

PUNJAB AND HARYANA HIGH COURT

Surya Pandit

Vs

State of Punjab

(G.S Singhvi, J.)

04.08.1995

JUDGMENT

G.S. Singhvi, J.

1. Even after the death of her husband, who died in 1994 after being operated for bypass heart surgery and Miteral valve replacement, the petitioner has not been able to live in peace because she has to discharge the financial burden incurred by her and her late husband for incurring expenditure on his treatment at Escorts Heart Institute and Research Centre, New Delhi.

2. From the record, it is clearly revealed that late Shri Sant Ram Pandit, who was a member of the PCS, was recommended by the Medical Board and the Post Graduate Institute of Medical Education and research Centre at Chandigarh for by pass heart surgery. Late Shri Sant Ram Pandit applied for sanction for his treatment at Escorts Heart Institute and Research Centre' New Delhi and the Director, Health and Family Welfare, Punjab, Chandigarh granted sanction vide letter dated 3.2.1994 (Annexure P-2) subject to the condition that reimbursement of expenditure will be made at the rates of All India Institute of Medical Sciences, New Delhi.

3. Late Shri Sant Ram and the petitioner were left with no other option, but to act according to the advice by the Medical Board and the Doctors of PGI and therefore he underwent bypass heart surgery at Escorts Heart Institute and Research Centre, New Delhi on 8.3.1994, but due to post operation infection, Shri Sant Ram Pandit died in the Institute itself on 30.4.1994.

4. After having recovered from the shock of the death of her husband, the petitioner moved the Government for medical reimbursement in respect of expenses incurred for his treatment by her and her husband. She vigorously pursued the case, but could not persuade the authorities to take humanistic view of the matter and this has compelled her to seek redress by moving this Court under Article 226 of the Constitution.

5. The only ground on which the writ petition has been opposed by the respondents is that while

granting sanction to medical treatment of late Shri Sant Ram Pandit at Escorts Heart Institute and Research Centre, New Delhi, the Director, Health and Family Welfare, Punjab had made it clear that he would get reimbursement at the rates of All India Institute of Medical Sciences, New Delhi.

6. The argument of Shri Rajesh Gumber, the learned counsel for the petitioner is that Escorts Heart Institute and Research Centre is one of the recognised Hospitals/Institutes where the employees of Punjab and Haryana are entitled to get treatment relating to heart ailment and when the Medical Board and the Doctors at P.G.I. Chandigarh had recommended that Shri Sant Ram Pandit should undergo bypass heart surgery at the Escorts Heart Institute and Research Centre, New Delhi, there was left no option, but to go for bypass surgery and the action of the Director, Health and Family Welfare, Punjab, restricting his reimbursement at the rates of All India Institute of Medical Science is patently illegal and arbitrary. Mr. Gumber further argued that after having recognised certain institutes/hospitals by the State, the Escorts Heart Institute and Research Centre is one of them, for the treatment of heart ailment, the Government cannot limit the reimbursement of medical expenses at the rates of All India Institute of Medical Science. He relied on the decision of this Court in C.W.P. No. 13792 of 1993 (K.K. Malhotra v. State of Punjab), decided on 10.5.1994.

7. Mrs. Charu Tuli, the learned AAG Punjab supported the case of the respondents by arguing that the petitioner is bound by the condition incorporated in the letter of sanction dated 3.2.1994 (Annexure P-2). According to her, having accepted the condition incorporated in the letter of sanction, neither late Shri Sant Ram nor the petitioner could legitimately claim reimbursement of actual medical expenses incurred on his treatment at the escorts Heart Institute and Research Centre, New Delhi.

8. Having given my thoughtful consideration to the matter, I am of the considered opinion that the claim made by the petitioner for reimbursement qua actual medical expenses incurred in the operation (bypass heart surgery and Miteral valve replacement) is justified. Once the Government of Punjab has taken a policy decision to recognise the hospitals and Medical Institutes other than All India Institute of Medical Sciences, New Delhi and others also within the State of Punjab for the purpose of treatment of its employees, there can be no justification for limiting the reimbursement of expenses at the rates of All India Institute and Research Centre, New Delhi, or the Appollo Hospital, Madras, the employees, who undergo treatment at these institutes and incur expenditure, cannot be denied to claim the total medical reimbursement. Heart ailment is of such a nature which at times requires emergent treatment and therefore a patient cannot be expected to wait in the queue for months together for bypass surgery or similar treatment in All India Institute Medical Sciences. In the very nature of things the emergency compels the patient to get the treatment at the earliest available opportunity. In K.K. Malhotra's case (supra) on which reliance has been placed by Shri Gumber the petitioner had received treatment at Appollo Hospital, Madras even without the prior approval of the Director, Health

and Family Welfare, Punjab. He made claim for reimbursement of actual expenditure incurred for his treatment at Apollo Hospital, Madras. The Government did not accede to his request for total reimbursement. A Division Bench of this Court of which I was one of the members, made reference that to the case of Sadhu R. Pall v. State of Punjab, 1991(1) RSJ 335 and it was observed:-

"In our considered opinion, while deciding such matters, the State should take a liberal and humanitarian attitude. Neither any principle nor any judgment nor anything else was shown, nor are we otherwise aware of any material that could persuade us to hold that a Government employee is not entitled to the reimbursement for the expenditure incurred by him on his treatment in one of the hospitals recognised by the respondent-State. We are fully convinced that refusing the claim of the petitioner is unreasonable, unjust and arbitrary. The impugned order is categorically violative of Article 14 of the Constitution of India. The whole situation is to be judged in a common sense way. One may ask whether the conduct of the petitioner was not that of an ordinary prudent person but was a biased act in his own favour, if it is not so, the just relief cannot be withheld".

8. In my opinion, the ratio of the decision in Sadhu R. Pall (supra) and K. K. Malhotra's case (supra) is fully applicable to the case of the petitioner.

9. Consequently, the writ petition is allowed. The condition incorporated in letter Annexure P-2 restricting the reimbursement of expenditure at the rates of All India Institute of Medical Sciences, New Delhi, is declared illegal and is quashed. The respondents are directed to verify the claim made by the petitioner for re-imburement of the expenses incurred by late Shri Sant Ram Pandit and he petitioner herself for the treatment of Shri Sant Ram Pandit at Escorts Heart Institutes and Research Centre, New Delhi and make payment to her within 3 months from today. The payment shall be made to the petitioner after deducting the reimbursement which the Government is said to have already made at the rate of All India Institute of Medical Sciences. No order as to costs.