



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

S.B. Civil Writ Petition No. 9571/2008

Kesra Ram

-----Petitioner

Versus

State And Anr

-----Respondent

For Petitioner(s) : Mr. Vivek Firoda a/w Mr. Jayram
Saran.
For Respondent(s) : None present.

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

23/02/2024

1. Aggrieved by note/order dated 19.02.2008 (Annex.3), vide which the respondents denied the claim of petitioner for reimbursement of medical expenses for treatment at a private hospital, he is before this court seeking quashing thereof.
2. Relevant facts of the case are that:
 - 2.1 The petitioner works as a Ward Boy in Government Bangar Hospital, Deedwana. On 11.08.2007, he had a medical emergency as he suffered severe chest pain/cardiac arrest and as a first choice, was immediately taken to the very same hospital where he works.



2.2. However, on 12.08.2007 (Sunday), the doctors at Government Bangar Hospital, Deedwana found the case of the petitioner to be of critical nature and referred him to SMS Hospital, Jaipur. But, as it turned out, being a Sunday, there was no surgery being performed in SMS hospital. Given the emergent condition of the petitioner, his family immediately took him instead to Soni Hospital, Jaipur.

2.3 The petitioner remained admitted from 12.08.2007 to 16.08.2007 at Soni Hospital, Jaipur. He underwent primary Angioplasty and Stenting to LAD and subsequently on persistence of angina, PTCA + Stenting to RCA was also done.

2.4 The petitioner rejoined his duties on 21.01.2008. He submitted an application to the respondent No.2 along with the medical bills for his aforesaid treatment, which were to the tune of Rs.1,53,635/- (final bill attached with the petition) and requested that the same may be reimbursed. Vide impugned note dated 19.02.2008, his request was declined. Hence, the instant writ petition.

3. Defense taken in the reply to the petition is that the petitioner submitted an application for reimbursement of medical bills without annexing medical bills. However, respondent No.2 still sent the application to the CM&HO, Nagaur for necessary instructions. Due to the incomplete bills submitted by the petitioner, the application was returned to him for removing the objections, but petitioner did not re-submit the application after removing defects, and straightaway, filed writ petition before this Court. Thus, despite giving instructions regarding completing the



medical bills, petitioner did not pay any heed. Stand taken is that the respondents have, in fact, not denied reimbursement of the medical claim of the petitioner. If the petitioner had submitted complete bills for expenses, then the respondents would certainly proceed in accordance with the rules. It is his own fault that he did not submit complete bills and straightway filed a premature writ petition, which is liable to be dismissed.

4. In the aforesaid backdrop, I have heard the learned counsel for the petitioner and gone through the record and, shall now proceed to render my opinion thereupon.

5. What emerges from the pleadings is a clear open and shut case, wherein the Department has taken an unequivocal stand that there is no quibble about the admissibility of the medical reimbursement qua the treatment undergone by the petitioner. What seems to be the impediment is that, despite being asked, the petitioner did not submit his medical bills. The said medical bills have been appended alongwith the petition herein. Reference may be had to the two final bills (one amounting to Rs.1,42,000/- & other for Rs.11,655/-) dated 16.08.2007 & 15.10.2007, respectively, (Annex.4), which have been issued by Soni Hospital, Jaipur.

6. The petitioner vide his application/representation dated 21.01.2008 (Annex.3), had approached the Chief Medical Health Officer (CMHO), Didwana, for reimbursement as per the applicable Rules. The said application was entertained and initially, vide a note dated 22.01.2008, an objection was raised that the original bills be submitted by the petitioner. However, subsequently, vide



impugned note/objection dated 19.02.2008 raised by CMHO that, originals were returned since the treatment was meted out at a private hospital and, same was held to be not reimbursable. It was also stated that even the bills are not complete.

7. Qua entitlement of reimbursement for treatment in emergency from a private hospital, learned counsel for the petitioner, in course of his arguments, relies on the various judgments viz. ***Surjit Singh Vs. State of Punjab & Ors.- (1996) 2 Supreme Court Cases 336; Shobha Devi Choudhary Vs. Union of India & Anr. 2022 SCC Online Raj 2868; Thomas T. Vs. State of Rajasthan & Ors. : S.B. Civil Writ Petition No.3749/2006 passed by this Court.***

8. Adverting, now to the defense as pleaded in the reply filed with this court, it is evident that no explicit stand has been taken therein regarding the petitioner's not being entitled to reimbursement for treatment at a private hospital. However, the impugned note/order dated 19.02.2008 from the CMHO, which is inter alia under challenge herein, same expressly states the rejection of his claim is on account of private treatment.

9. It is noteworthy that the petitioner, in paragraph 4 of the petition, has affirmed undergoing treatment from 12.08.2007 to 16.08.2007 at Soni Hospital, Jaipur, involving Primary Angioplasty and Stenting to LAD, and subsequent PTCA + Stenting to RCA due to Persistence of Angina. Additionally, he has expressly mentioned that the medical bills are annexed with the petition as Annex.4. In corresponding para of the reply, aside from a mere bald assertion that the petitioner did not submit the bills, the contents of Para-4



of petition have not been disputed. Thus, considering the stance taken in the reply, the petition merits acceptance to the extent of seeking reimbursement for treatment received at a private hospital. It is so ordered.

10. In the parting, I may hasten to add that reference in particular may be had to Supreme Court judgment rendered in *Surjit Singh (supra)*, and as also rightly relied by learned counsel for the petitioner in the context of right to self-preservation being a fundamental right. Case of the petitioner is squarely covered by the ratio enunciated therein. As held by Supreme Court, it is settled position in law that the right to health and self-preservation by medical treatment in an emergency is akin to the right to life, as enshrined in Article 21 of the Constitution of India. This right is fundamental, sacred, precious, and inviolable. Employees of State have a right to take steps to preserve their own lives when faced with a life threat in an emergency. Accordingly, given the facts of the instant case, the petitioner herein had the right to take steps for his self-preservation, including seeking emergency medical treatment without having to wait for prior sanction and/or waiting for his turn in a government hospital or an authorised hospital instead of rushing to a private hospital i.e. Soni Hospital, Jaipur herein, in view of apparent threat to life at the relevant time. As an upshot, I see no reason, why the petitioner be not accorded the benefit of reimbursement of his medical bills.



11. The respondents are thus directed to verify the medical bills contained in Annex.4 of the petition and carry out the further necessary exercise of reimbursement in accordance with the applicable service rules within a period of two months from today. Payment be reimbursed along with applicable interest, as admissible under the service rules, with effect from the date, the same was due to the petitioner.

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

(ARUN MONGA),J

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Whether fit for reporting- Yes / No