

203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-257-2019
DECIDED ON:31.01.2026

RAMA KANT SHARMA

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. D.R. Bansal, Advocate
for the petitioner.

Mr. R.D. Sharma, DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)**Prayer**

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India seeking quashing of calculation sheet dated 17.05.2018 (Annexure P-9) to the extent his medical reimbursement claim was restricted to ₹1,38,422/- against the total bill of ₹3,54,647/-, and for a direction to the respondents to reimburse the remaining amount of ₹2,16,225/- along with interest.

Brief Facts

2. The petitioner is a retired Chief Engineer from the Irrigation & Water Resources Department, Government of Haryana. In January 2018, while at Hisar, he suffered a serious medical emergency and was admitted to Jindal Hospital,

Hisar, where his condition deteriorated and he went into coma. On medical advice, he was shifted to Fortis Memorial Research Institute, Gurugram, on 16.01.2018 and was admitted in the Emergency ICU. He was diagnosed with viral meningoencephalitis and remained admitted till 25.01.2018. The total expenditure incurred on his treatment at the said hospital amounted to ₹3,54,647/-.

3. The petitioner obtained an essentiality certificate from the hospital and an emergency certificate from the Civil Surgeon, Gurugram, and thereafter submitted his reimbursement claim along with requisite documents to the competent authority. The respondents processed the claim in terms of Government Memo dated 06.05.2005 governing reimbursement policy and sanctioned an amount of ₹1,38,422/- calculated as per PGIMER/AIIMS rates, which was credited to the petitioner's bank account.

4. Aggrieved by the reduction, and upon obtaining the calculation sheet dated 17.05.2018 under the Right to Information Act, the petitioner has filed the present writ petition.

Contentions

On behalf of the petitioners

5. Learned counsel for the petitioner contends that the impugned action of the respondents in restricting the medical reimbursement to ₹1,38,422/- against the actual expenditure of ₹3,54,647/- is wholly arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India. It is submitted that the petitioner, a retired Chief Engineer, suffered a life-threatening medical emergency in January 2018, went into coma, and was initially admitted at Hisar. On the advice of doctors and in order to save his life, he was immediately shifted to Fortis Memorial Research Institute, Gurugram, where he remained admitted in the Emergency ICU from 16.01.2018 to 25.01.2018 and was diagnosed with viral meningoencephalitis.

It is urged that the emergency nature of the treatment is not in dispute and stands duly certified by the competent Civil Surgeon.

6. It is argued that in such emergent circumstances, neither the petitioner nor his family members were in a position to ascertain whether the hospital was empanelled with the State Government. The paramount consideration was preservation of life. Learned counsel submits that the right to health and medical care is an integral facet of Article 21, and once the factum of treatment and emergency is established, reimbursement cannot be denied or curtailed on hyper-technical grounds of empanelment.

7. Reliance is placed upon the judgment of the Hon'ble Supreme Court in *Shiva Kant Jha v. Union of India*, wherein in similar circumstances of emergency treatment in a private hospital, the Apex Court directed reimbursement of the balance amount, holding that the State cannot deny legitimate medical claims of a government servant on technicalities. It is submitted that the ratio squarely applies to the present case.

8. Learned counsel further contends that the respondents reduced the claim mechanically to PGI/AIIMS rates without furnishing any prior notice, hearing, or reasoned order to the petitioner. The calculation sheet (Annexure P-9) was supplied only after recourse to the Right to Information Act. Such unilateral reduction without affording opportunity violates principles of natural justice.

9. It is also urged that even as per the State policy, reimbursement in cases of treatment in non-empanelled hospitals is permissible, and in earlier decisions of this Court, reimbursement at PGI rates plus 75% of the remaining amount has been directed. At the very least, the petitioner is entitled to

reimbursement in terms of such beneficial interpretation, especially when the emergency is undisputed.

10. Learned counsel submits that a retired government servant, who has devoted his entire service to the State, cannot be compelled to bear a substantial portion of medical expenses incurred for life-saving treatment. The impugned action defeats the very object of a welfare State and medical reimbursement policy. It is therefore prayed that the impugned calculation sheet dated 17.05.2018 be quashed and the respondents be directed to reimburse the remaining amount with interest.

On behalf of respondents

11. Per contra, learned State counsel submits that the petitioner's claim has been processed strictly in accordance with the prevailing Reimbursement Policy issued vide Government Memo dated 06.05.2005 and subsequent instructions dated 24.06.2013. It is contended that as per the policy framework, full reimbursement is admissible only for treatment taken in Government hospitals or approved/empanelled institutions. In cases where treatment is taken in a non-empanelled private hospital, even in emergency, reimbursement is restricted to rates applicable to PGIMER/AIIMS, subject to verification by the Civil Surgeon.

