

2025:PHHC:011615-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-174-2022 (O&M)

Reserved on:- 20.01.2025

Date of decision: 27.01.2025

STATE OF HARYANA & ANOTHERAppellants

Versus

MANOJ JAIN & OTHERSRespondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUDHIR SINGH**

Present:- Mr. Deepak Balyan, Addl.A.G., Haryana.

Mr. Dinesh Arora, Advocate for respondent No.1.

SUDHIR SINGH, J.

The instant intra Court appeal is directed against the order dated 3.12.2018 passed by the learned Single Judge of this Court, whereby the writ petition filed by respondent No.1 was allowed and the appellant-State was directed to calculate the amount of medical re-imburement for the treatment of the wife of respondent No.1 by keeping in view the expenditure chart (Annexure P-1) and disburse the amount to him within a period of two months from the date of receipt of certified copy of the order.

2. The undisputed facts of the case are that the wife of respondent No.1-writ petitioner had got treatment for her Chronic Kidney Disease (CKD) from 2014 to 2016. She had been treated twice in emergency situation i.e., firstly, at Maan Hospital, Rohtak (an

approved hospital) and secondly, at Appollo Hospital, New Delhi. However, the medical re-imburement for the second treatment has been denied for the reason that Appollo Hospital was approved only up till 2013, whereas the treatment taken by respondent No.1-writ petitioner's wife was for the period thereafter. Another reason for the rejection of the medical re-imburement claim was that the treatment had not been categorised as an emergency as far as the outdoor treatment was concerned.

3. The learned Single Judge, after considering the rival contentions of the parties, allowed the writ petition as noticed above. While allowing the writ petition reliance was placed upon the judgment of the Hon'ble Supreme Court in **Dr. Harinder Pal Singh Vs. State of Punjab & Ors.** 2014 (3) SCT 483 and a Single Bench judgment of this Court in **Surinder Paul Vs. State of Punjab,** 2014(3) SCT 213. The learned Single Judge has also observed that when the treatment was not denied and when it was essential to life saving and the disease was listed chronic, the ground for rejection was not tenable. However, the payments were directed to be regulated at the rates of PGI/AIIMS for the entire expenditure incurred for the emergency treatment and for outdoor treatment for the relevant period from 07.04.2014 till 20.03.2016.

4. Mr. Deepak Balyan, learned Addl. Advocate General, Haryana, appearing for the appellants has vehemently contended that the impugned order passed by the learned Single Judge is against the policy dated 06.05.2005 framed by the Government of Haryana, in

respect of reimbursement of the medical claims of the Haryana Government Employees/Pensioners/Dependents. It is further argued that the learned Single Judge fell in error of law in holding that the medical reimbursement was a beneficiary measure and that the treatment taken by respondent No.1-writ petitioner's wife from an unapproved hospital as an outdoor patient cannot be denied. It is further argued that the said view is contrary to the law laid down by the Hon'ble Apex Court in **State of Punjab Vs. Ram Lubhaya Bagga**, AIR 1998 SC 1703 which was reiterated in **State of Rajasthan Vs. Mahesh Kumar Sharma**, (2011) 4 SCC 257. It is further argued that the judgment in **Dr. Harinder Pal Singh** (supra) emanated from different factual position as the treatment taken therein was an indoor treatment in an emergency circumstance pertaining to the heart attack. It is also argued that the medical re-imburement claim of respondent No.1-writ petitioner's wife for the subsequent OPD treatment was rightly rejected as the Civil Surgeon, Rohtak, in his certificate dated 28.01.2015, had clearly mentioned that her OPD treatment was no 'emergency circumstance' and, thus, the impugned order passed by the learned Single Judge, is liable to be set aside.

5. On the other hand, learned counsel for respondent No.1-writ petitioner, while countering the submissions made by the learned State Counsel has argued that the order passed by the learned Single Judge, is perfectly legal. It is further argued that the disease suffered by the wife of respondent No.1 is chronic in nature and, therefore, OPD treatment taken for the said disease from the hospital(s) concerned, cannot be said to be not reimbursable. It is further argued

that the fact remains that the wife of respondent No.1 had taken the treatment from the concerned hospital and, therefore, there being no dispute to such treatment, the learned Single Judge was perfectly justified in allowing the writ petition filed by respondent No.1. Reliance is placed upon the judgment of the Hon'ble Supreme Court in **Shiva Kant Jha Vs. Union of India**, 2018 AIR Supreme Court 1975 and that of the Jharkhand High Court in **State of Jharkhand Vs. Binod Kumar Lal (Jharkhand) (DB)**, 2023(4) JCR 448. Apart from that reliance is also placed upon the judgments of this Court in **Ravi Kant Vs. State of Haryana**, 1998(3) PLR 160; **Mukesh Kumar Gupta Vs. Chairman, Pepsu Ropad Transport Corporation Patiala and others**, 2007(3) SLR 838 and **Renu Saigal Vs. State of Haryana**, 1998(3) PLR 666.

6. We have heard learned counsel for the parties and have also gone through the record of the case.

7. The question that requires consideration by this Court is whether the impugned order passed by the learned Single Judge requires any interference in the present appeal.

8. It is not disputed that the wife of the respondent No.1-writ petitioner is suffering from Chronic Kidney Disease (CKD). The nature of such disease being chronic in nature is also not disputed and so is the treatment taken by her in this regard during the relevant period. The only emphasis of the learned State Counsel is on the fact that as per the certificate dated 28.01.2015 issued by the Civil Surgeon, Rohtak, the treatment for the disease

suffered by respondent No.1-writ petitioner's wife does not fall under the emergency treatment category and that as the said treatment was taken in the OPD, the same cannot be allowed to be reimbursed. Now, in the given factual matrix, it is to be seen whether the OPD treatment taken by the wife of respondent No.1 for the Chronic Kidney Disease (CKD) as an OPD patient, can be reimbursed or not. The learned Single Judge has held that when the treatment taken was essential to life saving and the disease was listed chronic, rejection of the medical reimbursement claim of the wife of respondent No.1 was not tenable.

9. Clause 4(a) of the policy dated 06.05.2005 issued by the Government of Haryana, as regards the medical reimbursement of the Haryana Government Employees/Pensioners/Dependents, would read as under:-

“4. Unapproved Hospitals

- a) The reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of Finance Department.
- b) Head of the Department in consultation with concerned Civil Surgeon is competent to certify an emergency.”

A perusal of the aforesaid extracts would show that a Government employee will not be allowed reimbursement of medical treatment in respect of himself or his dependents, if such treatment is taken in an emergency in an unapproved hospital.

10. The Hon'ble Supreme Court in **Shiva Kant Jha's** case (supra), has held that before the medical claim is honoured, the authorities are required to ensure as to whether the claimant had actually taken treatment and factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. It was further held that once it is so established, the claim cannot be denied on technical grounds. The said case related to the medical reimbursement of the treatment taken from an unapproved hospital. The relevant extracts of the judgment of the Hon'ble Apex Court would read as under:-

“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.”

11. The issue regarding OPD treatment taken by a patient and its reimbursement came up for adjudication in **Binod Kumar Lal's** case (supra), wherein the Jharkhand High Court, while relying upon various judgments of the Hon'ble Supreme Court, held that the

policy decision made by way of piece of beneficial measure is to be construed by taking a broad pedantic approach on the principle of purposive construction. It was further held that the question of inducting a patient as 'indoor' or 'outdoor' depends upon the decision of the experts. It was held as under:-

“54. The question of inducting a patient as 'indoor' or 'outdoor' depends upon the decision of the experts i.e., the doctors of the concerned hospital and if the doctors have taken decision for giving treatment without admitting the patient in the hospital as 'indoor patient' and in such circumstances denying the expenditure incurred by way of only because treatment was given in the capacity of 'outdoor patient', the same cannot be justified and will not be proper for the reason that if there will be distinction in between the expenditure to be incurred in the capacity of 'indoor patient' or the 'outdoor patient' same cannot be said to be based upon reasonable classification. “

12. 'Chronic' means a condition that does not get completely better and lasts over a long time. A patient with CKD is also at an increased risk of other ailments like heart attack or stroke. It is not disputed by the appellants that the wife of respondent No.1-writ petitioner had taken treatment from the aforesaid hospitals. As

the wife of respondent No.1-writ petitioner was suffering from CKD, the treatment given by the concerned Doctor(s) in the OPD, was totally dependent upon the expertise of the said Doctor(s) and therefore, the denial of the claim of the medical reimbursement of the wife of respondent No.1-writ petitioner on the ground that it was taken in OPD, is not based on a reasonable classification. We further find that the disease being chronic in nature, the treatment even if taken in OPD, cannot be termed to be not falling in category of 'emergency treatment', particularly when the disease relating to renal requires a continuous treatment. The judgments of the Hon'ble Apex Court in **Ram Lubhaya Bagga and Mahesh Kumar (supra)** is of no help to the appellant in view of its subsequent judgment in **Shiva Kant Jha** (supra).

13. In view of the above, we do not find that the impugned order passed by the learned Single Judge, suffers from any patent illegality or perversity. Hence, finding no merit in the present appeal, the same is hereby dismissed.

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

[SUDHIR SINGH]
JUDGE

[SHEEL NAGU]
CHIEF JUSTICE

27.01.2025

himanshu

Whether speaking/reasoned
 Whether reportable

Yes/No
 Yes/No