

STATE OF PUNJAB AND ORS.

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v.

MOHINDER SINGH CHAWLA ETC.

DECEMBER 17, 1996

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[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Constitution of India, 1950 : Article 21.*

*Right to life—Held right to health is an integral to right to life—Government servant—Constitutional obligation of Government to provide health services and bear the expenses for Government servant during service and after retirement.*

C

*Service Law—State of Punjab—Government employee—Medical expenditure—Reimbursement—Employee having heart ailment—Facility of treatment not available in State Hospitals—Permission granted to get specialised treatment outside the State—Treatment taken at AIIMS—Claim for reimbursement by employee—Claim for actual room rent paid rejected as per Government policy decision—Writ by employee—Direction by High Court to reimburse room rent paid by employee—Appeal by State—Held the expenses incurred towards room rent for stay in the hospital as an inpatient are an integral part of the expenses incurred for the treatment—Expenditure, thus, incurred requires to be reimbursed by the state to the employee—High Court was right in giving direction for reimbursement of expenses towards room rent.*

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*Service Law—State of Punjab—Government employee—Suffering coronary ailment—Referred to Escorts Hearts Institute for urgent treatment—Ex post facto sanction for treatment—with one attendant granted—Claim for room rent paid in the Hospital for the period of stay—Government stand that reimbursement could only be allowed as per rates charged by A.I.I.M.S. and not the actual expenses incurred by patient—Held the Government is required to reimburse the expenditure incurred for the period during which the patient stayed in the approved hospital for treatment—It is incongruous that while the patient is admitted to undergo treatment and he is refused the reimbursement of the actual expenditure incurred towards room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone.*

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- A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 16979 of 1996 Etc.

From the Judgment and Order dated 8.8.96 of the Punjab & Haryana High Court in C.W.P. No. 15942 of 1995.

- B D.V. Sehgal, H.S. Munjral, Manoj Swarup, M.K. Dua, Ms. Monika Gusain, P.N. Aggarwal, S. Bagga, A. Sharan and A.P. Singh for the appearing parties.

The following Order of the Court was delivered :

- C In CA No. 16979 / 96 @ SLP (C) No. 12472/96:

Leave granted.

- D This appeal by special leave arises from the judgment and order of the Division Bench of the Punjab & Haryana High Court, made on August 8, 1996 in CWP No. 15942/95.

- E The respondent had heart ailment which required replacement of two valves in the heart. Since the facility of the treatment was not available in the State Hospitals of Punjab, permission was given by the Director, with the approval of the Medical Board, to get the treatment outside the State. The respondent was sent for and had treatment in the AIIMS at New Delhi. The respondent submitted his medical bill on September 21, 1994 for reimbursement. While granting reimbursement for the Actual expenses incurred in the sum of Rs. 1,29,000, the appellants rejected his bill for room rent paid to the hospital as inadmissible. The respondent filed writ petition F stating that when he had undergone the treatment in the hospital as an inpatient, the payment of the room rent is an integral part of the expenses for treatment and, therefore, he is entitled to the reimbursement of the room rent paid. The Division Bench directed payment of the said amount. Thus, this appeal by special leave.

- G It is contended for the appellants-State that the Government have taken decision, as a policy in the Resolution dated January 25, 1991 made in Letter No. 7/7/85/SHBV/2498, that the reimbursement of expenses on account of diet, stay of attendant and stay of patient in hotel/hospital will not be allowed. Permission given was subject to the above resolution and, H therefore, the High Court was not right in directing the Government to

bear the expenses for the stay in the hotel/hospital contrary to para (vii) A of the Resolution of the Government. We find no force in the contention. It is an admitted position that when specialised treatment was not available in the Hospitals maintained by the State of Punjab permission and approval having been given by the Medical Board to the respondent to have the treatment in the approved hospitals and having referred him to the AIIMS for specialised treatment where he was admitted, necessarily, the expenses incurred towards room rent for stay in the hospital as an inpatient are an integral part of the expenses incurred for the said treatment. Take, for instance, a case where an inpatient facility is not available in a specialised hospital and the patient has to stay in a hotel while undergoing the treatment, during the required period, as certified by the doctor, necessarily, the expenses incurred would be integral part of the expenditure incurred towards treatment. It is now settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference whereat the Government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, therefore, right in giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an inpatient. E

The learned counsel then contends that the State would be saddled with needless heavy burden, while other general patients would not be able to get the similar treatment. We appreciate the stand taken that greater allocation requires to be made to the general patients but unfortunately due attention for proper maintenance and treatment in Government Hospitals is not being given and mismanagement is not being prevented. Having had the constitutional obligation to bear the expenses for the Government servant while in service or after retirement from service, as per the policy of the Government, the government is required to fulfill the constitutional obligation. Necessarily, the State has to bear the expenses incurred in that behalf. G

The appeal is accordingly dismissed. No costs.

