

Champa Gulati Vs. Uoi and Others

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Court : Delhi

Decided On : May-21-2012

Judge : Suresh Kait

Appeal No. : W.P.(C) No.7338 OF 2009

Appellant : Champa Gulati

Respondent : Uoi and Others

Judgement :

(Oral)

1. Vide instant petition, the petitioner impugned the order dated 28.11.2008 (A-1) passed by respondent No.2.
2. The facts of the case in brief are that the petitioner is 65 years old widow lady and her late husband was working as Stenographer, who died in harness on 04.05.1989. Petitioner is a family pensioner beneficiary and is entitled for medical facilities from the respondents under CSMA Rules.
3. On 26.05.2008, petitioner was residing in Adarsh Nagar, Delhi, became seriously ill, thereafter admitted in emergency in the nearest hospital i.e. Max Health Care, Netaji Subhash Place, Wazirpur District Centre, Pitampura, Delhi. She was diagnosis for diabetes, mellitus, septicaemia, shock, cholelithiasis and thereafter, discharged on 09.06.2008. The concerned hospital issued the

emergency certificate as well as minimum facilities provided certificate. The total expenditure was `1,63,986/- and the said amount was paid by the petitioner at the time of her discharge as per hospital procedure. She submitted the bills with representation dated 07.07.2008 for medical claim.

4. The grievance of the petitioner is that the respondent No.2 without considering the procedure, norms and law on the subject returned the claim of the petitioner in original vide order dated 28.11.2008 on the ground that ex post facto permission can be granted only if treatment has been taken in recognized hospital under CSMA Rules, only in emergency/accident cases.

5. Learned counsel for petitioner submitted that the impugned order is totally illegal and against the rules and policy of the Government.

6. He submits, as per policy of the Ministry of Health and Family Welfare, Government of India, dated 07.12.2006, as per provision No.13 that "In case of treatment taken in emergency in any un-empanelled private hospitals, reimbursement shall be considered by competent authority at CGHS prescribed packages rates only".

7. He further submitted that though there was emergency, however, fairly conceded that the Government Hospital were nearby her residence, however, the relative of the petitioner had admitted her in Max Care Centre, Pitampura, Delhi.

8. On instructions, he submitted that whatever the bills submitted by petitioner, as per the policy of 2006 mentioned above, the permissible amount may be reimbursed to her.

9. I note, the said policy of empanelment of hospitals and diagnostic centres in CGHS, Delhi for treatment and diagnostic procedures and fixation of packages rates have been described.

10. It is mentioned in para No.14 thereof that if one or more minor procedures form part of a Major treatment procedure, then package charges would be permissible for Major procedure and only 50% of charges for minor procedure.

11. Vide impugned order, it is stated that since the ex post facto permission could be granted, only if the treatment has been taken from any recognized hospital under CSMA Rules, only in emergency and accidental cases. The case of the petitioner though comes under emergency category, therefore, all of sudden, though she was aware about the disease suffering from; however, due to emergency, she was admitted in hospital mentioned above.

12. The law has been settled in catena of cases by this Court that in such eventuality, the employee is not entitled to the full amount, if has been charged by the hospital over and above the prescribed rate of Government Policy. But, certainly, he is entitled to the charges as prescribed in the policy. The case is hand falls in emergency category. Emergency certificate has also been issued by the hospital.

13. Therefore, respondents are directed to grant ex post facto permission, thereafter, calculate the bills of the petitioner, accordingly be reimbursed as per policy dated 2006, mentioned above, within four weeks from the receipt of this order.

14. In above terms, instant petition stands allowed.

15. Copy of order be given dasti to learned counsel for parties.

16. No order as to costs.

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