12. It is argued that in the present case, although the emergency certificate was verified, the treatment was admittedly taken in a private, non-empanelled hospital, namely Fortis Memorial Research Institute. Therefore, the competent authority rightly restricted the reimbursement to ₹1,38,422/- as per PGI/AIIMS rates. The respondents have neither denied the claim nor rejected it outright; rather, they have sanctioned the admissible amount under the applicable rules.

13. Learned counsel submits that reimbursement of medical expenses is governed by statutory instructions and executive policy. The petitioner cannot claim reimbursement beyond the policy framework as a matter of right. The State exchequer is involved, and financial discipline requires adherence to prescribed rates and conditions. If full reimbursement were to be granted in all cases of treatment in private hospitals, it would render the policy otiose and open floodgates of claims.

14. It is further contended that there is no violation of Articles 14 or 16, as the petitioner has been treated in the same manner as all similarly situated employees or pensioners who avail treatment in non-empanelled hospitals. The policy has been uniformly applied and there is no discrimination.

15. Distinguishing the reliance placed on “*Shiva Kant Jha v. Union of India*”, learned counsel submits that the facts of each case must be examined in light of the applicable policy of the concerned Government. The said judgment does not lay down an absolute proposition that full reimbursement must be granted in every case of private treatment, irrespective of policy conditions.

Analysis

16. The petitioner, a retired Chief Engineer of the Irrigation & Water Resources Department of the State of Haryana, has invoked the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India seeking quashing of the calculation sheet dated 17.05.2018 (Annexure P-9) whereby his medical reimbursement claim was restricted to ₹1,38,422/- as against the total expenditure of ₹3,54,647/-, and for a direction to the respondents to reimburse the remaining sum of ₹2,16,225/- with interest.

17. It is not in dispute that in January 2018, while at Hisar, the petitioner suddenly fell gravely ill and was admitted to a local hospital. His condition deteriorated and he slipped into coma. On medical advice, he was shifted in the early hours of 16.01.2018 to Fortis Memorial Research Institute, Gurugram, where he was admitted to the Emergency ICU. He was diagnosed with viral meningoencephalitis, a life-threatening neurological condition. He remained admitted till 25.01.2018 and the hospital raised a bill of ₹3,54,647/-, duly supported by discharge summary, essentiality certificate and medical records. The emergency nature of treatment stands certified by the Civil Surgeon, Gurugram.

18. The petitioner submitted his claim with all supporting documents and the respondents, after processing the same, reimbursed ₹1,38,422/- calculated at PGI/AIIMS rates in terms of Government policy dated 06.05.2005 read with instructions dated 24.06.2013 applicable to treatment taken in non-empanelled hospitals during emergency. The balance amount was declined without a speaking order and the calculation sheet was supplied only after recourse to the Right to Information Act.

19. The stand of the respondents is that reimbursement has been granted strictly in accordance with policy, and since the treatment was taken in a non-empanelled private hospital, full reimbursement is impermissible. However, what amazes this Court is that neither is the emergency is not denied. Nor is the treatment is not disputed but the only ground for curtailment is the non-empanelled status of the hospital.

20. Thus, the issue which arises before this court is that ***whether, in a case of admitted medical emergency involving coma and ICU admission, the State can restrict reimbursement to notified rates under executive instructions?***

21. The question is no longer confined to the realm of service jurisprudence. It strikes at the heart of Article 21 of the Constitution of India and the evolving doctrine of the right to health. The Constitution of our country does not contemplate a hierarchy where executive memoranda supersede fundamental rights.

Recognition of Right to Health as a Fundamental Right

22. This Court is fully cognizant of the wide and evolving contours of Article 21 of the Constitution, which has, through judicial exposition, evolved into an ever-expanding guarantee of substantive rights. The court in ***Maneka Gandhi v. Union of India*** 1978 INSC 16, which transformed the “procedure established by law” into a guarantee of fairness, reasonableness and non-arbitrariness. The jurisprudential journey thereafter has consistently expanded the content of “life” to include dignity, health, and humane existence.

