



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 5714/2011

Sohan Lal Sharma

-----Petitioner

Versus

State Finance And Ors

-----Respondent



For Petitioner(s) : Mr. Mukesh Rajpurohit,
Ms. Dimple Rajpurohit and Ms. Aditi
Sharma.
For Respondent(s) : Mr. Mahaveer Bishnoi, AAG assisted
by Mr. HS Chundawat.

HON'BLE MR. JUSTICE ARUN MONGA
Order(Oral)

04/12/2024

1. Grievance of the petitioner herein arises out of an order dated 27.05.2008 (Annex.5), vide which his claim for medical reimbursement was rejected on the ground that he received treatment from a non-recognized hospital. Further, he seeks quashing of a subsequent communication dated 16.06.2008 (Annexure 6) which it was reiterated that his claim cannot be accepted.

2. Relevant facts first. The petitioner served as a Lecturer at District Institute of Education and Training (D.I.E.T.), Jodhpur until he superannuated on 31.01.2002. As a confirmed and regular employee of the State of Rajasthan, he was entitled to all benefits, including medical benefits admissible to State Government employees.

2.1. On 25.05.2007, petitioner suffered a cardiac arrest. Under emergency, he was admitted to Goyal Hospital, Jodhpur, for treatment. To save his life, doctors recommended immediate

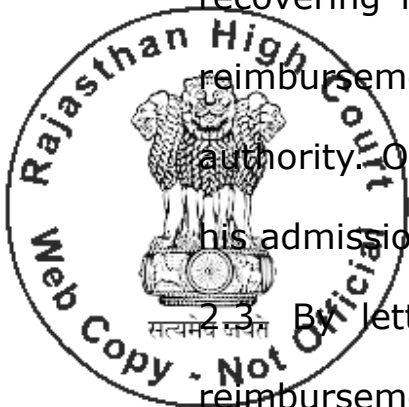
surgery. Consequently, on 01.06.2007, the petitioner underwent heart surgery at the hospital and was discharged on 12.06.2007.

2.2. At the relevant time, the Hospital i.e. Escorts Goyal Heart Center, Jodhpur provided cardiac care facilities in collaboration with Escorts Heart Institute & Research Center, New Delhi. After recovering from the ailment, the petitioner submitted a medical reimbursement claim of Rs. 2,03,063.86 before the competent authority. On 02.03.2008, he also executed an affidavit affirming his admission to the hospital from 25.05.2007 to 12.06.2007.

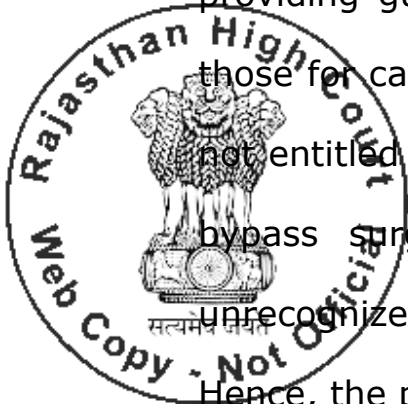
2.3. By letter dated 16.06.2008 petitioner's claim for medical reimbursement was rejected on the ground that he was treated in year 2007 at a non-recognized hospital.

2.4. Pertinently, in 2008, aforesaid Goyal Hospital, Jodhpur, was recognized by the respondent department as an authorized hospital. Following this recognition, medical reimbursement claims of other state employees, treated at the hospital, were duly processed and accepted. However, petitioner's claim was denied on the ground that the hospital was not recognized at the time of his treatment. His surgery was undertaken in a life-threatening situation, with no other viable alternative, is not in dispute. Hence this petition.

3. Stand taken by the respondents in their counter-affidavit, inter alia, is that medical reimbursement of pensioners is governed by the *Rajasthan Pensioners Medical Concession Scheme* (hereinafter referred to as "the Scheme"). The Scheme permits free medical attendance and treatment for pensioners only at authorized hospitals, clinics, or institutes as per Clauses 4 to 4(g). The petitioner's claim does not comply with these



provisions. Reimbursement is permitted only under the prescribed rules and limits, and government employees cannot claim expenses beyond what is provided under these rules. The Finance Department (Rules Division) of the Government of Rajasthan issued Circular No. F.6(4)FD (Rules)/03 PT dated 05.05.2011 providing guidelines for medical reimbursement claims, including those for cardiac surgeries and other treatments. The petitioner is not entitled to full reimbursement of the expenses incurred for his bypass surgery as the treatment was availed at a private, unrecognized hospital, contrary to the provisions of the scheme. Hence, the present writ petition is liable to be dismissed.