In CA @ SLP (C) No. 12945/96 - *State of Punjab & Ors. v. Varyam Singh*: H

A Leave granted.

Heard learned counsel on both sides.

- While the respondent was a Government servant, he had developed sudden coronary ailment. After required angiography and other reports of
- B tripple vessels disease was diagnosed in CMC Hospital, Ludhiana and he was recommended by the said hospital to go over to Escorts Hearts Institute, New Delhi for urgent treatment. On its basis, the respondent had the treatment. The Medical Board granted by its proceedings dated January 12, 1969, ex-post facto sanction for treatment with one attendant.
- C The appellant had granted reimbursement of a sum of Rs. 1,03,267 less the rent paid for the room in the hospital for the period of stay. It is the Government's stand that the reimbursement could be allowed as per rates charged by All India Institute of Medical Sciences. Accordingly, a sum of Rs. 20,000 paid as rent was deducted. When the respondent filed the writ petition, the High Court, by judgment dated April 12, 1996 in CWP No.
- D 16570/95, the Division Bench allowed the writ petition. Thus, this appeal by special leave.

- It is contended for the State that though the Government had granted ex-post facto sanction through the Medical Board and permitted the patient to undergo treatment outside the State with the policy, for reimbursement of medical expenses incurred and the medical treatment taken in the Hospital to the Government servant/Pensioners or dependents, as per rules, the Government has imposed a condition to pay room rent at the rates charged by the AIIMS for stay in the hospital. The reimbursement will be given at those rates. The Government, therefore, is not obliged to
- E F pay the actual expenses incurred by the patient while taking the treatment as inpatient in the hospital, for rent.

- We are unable to agree with the stand taken by the Government. It is seen that the Government had decided in the proceedings dated October 8, 1991 to reimburse the medical expenditure incurred by the Punjab Government employees/pensioners and dependents on treatment taken abroad in private hospital. It is stated in paragraphs 2 and 3 that the Government has, prepared a list of those diseases for which the specialised treatment is not available in Punjab Government Hospitals but it is available in certain identified private hospitals, both within and outside the
- G H States. It was, therefore, decided to recognise these hospitals for treatment

of the diseases mentioned against their names in the enclosed list for the Punjab Government employees/pensioners and their dependents. The terms and conditions contained in the letter under reference would remain applicable. The Government can, however, revise the list in future. The name of the disease for which the treatment is not available in Punjab Government hospitals is shown as Open Heart Surgery and the name of the private hospital is shown as Escorts Heart Institute, New Delhi as one of the approved hospital/institution. Thus, for open heart surgery or heart disease the Escort Heart Institute is authorised and recognised institution by the Government of Punjab. Consequently, when the patient was admitted and had taken the treatment in the hospital and had incurred the expenditure towards room charges, inevitably the consequential rent paid for the room during his stay is integral part of his expenditure incurred for the treatment. Consequently the Government is required to reimburse the expenditure incurred for the period during which the patient stayed in the approved hospital for treatment. It is incongruous that while the patient is admitted to undergo treatment and he is refused the reimbursement of the actual expenditure incurred towards room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone treatment. Under these circumstances, the contention of the State Government is obviously untenable and incongruous. We hold that the High Court was right in giving the direction for reimbursement of a sum of Rs. 20,000 incurred by the respondent towards the room rent for his stay while undergoing treatment in Escorts Heart Institute, New Delhi.

The appeal is disposed of accordingly. No costs.

In CA @ SLP (C) No. 18828/96 :

Leave granted.

Heard counsel for the parties.

The appeal is disposed of in terms of order passed in CA No. 16980/96 @ SLP (C) No. 12945/96.

T.N.A.

Appeal disposed of.