23. Also in “***Consumer Education & Research Centre v. Union of India*** 1995 (4) SCT 631”, the Supreme Court unequivocally declared that the right to health and medical care is a fundamental right under Article 21. Relevant extract of the same is under:

“Therefore, it must be held that the right to health and medical care is a fundamental right under Article 21 read with Articles 39(c), 41 and 43 of the Constitution and make the life of the workmen meaningful and purposeful with dignity of person. Right to life includes protection of the health and strength of the worker is a minimum requirement to enable a person to live with human dignity. The State, be it Union or State Government or an industry, public or private, is enjoined to take all such actions which will promote health, strength and vigour of the workman during the period of employment and leisure and health even after retirement as basic essential to live the life with health and happiness. The health and strength of the worker is an integral facet of right to life. Denial thereof denudes the workman the finer facets of life violating Article 21. The right to human dignity, development of personality, social protection, right to rest and leisure are fundamental human rights to a workman assured by

the Charter of Human Rights, in the Preamble and Articles 38 and 39 of the Constitution. Facilities for medical care and health against sickness ensure stable manpower for economic development and would generate devotion to duty and dedication to give the workers' best physically as well as mentally in production of goods or services. Health of the worker enables him to enjoy the fruit of his labour, keeping him physically fit and mentally alert for leading a successful life, economically, socially and culturally. Medical facilities to protect the health of the workers are, therefore, the fundamental and human rights to the workmen.

27. Therefore, **we hold** that right to health, medical aid to protect the health and vigour to a worker while in service or post retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48A and all related Articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person. ”

24. Subsequently, in ***Paschim Banga Khet Mazdoor Samity v. State of West Bengal 1996 (4) SCC 37***, it was held by the Supreme Court that failure to provide timely emergency medical treatment constitutes a violation of Article 21 and that the State cannot avoid its responsibility on the plea of financial constraints. The constitutional position is thus no longer in doubt as the Court elevated emergency medical care to a constitutional obligation, and held that preservation of life is a paramount obligation of the State, while observing that,

9. The Constitution envisages the establishment of a welfare state at the federal level as well as at the state level. In a welfare state the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centres which provide medical care to the persons seeking to avail those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The Government hospitals run by the State and the medical officers employed therein are duty bound of extend medical assistance for preserving human life. Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21

25. The Supreme Court while holding that preservation of human life is of paramount importance, in **“Parmanand Katara v. Union of India 1995 (3) SCC 248”**, observed that no procedural law or technicality can stand in the way of human dignity and stated as under,

4. We agree with the petitioner that right to dignity and fair treatment under Article 21 of the Constitution of India is not only available to a living man but also to his body after his death. According to us, the only requirement of the above-quoted para of the Manual is that the body of the condemned prisoner shall only remain suspended till the time the medical officer, present on the spot, declares him dead. We make it clear and hold that the jail authorities in the country shall not keep the body of any condemned prisoner suspended after the medical officer has declared the person to be dead. The limitation of half an hour mentioned in para 873 is directory and is only a guideline. The only mandatory part of the above-quoted para is that the condemned person has to be declared dead by the medical officer and as soon as it is done the body has to be released from the rope.

Evolution of Medical Reimbursement Jurisprudence

26. The doctrine relating to reimbursement in emergency situations has crystallised through authoritative pronouncements. In **“Surjit Singh v. State of Punjab 1996 (2) SCT 234”**, the Supreme Court rejected the denial of reimbursement on technical grounds where treatment was taken in a non-approved hospital during emergency. In **“State of Punjab v. Mohinder Singh Chawla 1997 (1) SCT 716”**, it was held by the Supreme Court that the State is constitutionally obligated to bear medical expenses of its employees, the right to health being integral to life itself, while observing that,

Consequently, when the patient was admitted and had taken the treatment in the hospital and had incurred the expenditure towards room charges, inevitably the consequential rent paid for the room during his stay is integral part of his expenditure incurred for the treatment. Consequently the Government is required to reimburse the expenditure incurred for the period during which the patient stayed in the approved hospital for treatment. It is incongruous that while the patient is admitted to undergo treatment and he is refused the

reimbursement of the actual expenditure incurred towards room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone treatment. Under these circumstances, the contention of the State Government is obviously untenable and incongruous.

