

GAHC010008382013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3641/2013

SMTI RUPLEKHA LEKHARU PHUKAN
W/O LT. BISWAJIT PHUKAN, LEGAL OFFICER, JORHAT OFFICE, ASSAM
TEA CORPORATION LTD., P.O. CINNAMARA, DIST- JORHAT, ASSAM,
PIN785008

VERSUS

THE STATE OF ASSAM AND 11 ORS
THROUGH THE SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF
INDUSTRIES, DISPUR, GHY-6

2:ASSAM TEA CORPORATION LTD
HOUSEFED COMPLEX
C-BLOCK7TH FLOOR
DR. B.N. SAIKIA ROAD
DISPUR
GHY-06
THROUGH THE CHAIRMAN
ASSAM TEA CORPORATION LTD. HOUSFED COMPLEX
DISPUR
GHY-6

3:THE MANAGING DIRECTOR
ASSAM TEA CORPORATION LTD.
HOUSEFED COMPLEX
C-BLOCK 7TH FLOOR
DR. B.N. SAIKIA ROAD
DISPUR
GHY-6

4:THE PERSONNEL and ADMINISTRATIVE OFFICER
ASSAM TEA CORPORATION LTD.

HOUSEFED COMPLEX
C-BLOCK 7TH FLOOR
DR. B.N. SAIKIA ROAD
DISPUR
GHY-6

5:THE MANAGER
JORHAT OFFICE/CINNAMARA TEA ESTATE
ASSAM TEA CORPORATION LTD.
P.O. CINNAMARA
DIST- JORHAT
ASSAM
PIN-785008

6:THE MANAGER
SYCOTTA TEA ESTATE
ASSAM TEA CORPORATION LTD
P.O. KHARIKATIA
DIST- JORHAT
ASSAM
PIN-785633

7:THE ASSTT. MANAGER
CINNAMARA TEA ESTATE
ASSAM TEA CORPORATION LTD.
P.O. CINNAMARA
DIST- JORHAT
ASSAM
PIN-785008

8:HARISH SONOWAL I.A.S.- RETIRED
THE VICE CHAIRMAN-CUM-MANAGING DIRECTOR
ASSAM TEA CORPORATION LTD.
HOUSEFED COMPLEX
C-BLOCK 7TH FLOOR
DR. B.N. SAIKIA ROAD
DISPUR
GHY-6

9:NITYA NANDA DEVA GOSWAMI
THE MANAGER
JORHAT OFFICE/CINNAMARA TEA ESTATE
ASSAM TEA CORPORATION LTD.
P.O. CINNAMARA
DIST- JORHAT
ASSAM
PIN-785008

10:ACHYUT BARAN CHOUDHURY
THE ASSTT. MANAGER
CINNAMARA TEA ESTATE
ASSAM TEA CORPORATION LTD.
P.O. CINNAMARA
DIST- JORHAT
ASSAM
PIN-785008

11:THE ASSAM STATE ELECTRICITY BOARD
BIJULI BHAWAN
PALTANBAZAR
GHY-01
THROUGH THE CHAIRMAN
A.S.E.B.

12:THE SUB DIVISIONAL OFFICER
MARIANI ELECTRICITY SUB DIVISION
APDCL JORHAT
PIN-785001
ASSAM

Advocate for the Petitioner : MS A B PHUKAN
Advocate for the Respondent : SC, A T C

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 18.04.2024

Date of Judgment : 18.04.2024

Judgment & order(Oral)

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Heard Mr. Parswajyoti Das Nair, learned counsel, appearing on behalf of the petitioner. Also heard Ms. Deepanjalee Das Barman, learned Addl. Senior Government Advocate, appearing on behalf of respondent No. 1; Mr. T. Das, learned counsel appearing on behalf of respondents No. 2 to 7; and Mr. W. Ahmed, learned counsel appearing on behalf of respondents No. 11 & 12. None has appeared on behalf of respondents No. 8, 9 & 10.

