



WEB COPY

W.P.(MD) No.15985 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.15985 of 2020

and

W.M.P. (MD) No.13396 of 2020

M.R.Jerone Antony

... Petitioner

vs.

1.The State of Tamil Nadu

Rep.by its Secretary

The Department of Finance (Salaries)

Fort St.George, Chennai-600 009

2.The District Collector

Nagarcoil, Kanyakumari District

3.The Joint Director

Medical & Rural Health Services (FAF)

Nagercoil-629 001, Kanyakumari District

4.Senior Divisional Manager

United India Insurance Co., Ltd.,

Divisional Office VI

No.212, Pala Rathna Towers, 5th Floor

Anna Salai, Chennai-600 006

5.The Correspondent

Arunachalam High School

Thiruvattar, Kanyakumari District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent Senior Manager of United India Insurance Co. Ltd., dated 13.02.2020 and consequently proceedings issued by the 3rd respondent Joint Director of Medical in Ref. No. 2933/E4/R/10/2019-1, dated 01.06.2020, quash the same and further direct the respondents herein to reimburse the medical expenses to the tune of Rs.3,46,127/- to the petitioner towards the treatment undergone by his wife for the Carcinoma Ovary with Metastasis disease (Cancer) at SUT Specialty Hospital, Pattom, Thiruvananthapuram, State of Kerala.

For Petitioner : Mr.P.Muthuvel
for M/s.Isaac Chambers

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader for R1 to R3
Mr.A.Shajahan for R4
No appearance for R5



O R D E R

The order of rejection, dated 13.02.2020, passed by the fourth respondent and the consequential order, dated 01.06.2020, passed by the third respondent, rejecting the claim of the petitioner for medical reimbursement, are under challenge in this writ petition.

2. The petitioner's wife was working as B.T.Assistant in the fifth respondent - School and was a member of the New India Health Insurance Company. The wife of the petitioner underwent certain treatments and subsequently, died on 18.01.2020. The petitioner's wife, during her lifetime, filed an application for medical reimbursement and after her death, the claim application was rejected on the ground that the treatment was undergone in a non-network hospital and there was no emergency care established for the purpose of settling the medical reimbursement claim regarding the non-network hospitals.

3. The learned counsel for the petitioner made a submission that the District Level Empowered Committee forwarded the application submitted by the petitioner's wife to the Insurance Company, who in turn, mechanically rejected the same merely on the ground that no emergency care was required and the treatment was undergone in a non-network hospital.

4. As per G.O.Ms.No.202, Finance (Salaries) Department, dated 30.06.2016, even in respect of the treatment underwent in a non-network hospital, if emergency care is required, then, such claims are to be settled. In the present case, the Insurance Company has rejected the claim of the petitioner on the ground that there no emergency care was required, since the petitioner's wife was taking treatment for cancer. Even in such circumstances, this Court is of the opinion that whether the need of emergency care arose or not is to be decided by the District Level Empowered Committee consisting of Doctors. In view of the fact that the District Level Empowered Committee has only forwarded the application to the Insurance Company, who in turn rejected the claim, this Court is inclined to remand the matter back to the District Level Empowered Committee for the purpose of ascertaining the fact as to whether the petitioner has established the emergency circumstances, if any, or not for the purpose of considering the claim in accordance with G.O.Ms.No.202, dated 30.06.2016.

5. This being the factum established, the impugned orders, dated 13.02.2020 and 01.06.2020, passed by the respondents 4 and 3 respectively, are quashed. The matter is remanded back to the District Level Empowered Committee for reconsideration and to ascertain as to whether emergency circumstances for taking treatment in a non-network hospital is established by the petitioner or not. If it is established, then the case of the petitioner is to be recommended, but not otherwise.



6. The petitioner is at liberty to submit a copy of the application along with a copy of the necessary documents to the District Level Empowered Committee, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the District Level Empowered Committee is directed to consider the claim of the petitioner with reference to the Health Insurance Scheme and decide the issue and pass appropriate orders, within a period of eight weeks thereafter.

7. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The Secretary,
The Department of Finance (Salaries),
State of Tamil Nadu,
Fort St.George, Chennai-600 009.
- 2.The District Collector,
Nagarcoil, Kanyakumari District.
- 3.The Joint Director,
Medical & Rural Health Services (FAF),
Nagercoil-629 001, Kanyakumari District.

Copy to:

The Officer in Charge,
District Level Empowered Committee, Kanyakumari District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-9301[F] dated 01/03/2022)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-9365[F] dated 01/03/2022)

+1 CC to M/s.SPL GP (SR-9213[F] dated 01/03/2022)

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MGJ(08.03.2022) 3P 7C