**Vasumathi Vs. the Secretary and ors.**

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**SooperKanoon Citation** : sooperkanoon.com/925779

**Court** : Chennai

**Decided On :** Apr-26-2012

**Judge** : D. Hariparanthaman, J.

**Acts** : Tamil Nadu Government Employees Health Fund Rules, 1991

**Appeal No.** : W.P.(MD)No.4303 of 2011

**Appellant** : Vasumathi

**Respondent** : The Secretary and ors.

**Advocate for Pet/Ap.** : Mr. J. John, Adv.

**Judgement** :

## ORDER

1. The husband of the petitioner was working as Office Assistant in the office of Deputy Commissioner, Commercial Tax Department, Madurai Division. He underwent treatment for lung cancer from 13.07.1997 to 04.08.1997 at Premier Specialities and Heart Foundations, Kilpauk, Chennai and from 04.08.1997 to 12.09.1997 at Dr. Rai Memorial Medical Centre, Teynampet, Chennai - 18. However, he died on 25.12.1997. He had incurred expenditure of Rs.57,826.88. The petitioner claimed reimbursement of the expenditure under the Tamil Nadu Government Employees Health Fund Scheme. Subsequently, lot of correspondences took between various authorities and there were objections that

the treatment was taken by the husband of the petitioner in the unaccredited private hospital.

2. The Commissioner of Commercial Taxes sent the proposals that the petitioner is entitled for reimbursement of the expenditure, even her husband had taken treatment in the unaccredited private hospital, pursuant to G.O.Ms.No.383 Finance Department dated 28.09.2001. As per G.O.Ms.No.383 Finance Department dated 28.09.2001, reimbursement could be allowed to a maximum extent of Rs.50,000/- or 50% of the actual costs of the treatment, whichever is less.

3. In the said circumstances, the first respondent issued G.O.(D)No.2 Commercial Taxes (A1) Department dated 01.01.2004, sanctioning a sum of Rs.28,913/- to the petitioner being 50% of the expenditure incurred for specialized advanced treatment. Paragraph 5 of the afore said Government Order dated 01.01.2004 is relevant and the same is extracted hereunder:- 5. The Government examined the proposal of the Commissioner of Commercial Taxes carefully. In G.O.(Ms.)No.383 Finance (Salaries) Department, dated 28.09.2001, it has been ordered among others that the Government employees, who had undergone specialized advanced surgeries / treatment in respect of diseases which are included in the approved list, before and after 29.08.2000, in the unaccredited private hospital, are eligible for a maximum grant of Rs.50,000/- (Rupees Fifty Thousand only) or 50% of the actual cost of specialised advanced surgery / treatment whichever is less. Tmt. C. Vasumathi, the widow of (Late) Thiru. B. Chockalingam, Office Assistant has made a claim of Rs.57,826.88 as having been spent on treatment, surgery and medicines for her late husband. She is, therefore, eligible for an assistance of Rs.28,913/- (Rupees Twenty Eight Thousand Nine Hundred and Thirteen only) being the 50% of the expenditure incurred.

4. However, the amount that was sanctioned after seven years of treatment was not disbursed by the fourth respondent. Hence, the petitioner has filed the present writ petition, seeking for a direction to the respondents to disburse the medical claim amount based on G.O.(D)No.2 dated 01.01.2004 with 15% interest per annum and also to direct the respondents to pay compensation of Rs.1 lakh for delaying the disbursement of the medical claim amount awarded by the first

respondent in accordance with law.

5. So far, no counter affidavit has been filed by the respondents.

6. The learned Special Government Pleader has produced written instructions and the same is extracted hereunder:- The petitioner's husband P.Chockalingam, was working as Office Assistant in the office of the Deputy Commissioner (CT), Madurai (Now Re designated as Joint Commissioner (CT) ) was undergoing treatment for Lung Cancer for the period from 13.07.1997 to 04.08.1997 at Premier Specialities and Heart Foundations, Kilpauk, Chennai and from 04.08.1997 to 12.09.1997 at Dr. Rai Memorial Medical Centre, Teynampet, Chennai - 18 (Private Hospitals). He was expired on 25.12.1997. He had incurred on expenditure of Rs.57,826.88. The petitioner (Wife of Late Chockalingam) claimed reimbursement of the above expenditure under the Tamil Nadu Government employees Health Fund Scheme. The hospital where the deceased Government Servant underwent treatment are non- accredited one as per G.O.Ms.52006 dated 18.06.1996.

As per G.O.Ms.No.383 dated 28.09.2001 who had undergone treatment in respect of diseases which are included in the list in the un accredited private hospital, are eligible for maximum of Rs.50,000/- or 50% of the actual cost of the treatment which ever is less. Hence out of the petitioner claim of Rs.57,826.88 only 50% of the expenditure incurred being Rs.28,913 is sanctioned as per G.O.(D) 2 dated 01.01.2004. Then as per the request of the Special Commissioner and Commissioner of Treasuries and Accounts, Chennai, an amendment to the G.O.2/01.01.2004 has been issued on 14.03.2006.

In meantime, the Special Commissioner / Commissioner of Treasuries and Accounts, has stated that the application had been filed beyond 60 days and request relaxations.

In this regard it has been clarified in the office Roc.8817/09, dated 23.02.2010 that the individuals (P.Chockalingam) himself has applied for medical reimbursement on 14.08.1997 during the treatment period. Hence the claim is within the time limit.

Now the Special Commissioner / Commissioner of Treasuries and Accounts had been reminded regularly to issue cheque in favour of the petitioner by the Commissioner of Commercial Taxes, Chennai and Joint Commissioner (CT), Madurai.

7. The learned Special Government Pleader also submits that the stand was clarified by the Joint Commissioner by the letter dated 23.02.2010 that the claim was made within the time by the deceased Office Assistant. It is categorically stated by the Joint Commissioner, Madurai that the application was within time.

8. At this juncture, it is relevant to note that in a similar case, a Division Bench of this Court in V.S.KRISHNAN.VS. GOVERNMENT OF TAMIL NADU AND ANOTHER (2009 (2) L.W. 761) has held that the scheme for medical reimbursement under the Tamil Nadu Government Employees Health Fund Rules, 1991 is a beneficial one, wherein no time limit is fixed by the Government under the Rules and therefore, the Government has no jurisdiction to frame a time limit of sixty days from the date of discharge from the hospital to file a claim for medical reimbursement.

9. It is to be noted that the fourth respondent, who is subordinate official, could not over ride the Government Order issued by the first respondent. Once the first respondent issued the Government Order sanctioning the amount, the fourth respondent has no business, by raising an objection, stating that the claim was submitted belatedly. In these circumstances, I am of the view that the petitioner is entitled to succeed in the following terms.

10. Accordingly, this writ petition is allowed with a direction to the respondents to disburse the medical claim amount to the petitioner based on G.O.(D)No.2 Commercial Taxes (A1) Department dated 01.01.2004 with 12% interest per annum from 14.08.1997 within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there will be no order as to costs. Dpn/-