IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-32871-2019 (O&M)

SANJIV KUMAR

..Petitioner

Versus

STATE OF HARYANA AND OTHERS

..Respondents

Reserved on: 14.07.2026
Pronounced on : 29.07.2026
Uploaded on : 30.07.2026

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rakesh Nagpal, Advocate
Ms. Harpreet Kaur, Advocate for the petitioner.

Mr. Praveen Kumar, DAG, Haryana.

* * * * *

SUDEEPTI SHARMA, J.

1. The challenge in the present writ petition is to order dated 18.04.2019 passed by respondent No.2, whereby, claim of the petitioner for reimbursement of medical claim/expenses was rejected.

2. Learned counsel for the petitioner contends that the respondents have wrongly rejected the claim of the petitioner for reimbursement on the ground that it was not an emergency treatment, without taking into consideration the emergency certificate which is placed on record as Annexure P-2 with the present writ petition. He, therefore, prays that the present writ petition be allowed.

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3. *Per contra*, learned counsel for the respondents contend that according to report of medical board it was not an emergency treatment, therefore, his claim for medical reimbursement is rightly rejected.

4. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

5. A perusal of the file shows that petitioner had gone to Karnal for some personal work on 21.09.2018 where he fell ill with the complaints of severe left flank pain and vomiting due to left Uretric Calculas. He got admitted in Sh. Mool Chand Kidney Hospital and Urological Institute, Karnal and was operated in emergency as per advise of the Doctor who was treating him. The concerned surgeon operated the petitioner being in emergency situation and petitioner was discharged on 22.09.2018.

6. Thereafter, petitioner produced his bills to the tune of Rs.72,500/- on 08.10.2018 before the respondents. The same were rejected vide impugned order dated 18.04.2019 on the ground that treatment/surgery got from Sh. Mool Chand Kidney Hospital and Urological Institute, Karnal was not an emergency treatment.

7. Admittedly the petitioner had complaint on severe left flank pain due to which he was admitted in Sh. Mool Chand Kidney Hospital and Urological Institute, Karnal. The medical certificate which is attached with the present writ petition as Annexure P-2 is reproduced as under:-

> *"**SH. MOOL CHAND KIDNEY HOSPITAL & UrologicalINSTITUTE***
>
> *EMERGENCY CERTIFICATE*
>
> *TO WHOM IT MAY CONCERN*

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> *Mr. Sanjeev Kumar S/o Amar Nath is presented in out Hospital with complaints of severe Lt. Flank Pain & Vomiting due to Lt. Ureteric Calculus.*
>
> *He was admitted and Operated in Emergency on 21.09.2018 & discharged on 22.09.2018"*

8. A bare reading of the above shows that it was in emergency that he got admitted and operated.

9. It would be apposite to reproduced impugned order dated 18.04.2019, whereby, the claim of the petitioner for medical reimbursement was rejected:-

> *"Kindly refer to the subject cited above.*
>
> *Please find enclosed herewith the original medical bill submitted by you on dated 09.10.2018 for the treatment taken by you in Sh. Moolchand Kidney Hospital and Urological Institute. Karnal on dated 21.09.2018. The bill in original is hereby returned with the letter received from Office of Civil Surgeon, Panchkula. Haryana in which it has been mentioned that treatment record and bill was examined by the constituted committee of Medical Board and according to the report of Medical Board." It was not an Emergency Treatment." Therefore the medical bill cannot be reimbursed."*

10. A bare reading of above referred to rejection order shows that the same is passed without application of mind. It is not the case of the respondents that the emergency certificate being issued to the petitioner is forged or fabricated. There is nothing on record to show that any effort was made by the respondents to verify into the emergency as well as the authenticity of the certificate.

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11. Different doctors may have different opinions regarding the treatment of the same patient. In cases of emergency, the patient is not at all aware of medical treatment which would be the best for him. He is to follow the advice given by the doctor in case of emergency and has no option for taking the second opinion as well, in emergency treatment, like in present case. The Committee which is constituted as per the impugned order of the medical board, did not examine the petitioner at the time of emergency, therefore, after his treatment they cannot say without examining the patient at the time of emergency that it was "not an emergency treatment". Therefore, the ground of rejection of medical reimbursement by the medical board is rejected by this Court.

12. One of the stand taken in the written statement by the respondents is that the petitioner took his treatment from Sh. Mool Chand Kidney Hospital and Urological Institute, Karnal which was not an empaneled hospital under the Government of Haryana and the employee is entitled to medical reimbursement if he gets his treatment from the empaneled hospitals only.

13. Hon'ble Supreme Court in ***Shiva Kant Jha Vs. Union of India, 2018 SCC Online SC 370*** held that Government employee during his lifetime or after his retirement is entitled to get the benefit of medical facilities even if they receive treatment at non-empaneled hospitals. Relevant portion of ***Shiva Kant's case*** (supra) is reproduced 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*

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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. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the*

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object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15. *In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs.4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only.*

16. *Further, with regard to the slow and tardy pace of disposal of MRC by the CGHS in case of pensioner beneficiaries and the unnecessary harassment meted out to pensioners who are senior citizens, affecting them*

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> *mentally, physically and financially, we are of the opinion that all such claims shall be attended by a Secretary level High Powered Committee in the concerned Ministry which shall meet every month for quick disposal of such cases. We, hereby, direct the concerned Ministry to device a Committee for grievance redressal of the retired pensioners consisting of Special Directorate General, Directorate General, 2 (two) Additional Directors and 1 (one) Specialist in the field which shall ensure timely and hassle free disposal of the claims within a period of 7 (seven) days. We further direct the concerned Ministry to take steps to form the Committee as expeditiously as possible. Further, the above exercise would be futile if the delay occasioned at the very initial stage, i.e., after submitting the relevant claim papers to the CMO-I/C, therefore, we are of the opinion that there shall be a timeframe for finalization and disbursement of the claim amounts of pensioners. In this view, we are of the opinion that after submitting the relevant papers for claim by a pensioner, the same shall be reimbursed within a period of 1 (one) month."*

14. In view of the law laid down by Hon'ble Supreme Court in ***Shiva Kant Jha Vs. Union of India, 2018 SCC Online SC 370*** the rejection of medical reimbursement on the ground that the treatment is not from the empaneled hospital is also rejected.

15. Consequentially, order dated 18.04.2019 rejecting the claim of the petitioner is ***set aside***. Petitioner is held entitled to medical reimbursements of Rs.72,500/-. Respondents are directed to disburse the same within a period of one month from today, failing which the medical

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reimbursement of Rs.72,500/- would be disbursed along with interest @ 9% per annum.

16. Accordingly, the present writ petition is ***allowed***.

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

29.07.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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

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