

recommendations against the concerned publicman/publicmen. There is no provision under the 1996 Act wherefrom the Lok Pal can draw power to make recommendations with regard to the course of action to be adopted by the State Government as regards selection process for appointment to a post is concerned. Mere acceptance of the recommendations by the 'Competent Authority' cannot enlarge the jurisdiction vested with the Lok Pal which otherwise stands delineated under the Act.

(11) For the reasons recorded above, I find no infirmity in the impugned order dated 16.3.2013, Annexure P10, in the light of which the claim of the petitioners seeking appointment to the post of Art and Craft Teachers based upon the recommendations of the Lok Pal, Punjab has been rejected.

(12) Writ petition is, accordingly, dismissed.

A. Aggr.

Before Ajay Tewari, J.

ROOP CHAND—Petitioner

versus

STATE OF HARYANA AND OTHERS—Respondents

CWP No. 18203 of 2011

October 1, 2013

Constitution of India 1950 - Art. 226 - Medical reimbursement - Haryana Government Policy dated 6.5.2005 - Emergency certificate - Objections raised - Medical reimbursement only for treatment taken from approved hospitals - Policy of 6.5.2005 also provides for reimbursement of treatment taken from un-approved hospitals at PGI rates with the condition that it is certified to be an emergency treatment - Time bound directions issued to State to get medical opinion from Civil Surgeon whether surgery undergone was medically necessary or not - If medically necessary - Reimbursement at government rates be made even though the surgery undergone was not an emergency surgery.

Held, in my opinion the stand of the State is unjustified. The fact that a person gets the non-emergent surgery done from an un-approved hospital cannot be a blanket ground to deny him reimbursement. Of course, if somebody goes in for surgery which is not necessary then such a stand can be appreciated. But if the surgery is not unjustified and, is otherwise medically required then the State should reimburse the same as per PGI/AIIMS rates. It may also be noticed that the latest policy of the Haryana Government dated 6.5.2005 on the subject broadly envisages that if treatment is taken from a government hospital it shall be fully reimbursed and if treatment is taken from an approved hospital then the employee would be liable to be reimbursed at the PGI/AIIMS rates *plus* 75% of the balance, if any. The third category as per this policy is of un-approved hospital and any treatment taken there from is reimbursable at PGI rates with, however, the condition that the same should be certified to be an emergency treatment.

(Para 5)

Further held, petition is disposed of with a direction to the respondents Nos. 1 to 4 to get an opinion from respondent No.5- Civil Surgeon(Chief Medical Officer, Rohtak) as to whether the surgery undergone by the petitioner was medically necessary or not. If the Civil Surgeon gives the opinion that the same was medically necessary then the reimbursement at the Govt. rates be made to the petitioner even though the same was not an emergency surgery. Let the necessary exercise of getting the opinion and taking consequent action thereon in terms of the direction given above be completed within a period of three months from the date of receipt of a certified copy of this order.

(Para 8)

S.K. Sharma, Advocate, *for the petitioner*.

Ms. Shruti Goyal, AAG, Haryana.

AJAY TEWARI, J. (ORAL):

(1) The petitioner retired from the department of Excise and Taxation on 31.07.2009 after attaining the age of superannuation. On 26.10.2010 he had gone to Delhi to see his relatives where he felt sudden pain in his chest. He was immediately rushed to Bhagwati Hospital, Sector 13, Rohini, Delhi where he remained admitted for two days. He

was diagnosed with Diabetes Mellitus with hypertension Coronary Artery Disease- Triple vessel disease with acute MI-delayed presentation with severe MR with severe LV dysfunction. He was discharged from the said hospital on 28.10.2010. After that he was admitted to Max Heart and Vascular Institute, Saket, New Delhi where he had to undergo coronary Artery Bypass Graft (Heart Surgery) on 30.10.2010 and was discharged on 08.11.2010. Thereafter the petitioner submitted three forms for medical reimbursement along with the bills amounting to ₹ 3,55,355/- for the expenditure incurred by him on his treatment. Out of the three claims, claim for ₹ 2985/- and for ₹ 24,000/- for the period 26.10.2010 to 28.10.2010 was to be approved by respondent No.4 only. The said claim has not been reimbursed to the petitioner till now. The third claim form amounting to ₹ 3,28,370/- for the period 28.10.2010 to 8.11.2010 was to be approved by respondent No.3. Some objections were raised by respondent No.2 which were complied with by the petitioner but he has not been issued even the emergency certificate by the respondent No.6 i.e. Chief Medical Officer, Rohtak. The petitioner has been running from pillar to post for the reimbursement of the amount but the respondents have been raising frivolous objections one after the other. He has also made various representations in this context but to no avail. Hence the present petition.