27. Also the Apex Court in **“State of Punjab vs Ram Lubhaya Bagga 1998 (1) SCT 761”**, observed that,

“21. When we speak about a right, it correlates to a duty upon another, individual, employer, Government or authority. In other words, the right of one is an obligation of another. Hence the right of a citizen to live under Article 21 casts obligation on the State. This obligation is further reinforced under Article 47; it is for the State to secure health to its citizen as its primary duty. No doubt Government is rendering this obligation by opening Government hospitals and health centres, but in order to make it meaningful, it has to be within the reach of its people, as far as possible, reduce the queue of waiting lists, and it has to provide all facilities for which an employee looks for at another hospital. Its up-keep, maintenance and cleanliness has to be beyond aspersion. To employ best of talents and tone up its administration to give effective contribution. Also bring in awareness in welfare of hospital staff for their dedicated service, give them periodical medico-ethical and service-oriented training, not only at the entry point but also during the whole tenure of their service. Since it is one of the most sacrosanct and valuable rights of a citizen and equally sacrosanct sacred obligation of the State, every citizen of this welfare State looks towards the State for it to perform this obligation with top priority including by way allocation of sufficient funds. This in turn will not only secure the right of its citizens to the best of their satisfaction but in turn will benefit the State in achieving its social, political and economical goal. For every return there has to be investment. Investment needs resources and finances. So even to protect this sacrosanct right, finances are an inherent requirement. Harnessing such resources needs top priority.”

28. The culmination of this evolution is found in **“Shiva Kant Jha v. Union of India 2018 (2) SCT 529”**, wherein the Supreme Court held in clear and unambiguous terms that a government employee or pensioner cannot be denied reimbursement merely because treatment was obtained in a non-empanelled hospital during emergency. The Court emphasised that technicalities cannot defeat

life-saving decisions and that reimbursement must be real and meaningful, not illusory. Relevant extract of the same is as under:

13. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14. This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement.

29. The legal position post-Shiva Kant Jha admits of no ambiguity, emergency medical treatment obtained in a non-empanelled hospital, when duly verified, entitles the claimant to reimbursement that is fair, reasonable, and not merely symbolic. Administrative convenience cannot eclipse the right to life and a welfare State must act with sensitivity and fairness when confronted with genuine medical claims.

Self Preservation – a facet of Right to Life

30. Otherwise also, it is important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. The principle that a person possesses both a duty and a right to preserve one's own life finds clear expression in the doctrine of private defence recognised in criminal jurisprudence. The law, in acknowledging the legitimacy of self-defence, reflects a far older moral and philosophical understanding that self-preservation is intrinsic to human existence. Long before the evolution of modern legal systems, thinkers of this ancient land had articulated and affirmed this principle. In that context, reference may be made to verses 17, 18, 20 and 22 of Chapter XVI of the Garuda Purana, presented as a dialogue between the Divine and Garuda, the holy and pious bird, wherein the sanctity of life and the imperative of protecting oneself are emphatically underscored.

17. विना देहेन कस्यापि च पुरुषार्थो न विद्यते।
तस्माद् देहं धनं रक्षेत् पुण्यकर्माणि साधयेत्॥

Without the body how can one obtain the objects of human life ? Therefore protecting the body which is the wealth, one should perform the deeds of merit.

18. रक्षयेत् सर्वदात्मानम् आत्मा सर्वस्य भाजनम्।
रक्षणे यत्नमातिष्ठेत् जीवन् भद्राणि पश्यति॥

One should protect his body which is responsible for everything. He who protects himself by all efforts, will see many auspicious occasions in life.

20. शरीररक्षणोपायाः क्रियन्ते सर्वदा बुधैः।
नेच्छन्ति च पुनस्त्यागमपि कुष्ठादिरोगिणः॥

The wise always undertake the protective measures for the body. Even the persons suffering from leprosy and other diseases do not wish to get rid of the body.

22. आत्मैव यदि नात्मानम् अहितेभ्यो निवारयेत्।
कः अन्यः हितकरस्तस्मात् आत्मानं तारयिष्यति॥

If one does not prevent what is unpleasant to himself, who else will do it? Therefore one should do what is good to himself.

31. In the present case, the petitioner was in coma. He was not exercising choice but was fighting for survival. His wife, in an hour of acute distress, acted

upon medical advice and shifted him to a facility equipped to handle a neurological emergency. To expect, in such a moment, a verification of empanelment lists or rate charts is to demand bureaucratic compliance from the brink of mortality.

32. One also cannot lose sight of factual situation in the Government medical facilities i.e. with respect to the number of patients received there. In such an urgency one cannot sit at home and think in a cool and calm atmosphere for getting medical treatment at a particular hospital or wait for admission in some Government medical institute. In such a situation, decision has to be taken forthwith by the person or his attendants if precious life has to be saved.

