

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.115/2023

Sri Kamal Shil

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : Mr. Saugat Datta, Advocate.

For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

28/02/2023

Heard Mr. Saugat Datta, learned counsel appearing for the petitioner. Also heard Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to set aside the memorandum dated 21.10.2021 (Annexure-5 to the writ petition) and also directing the respondents to release the amount of medical reimbursement bills along with interest from the date of submission till payment thereof.

3. The case of the petitioner, in brief, is that he was serving as Pharmacist (Allo) under Jirania CHC, Chief Medical Officer, Government of Tripura. On 12.10.2018 the petitioner suddenly fell ill and visited local physician who advised him to take some medicines. But since the condition of the petitioner was deteriorating, he admitted in Saifee Hospital, Mumbai where he underwent Cytoreductive Surgery with Hipec on 31.05.2019 and discharged on 19.06.2019. For such prolonged treatment, petitioner incurred expenses about Rs.20 lakhs but he submitted medical reimbursement bills for only Rs.2,60,231/- instead of which, the respondents vide memorandum dated 21.10.2021 regretted the claim of the petitioner on the ground that he was under treatment at TATA Memorial Hospital, Mumbai as a cancer patient without being referred by the Standing Medical Board of the Government Hospital. Being aggrieved by the memo dated 21.10.2021 (Annexure-5 to the writ petition), petitioner has preferred this writ petition. Hence, this case.

4. Petitioner has prayed for the following reliefs:

- "(i) Admit the Writ petition of the Petitioner;
- (ii) Call for the records relevant to the subject matter;
- (iii) Issue Writ for setting aside/quash the Memorandum No.F.CMO(W)-2(2849)-ES/MR/2020-14832-33 dated 21.10.2021 (ANNEXURE-6);

(iv) Issue Writ directing the respondents or each of them to release Medical Reimbursed Bill of Rs.2,60,231/- (rupees two lakh sixty thousand two hundred thirty one only) to the petitioner along with 9% interest thereon from the date of submission till the payment is made to the petitioner;

(v) Pass any other order/orders as Your Honour may seem fit and proper regarding the facts and circumstances of the case.”

5. Mr. Saugat Datta, learned counsel appearing for the petitioner, contends that though the petitioner submitted medical reimbursement bills for his treatment as a cancer patient, but the respondents on the pretext that he was under treatment at TATA Memorial Hospital, Mumbai without being referred by the Medical Board rejected the claim of the petitioner most illegally and arbitrarily. Counsel also contends that it is well settled that a Government servant has the right to preserve his life and cannot be expected to wait for obtaining referral from Medical Board to avail treatment in case of emergency. Accordingly, he prays for setting aside the impugned memorandum dated 21.10.2021 and also for a direction to the respondents to release the amount of medical reimbursement bills along with interest from the date of submission till payment thereof.

On the other hand, Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the State respondents, in rebuttal, contends that the petitioner had undertaken his treatment as a cancer patient at TATA Memorial Hospital, Mumbai without being referred by the Standing Medical Board, for which he cannot be entitled to get medical reimbursement. Accordingly, he prays for dismissal of the present writ petition.

6. In view of submissions of learned counsel of both sides and also considering the facts and circumstances of the instant case, this Court is of the considered opinion that in the instant case, the petitioner was suffering from Adeno Carcinoma and this Court can take judicial notice of the fact that admittedly, neither in any Government Hospital nor in any referral private hospital in the State of Tripura at that point of time, treatment facilities of such disease were available and as such, the petitioner had no other alternative but to take treatment outside the State without being referred by the Standing Medical Board. Non-referral by the Standing Medical Board itself cannot be a ground for not granting medical reimbursement bills which is merely technical issue and as such, rejection of the medical reimbursement bills by the respondents under its

memorandum dated 21.10.2021 is not sustainable in law and needs to be set aside.

7. Accordingly, the writ petition stands allowed and the impugned memorandum dated 21.10.2021 (Annexure-5 to the writ petition) is set aside. The petitioner is given liberty to approach the concerned respondents along with all his medical records and also make a fresh claim statement to which the respondents shall take a pragmatic decision and more particularly, in the light of the new circulars/ administrative instructions issued by the Government of Tripura in this regard. The said decision shall be taken within a period of one month from the date of receipt of the copy of this order for making the medical reimbursement bills to be paid.

8. With the above observations and directions, the writ petition stands allowed and disposed of.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Pulak