(2) The stand taken by the respondents is that the surgery undergone by the petitioner was not an emergency surgery; that the treatment was not taken from an approved hospital; that the petitioner did not submit complete papers so that the opinion by the Civil Surgeon could be given as to whether the surgery undergone by him was emergent or not and that the petition is liable to be dismissed being premature.

(3) Learned counsel for the petitioner states that even if full reimbursement cannot be granted, yet reimbursement at the AIIMS/PGI rates should be granted to the petitioner.

(4) Learned AAG has argued that since the medical reimbursement policy does not envisage grant of any reimbursement in the event of treatment taken from an un-approved hospital except in the case of emergency as certified by Civil Surgeon, the petitioner is not entitled to any payment.

(5) In my opinion the stand of the State is unjustified. The fact that a person gets the non-emergent surgery done from an un-approved hospital cannot be a blanket ground to deny him reimbursement. Of course, if somebody goes in for surgery which is not necessary then such a stand can be appreciated. But if the surgery is not unjustified and, is otherwise medically required then the State should reimburse the same as per PGI/AIIMS rates. It may also be noticed that the latest policy of the Haryana Government dated 6.5.2005 on the subject broadly envisages that if treatment is taken from a government hospital it shall be fully reimbursed and if treatment is taken from an approved hospital then the employee would be liable to be reimbursed at the PGI/AIIMS rates *plus* 75% of the balance, if any. The third category as per this policy is of un-approved hospital and any treatment taken therefrom is reimbursable at PGI rates with, however, the condition that the same should be certified to be an emergency treatment. Reliance may also be placed on a Division Bench judgment of this Court in *Mahipal Singh vs State of Haryana and others(1)*, wherein it was held as follows :-

“ 8. **

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In a case where the life of a human being is at stake, it is too technical to require such a person to hunt for a list of the approved hospitals and then decide which hospital to go in emergency situation. Sometimes such hospitals may not be able to accommodate the patient and at that time the attendant is not expected to first look into the list of approved/recognized hospitals for medical reimbursement and then proceed for treatment. Such procedures should not be expected to be followed in an emergency by the attendant of the patient. If such regulations are applied so strictly, it would result in a disastrous situation and the patient may die. The act committed in an emergency should not be weighed in terms of money, especially when human life is at stake. The provision of free medical treatment or reimbursement in lieu thereof being a beneficial act of the welfare State for its employees, the rules/instructions have to be construed liberally

(1) 2008(2) SCT 592

in favour of the employees, for granting them the relief. The authorities are not supposed to adopt a wooden attitude and stick to technicalities while dealing with human problems. There can be no mathematical precision while dealing with human beings

(6) To the same effect are judgments in the case of *Smt. Shail Bala Mittal vs. The State of Haryana and others*, passed in CWP No.10745 of 2007, decided on 19.02.2009, *Om Kumari v. State of Haryana and another*, passed in CWP No. 1711 of 2013 decided on 23.07.2013 and *Tej Ram Yadav v. State of Haryana* passed in CWP No. 130 of 2011 decided on 25.07.2013. In the case of Smt. Shail Bala Mittal (supra) no appeal has been filed and the payment has been made.

(7) Learned AAG has not been able to cite any contrary judgment.

(8) In view of the aforesaid binding precedents this petition is disposed of with a direction to the respondent Nos. 1 to 4 to get an opinion from respondent No.5- Civil Surgeon (Chief Medical Officer, Rohtak) as to whether the surgery undergone by the petitioner was medically necessary or not. If the Civil Surgeon gives the opinion that the same was medically necessary then the reimbursement at the Govt. rates be made to the petitioner even though the same was not an emergency surgery. Let the necessary exercise of getting the opinion and taking consequent action thereon in terms of the direction given above be completed within a period of three months from the date of receipt of a certified copy of this order.

M. Jain