April, 2004.

(7) Learned counsel for the petitioner has argued that the deceased husband of the petitioner was suffering from chronic renal disease and got treatment from Dayanand Medical College and Hospital at Ludhiana being nearest hospital for him as he was severally ailing from the said disease, which ultimately claimed his life on 20th February, 2005. It was further argued that the condition of the deceased husband was so bad that he could not have visited Patiala, for treatment which was almost 70 k.m. away from Samrala, therefore, he took treatment from Dayanand Medical College and Hospital Ludhiana, which was just 35 k.m. from Samrala. It was also argued that since the deceased husband of the petitioner was suffering from chronic disease and was always on emergency therefore, he got treatment from the nearest hospital convenient to him and was entitled to reimbursement of the amount as per Government rates. In support of his contention, learned

counsel has relied upon decisions of this Court rendered in **Gurnam Singh Mann versus Punjab Agricultural University, Ludhiana and others**, (1) **Chander Bhan versus State of Haryana and others**, (2) and **Shakuntla versus State of Haryana**, (3) and submitted that emergency knows no law and no precedents. In case of emergency, if the deceased had not got treatment from an institution which is not approved, reimbursement cannot be denied but shall be accorded with rates charged by the AIIMS/PGIMER.

(8) Repelling his arguments, learned counsel for the State mainly relied upon its instructions contained in Annexure R-2 dated 9th October, 2001 and urged that the petitioner cannot be allowed reimbursement of the amount spent on medical treatment taken from a hospital which is not on approved list of the Government and also that the instructions Annexure P-6 are of no help to the petitioner as the same came into force with effect from 1st April, 2004, whereas the bills pertain to the period prior to the same.

(9) We have heard learned counsel for the parties and perused the record and are of the opinion that this petition deserves to be allowed.

(10) Admitted facts as emerged from the pleadings are that the deceased husband of the petitioner had suffered from chronic renal disease and had taken treatment both as an Indoor and Outdoor patient from Dayanand Medical College and Hospital at Ludhiana and had also incurred expenses amounting to Rs. 31147 and Rs. 52572 as Outdoor patient and Rs. 29212 and Rs. 9260 as Indoor patient, out of which the amount spent as an Indoor patient in Dayanand Medical College and Hospital at Ludhiana, has already been paid by the respondents to the petitioner to the extent of Rs. 23907 and Rs. 6252 against Rs. 29212 and Rs. 9260 at the Government/AIIMS rates. **It is not disputed by the respondents that the claim set up by the petitioner so far as the outdoor treatment is concerned, is not fake.** The only reason that has been assigned is that the hospital namely Dayanand Medical College and Hospital Ludhiana was not approved/reognised for the purpose of medical reimbursement of expenses incurred.

(1) 2006 (1) R.S.J. 146

(2) 2006 (4) R.S.J. 66

(3) 2004 (1) R.S.J. 283

(11) It is strange that the respondents have paid for the indoor treatment taken by the deceased husband of the petitioner from Dayanand Medical College and Hospital Ludhiana for the period from 25th February, 2003 to 12th March, 2003 and from 16th March, 2004 to 20th March, 2004, which is admittedly prior to the coming into force of the instructions Annexure P-6 with effect from 1st April, 2004 and have denied to pay for the treatment as outdoor patient from the same hospital for the period 1st January, 2003 to 24th March, 2003, 13th March, 2003 to 19th May, 2003 and 24th June, 2003 to 10th February, 2004 on the ground that the said hospital is not approved and the period of outdoor treatment is prior to 1st April, 2004.

(12) In our view, the action of the respondents in this regard is totally arbitrary, unreasonable and unsustainable in the eyes of law and we hold the same as such.

(13) We have also found that the deceased husband of the petitioner was suffering from chronic disease and due to grave emergency, Dayanand Medical College and Hospital Ludhiana, which was nearer to his place was found to be best for saving his life. In the judgments cited by the learned counsel for the petitioner in **Shakuntla's Case, Gurnam Singh's Case and Chander Bhan's Case** (*Supra*), it has been held that in case of emergency, if the treatment is taken from an institution, which is not recognized by the Government, reimbursement cannot be denied and shall be accorded with the rates charged by AIIMS/PGIMER. In the case of *Shakuntla* (*Supra*), the patient was suffering from kidney failure and was referred to AIIMS. He was advised to go for early transplantation to be got done from some other hospital as the waiting list for surgery in AIIMS was about six months. As a result of which, the patient in that case got treatment from Sir Ganga Ram Hospital, Delhi and had a successful transplantation. The patient was not given reimbursement of medical expenses incurred at Sir Ganga Ram Hospital, on the ground that the same was not a recognized hospital, but this Court held that the treatment taken in emergency could not be waived in terms of money especially when the human life is at stake and ordered that the petitioner in that case was entitled to reimbursement.

(14) Similarly, in the present case also, due to kidney failure deceased husband of the petitioner had taken treatment in emergency from

Dayanand Medical College and Hospital at Ludhiana, which though has been recognized later on, cannot be denied reimbursement of expenses incurred as an outdoor patient only for the reason that the same institution was not recognized at the relevant time.

(15) As a consequence of our above discussion, this petition is allowed and the impugned letters. Annexures P-4 and P-5 are quashed being illegal, and unreasonable.

(16) The respondents are directed to pay to the petitioner the amount of medical reimbursement as claimed by the petitioner which remained unpaid, within a period of two months from the date of receipt of a copy of this order alongwith interest @ 9% p.a. from the date of accrual of the amount due till the date of payment. There shall, however, be no order as to costs.

R.N.R.

Before M.M. Kumar & Ajay Kumar Mittal, JJ

M/S PML INDUSTRIES LIMITED,—Petitioner

versus

IDBI AND OTHERS,—Respondents

C.W.P. No. 19406 of 2006

4th April, 2008

Constitution of India, 1950—Art. 226—Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002—Ss. 13(4) & 14—Sick Industrial Companies (Special Provisions) Act, 1985—BIFR declaring petitioner Company as a sick industrial company and ordering for initiating of measures in terms of S. 18 of 1985 Act—BIFR appointing IDBI as Operating Agency u/s 17(3) and directing IDBI to prepare a draft rehabilitation scheme—Appeal against order of BIFR rejected by AAIFR—High Court also dismissing petition against BIFR order—Supreme Court accepting statement made on behalf of petitioner—Petitioner withdrawing SLP with liberty to approach BIFR by disclosing name of investor—Petitioner delaying matter defeating right of secured creditors to get back their dues— Period granted