2. The petitioner, in the present proceeding, has raised multiple grievances, however, Mr. Nair, learned counsel for the petitioner, at the outset, has submitted that the petitioner, herein, is limiting the reliefs claimed in the writ petition to the claim made by her, for release of the medical bills submitted by her pertaining to the treatment provided to her late husband Biswajit Phukan, Ex-Welfare Officer, Sycotta Tea Estate of respondent No. 2 Corporation.

3. The petitioner having so limited the present proceeding only to the claim in respect of the said Medical Reimbursement Bill, this Court is only proceeding to examine the said matter in the present order.

4. As contended in the writ petition, the husband of the petitioner was working as a Welfare Officer under the Sycotta Tea Estate of the Assam Tea Corporation Limited in Jorhat. The husband of the petitioner having detected to be suffering from cancer and accordingly, he was under treatment at the Assam Medical College & Hospital at Dibrugarh for the same. The condition of the husband of the petitioner having deteriorated, the authorities of the Assam Medical College & Hospital at Dibrugarh, proceeded to refer him to TATA Memorial Hospital, Mumbai, for further treatment and follow-up and in this connection, the Registrar of the said College & Hospital, had issued a certificate of referral, dated 14.01.2004. Accordingly, the petitioner had taken her husband to the TATA Memorial Hospital, Mumbai and was receiving treatment therein from 04.02.2004. The husband of the petitioner had approached the Managing Director of the respondent No. 2 Corporation, vide communication, dated 07.01.2008, praying for reimbursement of the expenses incurred by him for the said medical treatment so received by him in the matter. The said

communication as submitted by the husband of the petitioner in the matter, was forwarded to the Director of Health Services, Assam, on 24.09.2008, for necessary processing.

5. At this stage, it is to be noted that the husband of the petitioner died on account of the ailments suffered by him on 01.12.2008, and at that relevant point of time, he was serving as a Welfare Officer under the respondent No. 2 Corporation.

6. The Office of the Director of Health Services, Assam, on receipt of the proposal with regard to the claim for reimbursement of the medical bills in respect of the husband of the petitioner; proceeded to issue a communication, dated 02.05.2009, to the Secretary to the Government of Assam, Health & Family Welfare Department, by holding therein that the Directorate was not in a position to grant ex post facto approval for the above-stated treatment undergone by the husband of the petitioner at TATA Memorial Hospital, Mumbai, during the period w.e.f. 16.02.2004 to February, 2010, on the ground that the said treatment was not so undergone after a referral certificate was issued by the Directorate to the husband of the petitioner in the matter. Accordingly, vide the said communication, the matter was placed before the Government for according ex post facto approval, in this regard considering the seriousness of the issue involved.

7. On receipt of the said proposal from the Director of Health Services, Assam; the Government of Assam in the Health & Family Welfare(A)

Department, vide communication, dated 26.07.2011, proceeded to issue its no objection to the payment of the admissible amount of Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, as recommended by the Director of Health Services, Assam, vide communication, dated 15.06.2011, for the Medical Reimbursement Bill in respect of the petitioner, herein, in connection with the treatment received by her husband at TATA Memorial Hospital, Mumbai, which was held to be a referral Hospital.

8. In spite of the said no objection issued by the Government of Assam in the matter on a proposal in this connection being placed before it by the Director of Health Services, Assam; the authorities of the respondent No. 2 Corporation by again noticing the contentions made in the letter, dated 02.05.2009, of the Director of Health Services, Assam, that it was not in a position to issue an ex post facto approval for the above-stated treatment for want of a referral certificate; proceeded to inform the petitioner that the Medical Reimbursement Bill, in question, could not be considered. Being aggrieved, the petitioner has instituted the present proceeding.

