

Rajasthan High Court - Jodhpur

B.K.Joshi vs State & Ors on 19 August, 2008

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S.B.CIVIL WRIT PETITION NO.1615/2007

B.K.Joshi
v.
State of Rajasthan & Ors.

Date of Order :: 19th August, 2008

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.K.Lohra, for the petitioner.
Mr. Rameshwar Dave, for the respondents.

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The petitioner, a retired government servant, suffered Cardiac problem in the month of January, 2006 and, therefore, he consulted with the doctors at S.M.S. Hospital, Jaipur. His case was referred for examination by a panel of experts and the panel of experts recommended for Coronary Artery Bypass Grafting. The Medical Board approved bypass surgery at Escorts Health Institute & Research Centre, New Delhi. On 25.3.2006 the petitioner felt breathlessness and chest pain, therefore, he was taken to Escorts Goyal Heart Centre, Jodhpur wherein he was admitted and operated for bypass surgery. The surgery was made on 28.3.2006. A sum of Rs.1,25,000/-, incurred in medical treatment at Escorts Goyal Heart Centre, Jodhpur and that was claimed for reimbursement

as per the provisions of the Rajasthan Civil Services (Medical Attendance) Rules, 1970 (hereinafter referred to as "the Rules 1970"), however, no payment of same

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was made on the count that the hospital where the petitioner underwent surgery is not an empaneled hospital. Being aggrieved by denial for reimbursement of medical expenses, this petition for writ is preferred.

The contention of counsel for the petitioner is that the petitioner suffered chest pain on 25.3.2006 and, therefore, he was taken to Escorts Goyal Heart Centre, Jodhpur and looking to emergency a bypass surgery was made. It is asserted that in such emergent circumstances, it was not possible to search an empaneled hospital as the basic need was of saving the life.

In reply to the writ petition it is reiterated that the hospital where the petitioner has undertaken bypass surgery is not an empaneled one and, therefore, he is not entitled for reimbursement of medical expenses.

This Court in the case of Thomas T. Vs. State of Rajasthan & Ors., SBCivil Writ Petition

No.3749/2006, decided on 14th September, 2006, held that in the circumstances when Government servant is having no option but to take immediate treatment, he is entitled to get reimbursement of medical expenses irrespective of the fact that whether such a hospital is enlisted or not by Government of Rajasthan for reimbursement of medical expenses. Similarly, this Court in SBCivil Writ Petition No.5683/2005, Mandal Dutt Purohit v. State of Rajasthan & Ors., decided on 3.10.2006, held as under:-

"It is not at all disputed that the petitioner has undergone an angiography and cardiac artery bypass at Goyal Hospital & Research Centre Pvt. Ltd., Jodhpur on 9.9.2004. The petitioner on facing an acute cardiac pain was admitted to the hospital concerned on 4.9.2004 and under a competent medical advice he was subjected to emergent angiography and coronary artery bypass. In such crucial circumstances the petitioner was having no option but to undergo the treatment wherever the treatment was available at earliest. It shall be highly unjust to expect from a person battling for life to proceed for a hospital recognised by the Government of Rajasthan for getting the medical expenses reimbursed. The prime consideration in such situation is to bring the life in safe zone, beyond the cost consideration. The government has provided statutory medical benefits including reimbursement of expenses incurred in treatment. The main object behind it is to extend a helping hand to its employees suffering ailment, the place of treatment is a secondary consideration. If the reimbursement is made absolutely dependent to the place of treatment then it shall not only be arbitrary but shall also be contrary to the fundamental right for protection of

life."

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In the instant matter too the petitioner underwent bypass surgery in emergent circumstances and as such the denial of reimbursement of medical expenses as per the provisions of the Rules of 1970 is unjust. The respondents should have made reimbursement of the medical expenses to the petitioner as per the provisions of Rule 4(e) of the Rules of 1970.

The petition for wit, therefore, is allowed.

The respondents are directed to reimburse the medical expenses to the petitioner as per the provisions of Rule 4(e) of the Rules of 1970. The petitioner shall also be entitled for interest @ 6.5% per annum on the amount of reimbursement from the date he submitted medial bills.

(GOVIND MATHUR),J.

kkm/ps.