Restriction Reimbursement to PGI / Notified Rates in Emergencies

33. This court finds it necessary to express our considered disapproval of the mechanical practice adopted by the respondents in restricting reimbursement to PGI/CGHS notified rates irrespective of the actual expenditure incurred in a life-threatening emergency. Such an approach, when applied inflexibly, transforms a constitutional entitlement into a bureaucratic concession. The right under Article 21 is not a right to partial survival but a right to meaningful preservation of life and dignity. In moments of cardiac arrest, multi-organ trauma, or acute neurological crisis, neither the patient nor the attending relatives are in a position to negotiate rates, compare institutional tariffs, or seek prior administrative sanction. To subsequently reimburse only a fraction of the expenditure by applying institutional rate ceilings amounts to penalizing the citizen for choosing survival over procedure.

34. Though executive policy is undoubtedly binding upon the administration, but it cannot eclipse constitutional guarantees. Policies are

instruments of governance, they are not fetters upon justice. When a policy, applied mechanically, produces a result that undermines the right to life and health, constitutional courts must interpret it with reasonableness and equity.

35. Moreover, a retired government servant, who has devoted his life to public service, cannot be left to shoulder a substantial financial burden arising out of life-saving treatment merely because the advised medical facility happened to be a non-empanelled hospital. Social security in old age is not an act of grace, it is a constitutional expectation flowing from the idea of a welfare State.

36. There is yet another dimension which merits articulation. Every executive policy must remain in consonance with the constitutional ethos. The Preamble of the Constitution begins with the solemn resolve of “*We, the People of India.*” thereby meaning that sovereignty ultimately resides in the citizen and the policies framed for administrative convenience or fiscal prudence must operate within the broad canopy of constitutional morality. When a policy, though valid in general application, produces hardship in exceptional situations of medical emergency, it is incumbent upon the State to revisit and recalibrate it. The right to health - as a facet of Article 21, demands that reimbursement frameworks incorporate flexibility for genuine emergencies so that constitutional promises do not wither in procedural rigidity.

Our Goal towards Viksit Bharat 2047

37. This Court cannot remain oblivious to the solemn and collective resolve of the nation to attain the status of a developed country by the year 2047. A developed nation is not defined merely by economic metrics but by the social security, public health assurance, and opportunity of dignified ageing offered by it to its citizens.

38. The vision of a ***Viksit Bharat 2047*** cannot rest on GDP alone as human capital is the backbone of national productivity and the right to health, as judicially recognized, is an essential component of human capital. India's constitutional architecture, particularly Articles 21, 14, 38, 41 and 47 of the Constitution, envisions a social order in which the State assumes responsibility for the health and well-being of its people. In reaffirming that medical reimbursement in bona fide emergencies flows from Article 21, this Court underscores that constitutional commitment to health security is integral to national progress. A developed India must be one where preservation of life is non-negotiable, where administrative systems respond with humanity, and where constitutional promises translate into lived protection. Only then does development attain constitutional meaning.

39. To deny reimbursement in life-threatening emergency is to erode this constitutional trust. Fiscal discipline is undoubtedly important however, economic progress divorced from social justice cannot sustain democratic development. The true index of development lies in whether the State stands beside its citizens at their most fragile moments or shrugs away from responsibility under the garb of an executive policy. A developed democracy must ensure that its public servants are not compelled to choose between survival and financial ruin.

40. Before parting, this Court considers it appropriate to crystallize certain governing principles which emerge from the constitutional scheme and judicial precedents, that executive policies regulating reimbursement must be interpreted in consonance with Article 21 of the Constitution. Where two interpretations are possible, the one that advances preservation of life must prevail and in cases of certified life-threatening medical emergency, the empanelment status of the hospital cannot be the sole ground to deny or substantially curtail

reimbursement once the factum of treatment and emergency stands established and is supported by medical records.

Conclusion

41. Therefore, in view of the discussion made herein above, this court is of the opinion that, in the present case, the calculation sheet dated 17.05.2018 (Annexure P-9), insofar as it limits reimbursement to ₹1,38,422/-, is not sustainable in law and is hereby quashed. The respondents are directed to reimburse the remaining amount of ₹2,16,225/- to the petitioner within four weeks from the date of receipt of a certified copy of this judgment. The amount shall carry interest @ 9% per annum from 25.01.2018 (the date of discharge) till actual payment.

42. However, this court takes note of the systemic issue wherein the pensioners and employees are compelled to approach constitutional courts to recover expenses incurred in life-saving emergencies. The State Government should consider revisiting the existing medical reimbursement policy to incorporate a mechanism for full or substantially reimbursement in certified life-threatening emergencies, even when treatment is taken in a non-empanelled hospital. Such a reform would reduce litigation, promote trust in governance, and align administrative practice with constitutional morality.

43. The present petition is **allowed** in the above terms.

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

31.01.2026

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No