

(2000) 10 P&H CK 0002

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 8570 of 2000

Bansi Lal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Oct. 11, 2000

Acts Referred:

- Constitution of India, 1950 - Article 14, 220, 226, 227

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: Mr. H.S. Hooda and Mr. G.S. Hooda, for the Appellant; Mr. Surya Kan, Advocate General, Haryana and Mr. Yash Pal, AAG, Haryana, for the Respondent

Judgement

R.L. Anand, J.

Ch. Bansi Lal, M.L.A. has filed the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari, mandamus or any other suitable writ, order or direction against the respondents and has prayed that the order dated 16.3.2000 (Annexure P4), letter dated 2.5.2000 (Annexure P4), letter dated 2.5.2000 (Annexure P3) be quashed and directions be given to the State of Haryana to release him the medical reimbursement to the tune of Rs. 1,24,246/-.

2. The case set up by the petitioner is that on 9.7.1991 he was elected as Member of Haryana Legislative Assembly and remained as such upto 10.5.1996. Again he was elected as M.L.A. on 11.5.1996 and remained as such upto 22.2.2000. Thereafter he was again elected as M.L.A. on 25.2.2000 and is commuting as such. According to him, on 27.10.1999 he undertook cardiac treatment and bye-pass surgery in All India Institute of Medical Sciences, New Delhi where he remained admitted upto 13.11.1999 and incurred medical expenses to the tune of Rs. 1,24,246/-. The All India Institute of Medical Sciences also issued Essentially Certificate dated 16.11.1999 to the effect that medical expenses were actually incurred by the petitioner. On 20.11.1999 he submitted his medical bills for reimbursement to the Speaker of Haryana Vidhan Sabha, Chandigarh, but vide letter dated 2.5.2000, addressed to

him, his medical claim was declined on the plea that he is Ex-member of Parliament. Again on 16.3.2000 his claim was declined by respondent No. 1 on the ground that he being an Ex-Member of Parliament was eligible to get free treatment from the said institute and as such there was no question of claiming medical reimbursement from the Haryana Government. His medical bill was returned in original. In short, the case of the petitioner is that since he had been M.L.A. before his treatment, during the period of treatment and even after the treatment and is still continuing as such, therefore, he has the right to claim medical reimbursement from the Haryana Government and the action of the respondents is mala fide, arbitrary and violative of Article 14 of the Constitution of India.

3. Notice of the writ petition was given to the respondents. Two separate written statements were filed by the respondents. In both the written statements the stand of the respondents is common that since the petitioner is an Ex-Member of Parliament, therefore, he had the right to get free medical treatment from the All India Institute of Medical Sciences, New Delhi and there was no necessity on his part to pay the amount to the institute. According to the respondents, the State of Haryana is not liable to reimburse the medical claim. So far as the question of claiming medical reimbursement by Ex-M.L.A. or sitting M.L.A. is concerned, in all fairness the State Government has agreed that the petitioner had the right to claim medical reimbursement.

4. I have heard Mr. H.S. Hooda, Sr. Advocate on behalf of the petitioner, Mr. Surya Kant, Advocate General, Haryana and with their assistance have gone through the record of this case.

5. After going through the record and after hearing the submissions of the learned counsel for the parties, this Court is of the considered opinion that this writ is liable to be succeeded because the petitioner was the Member of Haryana Legislative Assembly. He is also the sitting M.L.A. Irrespective of the fact that he is Ex-Member of Parliament, still he is entitled to medical reimbursement from the State of Haryana. A dual right has been acquired by the petitioner and it is his option either to claim medical reimbursement from the Government of India or from the Government of Haryana. His right cannot be defeated at the altar of convenience. If he has adopted the Ms to be filed against the State of Haryana the State is supposed to accept and respect the claim of the petitioner.

6. Resultantly, the present writ petition is allowed, the impugned letter Annexure P3 and impugned order Annexure P4 are hereby set aside and directions are given to respondent No. 1 to release the medical claim to the petitioner within two months from the receipt of the copy of the order, failing which the petitioner shall also be entitled to interest @ 12% per annum. No order as to costs.

Before I part with this order, I may make a mention that it will always be open to the State of Haryana to claim reimbursement from the Government of India or All India

Institute of Medical Sciences, New Delhi, if permissible, according to law.

7. Petition allowed.