

PUNJAB-HARYANA HIGH COURT

Tarlok Chander

Vs

The State of Punjab

(V Jhanji, J.)

07.09.1995

JUDGMENT

V.K. Jhanji, J.

1. In this petition under Article 226 of the Constitution of India, Petitioner who retired as Accounts Officer from the State of Punjab is seeking a writ in the nature of Mandamus directing the respondents to reimburse medical expenses which the petitioner has incurred for undergoing open heart by-pass surgery at the Escorts Heart Institute and Research Centre, New Delhi, and also the expenses which he has incurred as an in door patient in Post Graduate Institute of Medical Education and Research, Chandigarh (hereinafter referred to as P.G.I.) where the petition remained admitted from 3.2.1993 to 10.2.1993.

2. It is the case of the petitioner that on 3.2.1993, he suffered heart attack and was rushed to the P.G.I. from where he was discharged on 10.2.1993. While he remained admitted in P.G.I. certain tests were conducted, including Tread Mill Test. In the test, it was revealed that there was substantial blockage in the Arteries. At the time of discharge, the P.G.I. recommended coronary Angiography. When the petitioner contacted the Angiography department at P.G.I., he was told that his turn for Angiography would come within two to three months and in these circumstances, petitioner had no alternative but to go to Delhi. At the All India Institute of Medical Sciences, New Delhi (hereinafter referred to as AIIMS) petitioner found a long list of patients waiting for heart surgery and believing that delay may prove fatal, got himself admitted to Escorts Heart Institute and Research Centre, New Delhi. His Angiography was done on 14.4.1993. The report revealed that blockage in the main heart artery was 90 per cent and at other place it was 70 per cent. Dr. Naresh Trehan recommended by-pass surgery which was done on 21.4.1993. Petitioner was discharged from this hospital on 29.4.1993. After having recovered, the petitioner submitted an application to the Secretary to Government of Punjab, Finance Department (Treasury and Accounts Branch) for medical reimbursement towards the expenses incurred on treatment done in P.G.I. and also the expenses towards by-pass surgery at Escorts Heart Institute and Research Centre, New Delhi. Along with his medical claim, petitioner

submitted Essentiality certificate. On receipt of the medical claim bill, the Government vide letter dated 10.1.1994 returned the same on the ground that it was not accompanied by sanction issued by the Health Department, Punjab and also the advice issued by the doctors of the P.G.I. Petitioner made representations explaining his going to the Escorts Heart Institute for Angiography and by-pass surgery. When no decision was taken on the representations of the petitioner, he filed the present writ petition. In the written statement, the only objection taken by the respondents is that no prior sanction was obtained for getting treatment from the Escorts Heart Institute. However during the pendency of the writ petition, the Secretary to Government of Punjab, Finance Department, accorded sanction to the reimbursement of Rs. 82,000/- on account of heart by-pass surgery. This amount has been fixed on the basis of expenditure which one would have incurred at the AIIMS as conveyed by the Director, Health and Family Welfare, Punjab, Chandigarh vide letter dated 22.9.1984.

3. Having heard the learned counsel for the parties, I am of the view that the writ petition deserves to succeed. The matter is squarely covered by three Division Bench decisions of this Court. One of the said decisions has been annexed with the writ petition as Annexure P-11 in case *Sadhu R. Pall v. State of Punjab*¹. The Government Instructions dated 18.10.1991 whereby the Government of Punjab has recognised Escorts Heart Institute as one of the hospitals for the treatment of the diseases mentioned in the list approved by the Finance Department and the heart ailment is covered under that, was taken note of another Division Bench of this Court in Civil Writ Petition No. 260 of 1995 (*Ravi Mohan Duggal v. State of Punjab and Ors.*). In the third decision in *K.L. Kohli v. State of Punjab and Ors.*², the Division Bench of this Court while deciding the question of refusing ex-post facto permission relied upon decision in *Dr. Prem Nath Garg v. State of Punjab*, (Civil Writ Petition No. 16145 of 1992) and observed that in a welfare State, governed by the rule of law, to deny a just and genuine claim of a Government servant does not bring any credit to the State. In the present case too, the ground for refusal to reimburse medical expenses is the same i.e. prior approval of the Director, Health Services had not been obtained. I am in respectful agreement with the observations of the Division Bench in *K.L. Kohli's* case (supra) that it would be harsh, cruel and inhuman to ask a person, facing death ahead, to wait for the procedural formalities of the Government. It may also be observed at this stage that in most of the cases which have come before this Court, rejection of the medical claim by the Government is on the ground that prior approval/sanction of the Director, Health Service or the Medical Board has not been obtained. In view of the various decisions given by this Court, as have been referred to in the earlier part of this judgment, the Authorities deciding the claim for medical reimbursement are required to apply their mind before rejecting the claim on the very grounds which have not found favour with this Court. This will not only save the State of unnecessary litigation but also the interest which invariably is awarded by the Courts.

4. For the reasons recorded above, this writ petition is allowed. Respondents are directed to reimburse forthwith the medical expenses incurred by the petitioner towards open heart by-pass surgery for which he had submitted his claim. Petitioner shall also be entitled to 18 per cent

interest on the medical claim from the date he submitted his bill till the making of payment. The Government is allowed to make adjustment of the amount which has already been received by the petitioner against the medical claim. Petitioner shall also be entitled to costs of this petition which are quantified at Rs. 2000/-.

Cases Referred.

1(C.W.P. No. 13493 of 1992) decided on 6.10.1993

2(1995-3) 111 P.L.R. 88