

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Writ Petition (T) No. 2889 of 2008

Judgement reserved on: 17.6.2009.

Date of decision: June 30, 2009.

Rajesh Kumar

.....Petitioner.

Vs.

State of H.P. & ors.

.... Respondents.

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The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?

For the petitioner : Mr. B.C.Negi, Advocate.

For the Respondents : Mr. R.K.Sharma, Senior Addl. Advocate General with Mr. A.K. Bansal, Addl. Advocate General and Mr. R.P.Singh, Asstt. Advocate General.

Kuldip Singh, Judge.

The petitioner had filed O.A. No. 1370 of 1998 before erstwhile H.P. Administrative Tribunal (for short, the Tribunal). The Tribunal was abolished and O.A. No. 1370 of 1998 was transferred to this court in view of Himachal Pradesh Administrative Tribunal (transfer of decided and pending cases and applications) Act, 2008, on transfer the O.A. No. 1370 of 1998 was registered as CWP(T) No. 2889 of 2008.

2. The petitioner has filed the petition for directions to respondents to reimburse the balance amount of Rs.1,93,885/- alongwith interest at reasonable rate, which the petitioner had spent

Whether the reporters of the local papers may be allowed to see the Judgment?

on the treatment of his dependant mother Smt. Rattani Devi. It has been pleaded that the mother of the petitioner was advised to get medical treatment at P.G.I., Chandigarh/ AIIMS/ Escorts. The Director of Health Services, Himachal Pradesh, vide letter dated 5.11.1996, Annexure A-1, gave necessary permission for the treatment of Smt. Rattani Devi at Escorts Heart Institute, New Delhi. She was also permitted to take one attendant with her. Thereafter, Smt. Rattani Devi was treated at Escorts Heart Institute and Research Centre, Okhla Road, New Delhi after getting admission on 6.11.1996 till 27.11.1996, but unfortunately Smt. Rattani Devi died on 27.11.1996. The petitioner had spent more than Rs.3,00,000/- from 6.11.1996 to 27.11.1996 on the treatment of his mother Smt. Rattani Devi. The hospital charges were Rs.2,50,000/-. The bill was submitted by the petitioner for reimbursement of Rs.2,57,885/-, duly verified, vide Annexure A-2, but only an amount of Rs.64,000/- was reimbursed to him on 2.9.1997. The respondents had not paid the balance amount Rs.1,93,885/- to the petitioner, therefore, the petitioner had filed the present petition.

3. The respondents have admitted that the petitioner had submitted a bill of Rs.2,57,885/- but pleaded that petitioner was entitled to Rs.64000/- only as per notification dated 6.5.1996 Annexure R-1 and an amount of Rs.64000/- had already been paid to the petitioner, who is not entitled to any other amount over and above Rs.64000/-. The respondents have prayed for dismissal of the writ petition.

4. Heard and perused the record. There is no denial of the fact that Smt. Rattani Devi was dependant on the petitioner and permission was given for her treatment at Escorts Heart Institute, New Delhi at charges fixed in letter dated 6.5.1996. There is also no dispute with respect to the fact that Smt. Rattani Devi got treatment at Escorts Heart Institute, New Delhi. The petitioner had submitted duly verified bill Annexure A-2 amounting to Rs.2,57,885/-. The respondents have reimbursed him an amount of Rs.64000/-. Therefore, the question is whether the petitioner is entitled to Rs.1,93,885/- the balance amount spent by him on the treatment of his mother.

5. The learned counsel for the petitioner has submitted that Rs.64,000/- medical expenses limit fixed in the letter dated 6.5.1999 Annexure R-1 is arbitrary and in violation of Articles 14, 21 of the Constitution. He has submitted that there is no nexus in fixing the limit with the object sought to be achieved. The learned counsel for the petitioner in support of his submissions has relied on a Division Bench judgement dated 22.2.1995 of this court in CWP No. 427 of 1994. In that case, the petitioner had suffered heart ailment and was required to undergo open heart surgery at Escorts Heart Institute, New Delhi. He spent an amount of Rs.1,67,280/- on the operation and after care. He submitted bills, but the State Government granted reimbursement to the extent of Rs.55000/- only. The respondents in that case took the plea that though the Escorts Heart Institute is recognized for coronary bypass surgery, the expenditure payable on that count is limited to Rs.55000/- only. The notification dated

22.5.1992 of the State Government was relied for that purpose. It was submitted that the demand of the petitioner was beyond the circular and cannot be accepted. On those facts, the Division Bench held that limiting the expenditure means denial of full medical facility. It was held that memorandum dated 22.5.1992 has the effect of curtailing facility already available to him, such a curtailment must be rational and reasonable. It was held that under the circumstances, there is no escape from the conclusion that limiting the expenditure to Rs.55000/- is arbitrary and unjustified and in violation of Article 14 of the Constitution and cannot be sustained.

6. In the present case also, the respondents are taking shelter under Annexure R-1 letter No. HFW-B(F)12-9/79-Part dated 6.5.1996 for limiting the treatment expenditure of petitioner up to Rs.64000/-. Smt. Rattani Devi mother of the petitioner unfortunately died on 27.11.1996 but petitioner had spent amount on her treatment and he submitted verified medical bill amounting to Rs.2,57,885/- Annexure A-2.

7. In light of judgement dated 22.2.1995 passed by Division Bench of this Court in CWP No. 427 of 1994, the refusal of respondents to reimburse the balance amount Rs.1,93,885/- to petitioner is arbitrary and in violation of Article 14 of the Constitution and is not sustainable. The petitioner is thus entitled to reimbursement of Rs.1,93,885/-, which the respondents are liable to pay. The petition is allowed. The petitioner had spent Rs.1,93,885/- from his own pocket and the respondents have unnecessarily withheld the reimbursement of that amount, therefore, the

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respondents are also liable to pay interest on amount of Rs.1,93,885/- to the petitioner. The verified bill Annexure A-2 is dated 21.12.1996, the respondents were required to reimburse the amount of verified bill within a reasonable time, therefore, respondents are liable to pay interest on amount of Rs.1,93,885/- w.e.f. 1.4.1997 at the rate of 8% per annum within a period of three months from today. In case the principal amount of Rs.1,93,885/- alongwith interest at the rate of 8% per annum is not paid within a period of three months from today by the respondents to petitioner, then the respondents shall pay interest on Rs.1,93,885/- to petitioner at the rate of 10% per annum w.e.f. 1.4.1997 till payment. The petition stands disposed of with the above directions. No costs.

June 30, 2009.
(Hem)

(Kuldip Singh),
Judge.