4. In the aforesaid backdrop, I have heard the rival contentions and gone through the case record.
5. What emerges before this Court for adjudication lies in a very narrow compass, i.e., whether a Government Official or a pensioner, in an emergent situation, having undergone treatment at a private hospital, is entitled to seek reimbursement of the medical expenses?
6. Before addressing the issue, first and foremost, what requires to be noticed is that the petitioner herein was in an emergent situation is not disputed, as is borne out from the stand taken in the reply.
7. The petition is being opposed on the ground that since the private hospital was not empaneled, therefore, the only admissible claim of the petitioner has to be the upper limit of the expenses payable to him as notified under the Service Rules.
8. Learned counsel for the respondents apprises the Court that the petitioner has already been paid a sum of Rs.48,000/- as per

the Rules. He contends, that the petitioner is not entitled to the balance of the claim as per his medical bills qua the expenditure incurred in the unpaneled private hospital.

9. I am unable to persuade myself with the stand taken by the learned counsel for the respondents in light of the settled position of law, vide a catena of judgments rendered from time to time.

10. Illustratively, reference may be had to the judgment rendered by a Coordinate Bench of this Court in **Kanhaiya Lal Dave Versus State of Rajasthan & Ors.: S.B. Civil Writ Petition No. 420/2009**, which in turn relies on another division bench precedent, wherein it is held as below:

“8.This Court considered the issue of emergent situation in the case of Gyanendra Kumar Pareek Vs. State of Rajasthan & Ors. Reported in 2009(4) WLC(Raj.)-95 and held that when a family member suffers from cardiac ailment, the prime objective of the other family member would be to save his/her life. At that time, services of whichever hospital is suited could be utilized because emergency knows no law and no procedure and when human life is at stake, in such situation, ultimate responsibility of the State cannot be washed off. This Court relied upon the decision of the Division Bench of this Court in Anil Kumar Surolia Vs. State of Rajasthan reported in 2005(3) WLC(Raj.)- 396 wherein the Division Bench observed as under:-

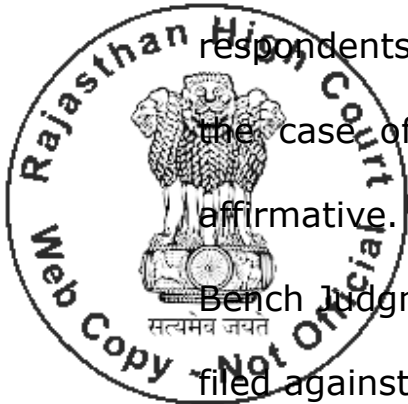
“Government cannot insist upon an employee to get himself treated at recognized government institution. All that the Government in these circumstances can do is to reimburse the concerned employee at the rates that may be applicable in the recognized government institution. Reference in this connection may be made to the judgment of the Honble Supreme Court in Surjit Singh Vs. State of Punjab reported in AIR 1996 SC-1388 and State of Punjab & Ors. Vs. Mohan Lal Jindal reported in (2001) 9 SCC-217. Consequently, the reimbursement of the medical expenses borne by the State Government employees and pensioners has to be done even if the treatment is undertaken at unrecognized hospital outside the State even though reference may not have been taken prior to treatment.”

x-x-x-x-x-x-x

10.Thus, as per scheme of medical concession applicable to the retired employees, the only hurdle against the petitioner for being

granted reimbursement of the medical bills is that his wife was subjected to treatment at an unrecognised hospital outside the State and that too without a reference being made. However, as has been noted above, the Division Bench of this Court has already laid the issue to rest by observing that even if the treatment is taken at an unrecognized hospital and without any reference, the reimbursement thereof has to be done at the rates prescribed in the Concession Scheme. x-x-x-x-x-x”

11. On a specific query being put to the learned counsel for the respondents, as to whether the aforesaid judgment is applicable to the case of the petitioner herein; the answer given is in the affirmative. Not only that, it transpires that the aforesaid Single Bench Judgment has attained finality as no intra-Court appeal was filed against the same.



12. In the premise, I see no reason why the benefit thereof is not also accorded to the petitioner, who is similarly situated. Question framed in Para 5 of the preceding para of the instant order is thus answered in affirmative.

13. Accordingly, the petition is allowed. Respondents are directed to verify and process the medical bills of the petitioner, and if found in order, his claim to be processed as prescribed rates, and after deducting the amount already paid, the balance be paid with interest @ 6% with effect from 30 days after the submission of the bills from the actual date of it.

14. Pending application(s), if any, stand disposed of.

(ARUN MONGA),J

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Whether fit for reporting : Yes / No.