

**THE HIGH COURT OF TRIPURA
AGARTALA**

W.P.(C) No. 1016 of 2017

Sri Hiranmoy Roy,
son of late Prabhata Chandra Roy,
Artist (Retired)
resident of Kirod Sen Lane, Joynagar, P.O. Agartala,
P.S. West Agartala, District- West Tripura

... *Petitioner*

- **Versus** -

1. **The State of Tripura,**
represented by the principal Secretary,
Department of Agriculture, Government of Tripura,
New Secretariat Building, Kunjaban, Agartala,
District- West Tripura
2. **The Director,**
Department of Agriculture
Government of Tripura, Agartala
3. **The Joint Director of Agriculture (Res),**
State Agricultural Research Station,
A.D. Nagar, Agartala
4. **The Director of Health Service,**
Government of Tripura, P.N. Complex, Agartala

... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the petitioner : Mr. D. Bhattacharji, Advocate
For respondents : Mr. J. Majumder, Advocate
Date of hearing & delivery
of Judgment and Order : 21.12.2017
Whether fit for reporting : NO

JUDGEMENT AND ORDER (ORAL)

Heard Mr. AK Pal, learned counsel appearing on instruction of Mr. D. Bhattacharji, learned counsel for the petitioner as well as Mr. J. Majumder, learned counsel appearing for the respondents.

2. By means of this writ petition, the petitioner has urged this court for directing the respondents to pay the medical reimbursement to the extent of Rs.1,89,413/- and also for

quashing the letter under No. F.2(48-A)-MS/ESTT/MR/2011/63 dated 18.02.2017 (Annexure 8 to the writ petition) and the letter under No. F.3(13-P)-AGRI/SARS/ESTT/2014-15/14818 dated 16.03.2017 (Annexure 9 to the writ petition).

3. The undisputed fact as emerges is that when the petitioner after obtaining the prior station leave permission and sanction of leave was in Kolkata he suffered serious cardiac complaint and he was immediately taken to BM Birla Heart Research Centre, Kolkata. On his examination, the doctors advised him to go for the by-pass surgery. As per the said medical advice, the petitioner had undergone the by-pass surgery at Kolkata. On his return from Kolkata, he submitted the medical reimbursement bills but those were not entertained for the reason assigned in the letter dated 18.02.2017 (Annexure 8 to the writ petition) which reads as under:

“With reference to your letter No. 2-7594(P)/16196 dated 06.02.2017, on the subject cited above, this is to inform you that the medical reimbursement claim sent by you has duly been examined and found that Sri Hiranmoy Roy, Artist for treatment at B.M. Birla Heart Research Centre, Kolkata without being referred by the Standing Medical Board, Agartala (during leave period) is not admissible as per Finance Department Memo No. F.5(1)-FIN(G)/75-I dated 01.08.2007.

The medical reimbursement bill and other related papers are returned herewith”.

4. Even thereafter, the competent authority had communicated the rejection of the claim of medical reimbursement in terms of the observation made in the letter no. F.2(10-48A) MS/Estt/MR/ 2011/631 dated 18.02.2017 (Annexure 9 to the writ petition). The basic ground for rejecting

the medical reimbursement bill is available in the said communication dated 18.02.2017 made by the Director of Health Service (Annexure 8 to the writ petition). According to the said authority since the petitioner was not referred by the Standing Medical Board, Agartala during his leave period, the petitioner is not entitled to reimbursement of the medical expenses as per the Finance Department memorandum No. F.5(1))-FIN(G)/75-I dated 01.08.2007

5. Mr. AK Pal, learned counsel appearing for the petitioner has submitted that when the petitioner was under sanctioned leave and with the station leave permission, was at Kolkata he suffered the serious cardiac complaint and as imminent consequence thereof he was rushed to the said medical centre where he had to undergo by-pass surgery and as such there was no physical condition to take the reference from the Standing Medical Board at Agartala.

6. From the other side, Mr. J. Majumder, learned counsel appearing for the respondents has brought to the notice of this court the memorandum dated 01.08.2007 (Annexure A to the reply filed by the respondents) where it has been provided as under:

“After careful consideration, it is hereby clarified that whenever a Group-C of Group ‘D’ employee duly referred by Standing Medical Board to a particular institution for medical treatment undertakes the medical treatment at some other institution of his own volition, he/she shall be entitled to get medical reimbursement which shall be limited to the treatment for and rates of the referred Medical Institution/Hospitals including journey expenses for the purpose as per existing TA Rules. Henceforth, cases falling within the purview of the above clarification need not be sent by the Administrative Department to Finance

Department and these cases should be settled by the Administrative Department concerned themselves”.

This memorandum dated 01.08.2007 was the basis for rejecting the claim of the petitioner.

8. Having appreciated the submissions made by the learned counsel appearing for the parties as well as going through the records produced with the writ petition and the reply, this court is of the view that the following pertinent questions emerge for consideration of this court:

- (i) When the government employee falls sick outside the State and he requires immediate medical intervention whether in such circumstance also the referral by the Standing Medical Board at Agartala would be mandatory, and
- (ii) Whether the petitioner shall be entitled to medical reimbursement as the petitioner was not referred by the Standing Medical Board when otherwise the petitioner was entitled to get such benefit?

So far, the question of referral is concerned, in view of the decision rendered in ***Surjit Singh vs. State of Punjab and others*** reported in ***1996 SCC (2) 336***, the apex court has eloquently observed that right to life surpasses all other circumstances and it should be given the primacy on every situation inasmuch as the preservation of life is a part of fundamental right under Article 21 of the Constitution of India.

9. When the petitioner was under sanctioned leave with the station leave permission, he suffered the serious cardiac complication at Kolkata and he was taken to the said medical

centre at Kolkata to meet the emergency and as such there was no practicable situation when the petitioner could take the referral from the Standing Medical Board at Agartala. His anxiety to preserve the life should be given the Primacy. The medical reimbursement bill cannot therefore be rejected on the ground that the petitioner did not have the reference or referral from the Standing Medical Board at Agartala. Thus, he will be entitled to the reimbursement overriding the requirements as insisted upon by the government policy.

10. So far, the other question is concerned, the petitioner will only be entitled to the medical reimbursement as per the rate of the referral institutions. The respondents are directed to calculate the medical reimbursement claim of the petitioner in terms of the above direction and make payment within a period of 3(three) months when the petitioner shall submit a copy of this order. The petitioner is directed to re-submit the medical reimbursement bills to the competent authority for doing the needful with a copy of this order.

11. In terms of the above, this petition stands allowed and disposed of. There shall be no order as to costs.

JUDGE