

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

RSA No. 3621 of 2013 (O&M)

Date of decision : 12.9.2013

Dakshin Haryana Bijli Vitran Nigam Limited and others Appellants
VS
Dhani Ram ... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Dinesh Arora, Advocate for
Mr. Pardeep Singh Poonia, Advocate, for the appellants.

Rajesh Bindal J.

Challenge in the present appeal filed by the Dakshin Haryana Bijli Vitran Nigam Limited is to the judgment and decree of both the courts below whereby in a suit for declaration and mandatory injunction filed by the respondent-plaintiff, the appellants have been directed to reimburse the medical expenses incurred by him for treatment of severe pain in his left lower limb with loss of sensation at Artemis Health Institute, Gurgaon. The respondent remained admitted in hospital from 4.10.2009 to 8.10.2009. The appeal is accompanying by an application seeking condonation of 44 days delay in filing thereof.

The only ground raised by learned counsel for the appellants is that the hospital in question where the respondent had taken treatment was not on the approved list, hence, not entitled to reimbursement of medical expenses. However, he was fair enough to state that later on it was placed on the approved list. The fact that the respondent had taken treatment from the hospital in question is not in dispute.

After hearing learned counsel for the appellants, I do not find any merit in the present appeal.

The issue as to whether an employee or a retiree is entitled to claim expenses for the treatment from a hospital which is not on the approved list has been considered by this court in CWP No. 1523 of 2011 Om Parkash vs State of Haryana and others decided on 7.2.2013. The

relevant paras thereof are extracted below:-

“8. Hon'ble the Supreme Court in *Surjit Singh v. State of Punjab and others*, (1996) 2 SCC 336, while dealing with the case of medical reimbursement, quoted certain passage from *Garuda Purana* on self preservation of one's life. Paragraph 11 thereof is extracted below:

“11. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self preservation has a species in the right of self-defence in criminal law. Centuries ago thinkers of this great land conceived of such right and recognised it. Attention can usefully be drawn to Verses 17, 18, 20 and 22 in Chapter 16 of the *Garuda Purana* (A dialogue suggested between the Divine and Garuda, the bird) in the words of the Divine:

17. Vinaa dehena kasyaapi canpurushaartho na vidyate

Tasmaaddeham dhanam rakshetpunyakarmaani saadhayet

Without the body how can one obtain the objects of human life? Therefore protecting the body which is the wealth, one should perform the deeds of merit.

18. Rakshayetsarvadaatmaanamaatmaa sarvasya bhaajanam

Rakshane yatnamaatishthejje vanbhaadraani pashyati

One should protect his body which is responsible for everything. He who protects himself by all efforts, will see many auspicious occasions in life.

19. Sharirarakshanopaayaah kriyante sarvadaa budhaih

Necchanti cha punastyaagamapi kushthaadiroginah

The wise always undertake the protective measures for

the body. Even the persons suffering from leprosy and other diseases do not wish to get rid of the body.

*20. Aatmaiva yadi naatmaanamahitebhyo nivaarayet
Konsyo hitakarastasmaadaatmaanam taarayishyati*

If one does not prevent what is unpleasant to himself, who else will do it ? Therefore one should do what is good to himself.”

9. Medical treatment, especially where the surgeries are to be conducted, is not a matter of luxury which anybody opts without there being a need. In case of an emergent need any person reaches the hospital, where he can get best treatment. At that stage, there is no time to find out or peruse the list of government/approved hospitals, which could enable an employee to get reimbursement of the expenses incurred. While getting himself operated upon, any patient runs the risk of his life. Had there been no emergency, any patient would certainly go to the hospital which is recognised by the Government as in that case, he gets full reimbursement. In case of treatment from government hospital, full reimbursement is allowed. If an employee is treated in an approved hospital, reimbursement on the expenditure incurred for treatment is made at the rates equal to PGIMER, Chandigarh. As against that, no reimbursement is allowed in case of treatment from an unapproved hospital.

10. The relationship of a doctor and a patient is a matter of confidence and trust. Any patient would like to go to the best doctor available. Even if the petitioner had not gone to any government or any of the approved hospitals and had chosen to get himself treated from an unapproved private hospital, the liberty cannot be left with the Head of the Department to refuse reimbursement, once it is found that the patient had been operated upon. It is not that only medicines are to be taken orally. The rejection of the claim on these hypertechnical grounds, especially in the

case of a retired employee who is dependent on pension and certain other benefits granted to him after retirement on account of his satisfactory service career, is totally arbitrary. The beneficial policies cannot be interpreted or kept in water tight compartment. These are to be interpreted liberally considering the facts and circumstances of the case. The fact that the petitioner had been operated upon in Fortis Hospital, Noida for his low backache is not in dispute. Once that is so, the entitlement of the petitioner to reimbursement of the expenses made by him in terms of the rates prescribed by PGIMER, Chandigarh cannot be denied.”

The fact that the respondent had taken treatment from the hospital in question is not in dispute. Considering the enunciation of law, as referred to above, I do not find any substantial question of law arises for consideration in appeal. The same is dismissed. Accordingly, the accompanying applications are also dismissed.

The appellants are burdened with costs of ₹ 5,000/- for filing this frivolous appeal. The costs shall be recovered from the person who finally opined the case to be fit for filing appeal.

12.9.2013
vs

(Rajesh Bindal)
Judge