9. Mr. Nair, learned counsel for the petitioner, has contended that the Director of Health Services, Assam having held vide communication, dated 02.05.2009, that the ex post facto approval could not be accorded in the matter at its end in the absence of a referral certificate being issued by the Office to the husband of the petitioner for his treatment at TATA Memorial Hospital, Mumbai, had placed the matter before the Government for grant of an ex post facto approval in the matter by the Government of Assam. It was further contended that the Government after making further processing in the matter and also on receiving

a communication, dated 15.06.2011, wherein the Director of Health Services, Assam, had quantified the amount which would now be entitled to be released to the petitioner as Medical Reimbursement Bill in respect of the treatment received by her husband, had placed the matter before the Government for further consideration. It is under such circumstances that the Government vide the communication, dated 26.07.2011, had proceeded to issue the No Objection Certificate(NOC) for release of the said quantified amount to the petitioner, herein, towards the Medical Reimbursement Bill claimed by her in respect of the treatment received by her husband.

10. The learned counsel for the petitioner has further submitted that the lacuna, if any, in the manner in which the treatment was so received by the husband of the petitioner at a referral hospital in Mumbai, stood addressed and condoned by the Government vide the issuance of the communication, dated 26.07.2011 and accordingly, there arose no further legal impediment in releasing the quantified amount i.e. Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine), only, to the petitioner, herein.

11. Mr. Das, learned counsel appearing for the respondent No. 2 to 7, has by referring to the affidavit filed in the matter by the respondents No. 2 to 3 has contended that the treatment as provided to the husband of the petitioner, not being preceded by a referral certificate from the Director of Health Services, Assam, the procedure for receiving such treatment at a referral institution not having been followed, the medical reimbursement claim as submitted in the matter by the petitioner, could not be considered. It was further concluded that the said aspect of the matter was intimated to the petitioner, herein.

12. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

13. At the outset, it is to be noted that the petitioner in the present proceeding, had raised a claim of Rs. 40,00,000/-(Rupees Forty Lakhs) pertaining to the expenses as incurred in the matter for providing medical treatment to the husband of the petitioner at TATA Memorial Hospital, Mumbai. However, the Director of Health Services, Assam, having quantified the said amount vide communication, dated 15.06.2011, at Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, and the Government having rendered its no objection in the matter for release of the said quantified amount to the petitioner, herein, it is not understood as to why the authorities of the respondent No. 2 Corporation has not released the said admitted amount to the petitioner, herein, and forced the petitioner to institute the present proceeding making a claim of the said amount which otherwise was due to her in terms of the decision of the Government in the matter. The developments taking place in the matter and the "No Objection" issued by the Government vide the communication, dated 26.07.2011, no further adjudication is called for in the issue.

14. It is also to be noted that the respondent No. 2 Corporation is a Government Company and is under the deep and pervasive control of the Government of Assam. Accordingly, the directions passed by the Government are binding on the respondent No. 2 Corporation and its officials could not have acted in the matter contrary to the decision already arrived at for release of a quantified amount as a Medical Reimbursement Bill to the petitioner, herein, in

the matter.

15. In view of the above position and keeping in view the stipulations as contained in the communication, dated 26.07.2011, by which the Government had placed on record its no objection to the payment of admissible amount of Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, as recommended by the Director of Health Services, Assam, vide the communication, dated 15.06.2011, towards the Medical Reimbursement Bill for the treatment received by the husband of the petitioner; this Court holds that the petitioner, herein, is entitled to receive the said amount of Rs. 9,41,729/- (Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, as her Medical Reimbursement Bill claimed for the treatment of her husband's ailment.

16. Accordingly, the said amount of Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, although having been authorized to be so paid to the petitioner by the Government as far back as on 26.07.2011 and the respondent No. 2 Corporation not having released to the petitioner, the said amount; this Court is of the considered view that the petitioner is required to be compensated in the matter and accordingly, it is provided that the amount of Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, as now required to be paid to the petitioner, herein, shall be so paid to her along with an interest amount at the rate of 9% per annum w.e.f. 26.07.2011 till the date of its actual disbursal.

17. In view of the conclusions reached by this Court hereinabove, the authorities of the respondent No. 2 Corporation, more particularly, respondent No. 3, is hereby directed to release the said amount of Rs. 9,41,729/-(Rupees Nine Lakhs Forty One Thousand Seven Hundred Twenty Nine) only, along with an interest of 9% per annum as noted-above, to the petitioner, herein, within a period of 3(three) months from the date of receipt of a certified copy of this order.

18. With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant