

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5694 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : YES
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

BHARATKUMAR H PATHAK

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5694 of 1999
MR PH PATHAK for Petitioner No. 1
MS ARCHANA RAWAL ASSTT GOVERNMENT PLEADER for Respondent No. 1
RULE SERVED for Respondent No. 2-4

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 29/08/2003

ORAL JUDGEMENT

Heard learned advocate Mr.P.H.Pathak on behalf of the petitioner and learned AGP Ms.Archana Rawal for

respondents - State Authority. The respondent No.4 Principal Shri Arvindbhai Badmuja has also remained personally present before this Court in pursuance of the notice issued by this Court on date 8th August, 2003.

#. The question raised in the present petition is that medical bill for reimbursement has been sent by the petitioner through the school to the State Authority of to the tune of of Rs.18,832/-. After receiving the papers from the petitioner, the School Authority has sent to the Treasury Office - the respondent No.3. The respondent No.4 - the Principal Shri Badmuja who is personally present before this Court that said papers of the medical bill has been returned back to the school authority with remarks of the Treasury Office and the petitioner is required to produce certificate from the Porbandar Civil Hospital to the effect that his case was referred to Ahmedabad Civil Hospital as in absence of this Certificate. The medical reimbursement bill has not been sanctioned by the treasury office. Learned advocate Mr.P.H.Pathak has submitted that the petitioner had fallen sick all of sudden when he had at Ahmedabad at the relevant time and he had taken treatment at Civil Hospital at Ahmedabad which is recognised hospital by the State of Gujarat and the total medical bill of Rs.18,832/has been produced by the petitioner before the school authority but when the petitioner was at Ahmedabad and all of sudden fallen sick, it is very difficult to get reference letter addressed to the Civil Hospital, Ahmedabad from Porbandar Civil Hospital and therefore, he relied upon Rule 8 of the Gujarat State Services [Medical Treatment] Rules , 1988. He also submitted that in case of emergency, an employee can take treatment at any place where he has visited the place. Therefore, there is no need to take any certificate from the Civil Hospital or Government Hospital where he was residing.

#. Learned AGP Ms.Archan Rawal while contesting the claim of the petitioner has relied on the averments made by the respondent in their affidavit-in-reply wherein it is stated that on receipt of the bill from the respondent No.4, the school authority verified the same but there was no recommendation of the Local Medical Officer which is prescribed as per the Rule 8 of the Gujarat State Service [Medical Treatment] Rule, 1988 and accordingly, if any Government servant gets treatment at the hospital out of the District in which he is serving, he has to obtain necessary permission of the authorised Medical Officer of the District. But in the instant case, no sanction has been obtained or no recommendations have been obtained from authorised Medical Officer and payment

cannot be made of his bill. The Gujarat Cancer Research Institute, Ahmedabad is authorised for getting treatment, as per this Rule but necessary sanction is necessary for taking treatment when Government employee is taking treatment outside the limit of the District, which is not the Headquarter of the Employee. Hence, Sub Treasury Officer, Porbandar has sent back the bill to the respondent No.4 for necessary compliance vide letter dated 27th September, 1998.

#. I have considered submissions made by the learned advocates for the respective parties. Considering the Rule 8 of the Gujarat State Service [Medical Treatment] Rule 1988, the question is if any government employee residing in Headquarter, goes out side the headquarter for any social reasons and / or the employee goes to any other place or other district and all of sudden he falls sick and requires immediate medical treatment, then in such circumstances, to insist from the government employee a recommendation / reference letter from the Government hospital situate at Headquarter but this seems to be quite illogical and irrelevant. The purpose is to frame the Rules that medical treatment which is being availed by the government employee must be genuine and it must require immediate attention looking to the sickness of the employee and therefore in such exceptional cases, such Rule insisted upon by the respondent is not just and proper. On the contrary, looking to the facts of this case, the petitioner while visiting at Ahmedabad from Headquarter Porbandar, had fallen sick and he availed treatment in Civil Hospital, Ahmedabad which is recognised hospital of State of Gujarat and produced medical bill even though respondent No.3 has rejected the bill only on the ground that no sanction or Reference letter has been produced by the petitioner from Porbandar Headquarter Government Hospital. According to my opinion, this is not the logical stand taken by the respondent and therefore, in such circumstances, if there is any doubt as to genuineness of the medical bill or the treatment availed by the government employee, in such eventuality, the authority concerned ought to have verified and ascertained this fact from the civil hospital at Ahmedabad and this fact would have been ascertained from the record of the Ahmedabad Civil Hospital. But instead of verifying the same from the Civil Hospital, Ahmedabad, insist upon the government employee to produce such reference or recommendation letter from the Government hospital situate at Headquarter of the employee is not proper on the part of the State Authority. Apparently, there is no such possibility to have any reference or recommendation

letter from the Headquarter government hospital because this being the position which had taken place all of sudden and naturally, as per the procedure prescribed under Rule 8 of the said Rules, the government employee may not be able to comply with such requirement. Therefore, considering the facts and circumstances of the case and the reply filed by the respondent, according to my opinion, the Treasury Office has wrongly rejected the bill or returned the bill to the respondent No.4 with such clarification to produce a reference and / or recommendation letter by the government employee from the headquarter government hospital. Therefore, it is directed to the respondent No.4 to send the entire medical bill of the petitioner to the respondent no.3 within ten days from the date of receiving the copy of this order.

As and when the respondent No.3 will receive the medical bill in question belong to the petitioner, the respondent No.3 is directed to verify the medical bill which has been produced by the petitioner from the record of the Civil Hospital, Ahmedabad and then to consider the medical bill on being found to be genuine and to pass appropriate orders without insisting upon the reference / recommendation letter from the Headquarter Government hospital within a period of one month from the date of receiving the copy of the medical bill of the petitioner from the respondent No.4.

In view of above observations and directions, present petition succeeds and the same is disposed of accordingly.

Rule is made absolute to the extent indicated accordingly with no order as to costs.

Direct Service permitted.

Date : 29.8.2003 [H.K.Rathod, J.]

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