



WEB COPY

W.P.No.7861



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.7861 of 2021

and

W.M.P.Nos.8391 and 8394 of 2021

S.Felixraj

... Petitioner

Vs.

1. The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Additional Chief Secretary to Government of Tamil Nadu,
Fianance (Salaries) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
3. The District Collector,
Ariyalur Collector Office,
Ariyalur – 621 704.
4. The Superintendent of Police,
Ariyalur – 621 704,
Ariyalur District.
5. The United India Insurance Company Ltd.,
Divisional Office, V Floor,
PLA Ratna Towers, 212, Raji Buildings,
Anna Salai, Chennai – 600 006.



WEB COPY

6. The Chairman, Meenakshi Hospital,
No.244/2, Trichy Main Road,
Near Bus Stand, Tanjore – 613 005.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to 2nd respondent's order in G.O.Ms. No.202, Finance (Salaries) Department , dated 30.06.2016 questioning clause (iii) in para 4 of Annexure-I attached to therein and consequently Initial proceeding of the 3rd Respondent in **நா.கா.ஊ4/4531/2019**, dated 21.01.2020, quash the same and direct the Respondents 1 to 4 to reimburse the Medical Expenses, totalling a sum of Rs. 6,53,422/- paid by the petitioner for surgery and medical treatment incurred by his father in the 6th respondent hospital with 9 percentage interest within a reasonable time.

For Petitioner : Mr.Gowtham Kumar
for Mr.R.Gokulakrishnan
For R1 : Mr.E.Sundaram,
Government Advocate
For R2 : Mr.U.M.Ravichandran,
Additional Government Pleader
For R3 : M/s.E.Ranganayaki,
Additional Government Pleader
For R5 : Mr.P.Sankara Narayanan

ORDER

This Writ Petition has been filed seeking a writ of certiorarified mandamus, calling for the entire records relating to 2nd respondent's order in G.O (Ms) No.202, Finance (Salaries) Department, dated 30.06.2016 and to quash the Clause (iii) in Paragraph No.4 of Annexure-I attached to the said Government Order and also to quash the consequential proceedings bearing **நா.கா.ஊ4/4531/2019** dated



21.01.2020.

W.P.No.786



WEB COPY

2. The petitioner has been working as Police Constable, Grade II in Jeyamkondam Police Station, Ariyalur District and he is enrolled in the New Health Insurance Scheme, 2016 (hereinafter referred to as 'the Scheme, 2016') which was made compulsory for all the Government Servants in the State of Tamil Nadu. The contributions that are payable under the said Scheme, 2016 are being remitted by the Employer of the petitioner on regular basis duly deducting the same from the salary of the petitioner.

3. While so, the father of the petitioner viz., Susai met with a road accident resulting in head injury and underwent treatment and an amount of Rs.6,54,100/- is stated to have been expended for the said medical treatment. Thereafter, the petitioner made a claim for reimbursement of the said amount under the New Health Insurance Scheme, 2016 but the said claim of the petitioner was rejected by the fourth respondent by issuing the impugned proceedings in **நா.கா.உள்4/4531/2019** dated 21.01.2020 on the ground that the father of the petitioner does not come within the meaning of family, as defined under Paragraph No.4 of Annexure-I of



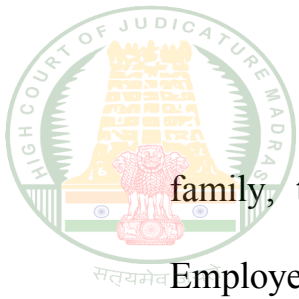
G.O (Ms) No.202, Finance (Salaries) Department, dated 30.06.2016. It is aggrieved by the said proceedings dated 21.01.2020, the petitioner approached this Court by

WEB COPY

filing the present Writ Petition simultaneously challenging the Clause (iii) of Paragraph No.4 of Annexure-I of the above said Government Order and to quash the same being arbitrary and illegal.

4. The respondents 1 to 4 filed a common counter-affidavit contending that the petitioner having got himself enrolled as a member of the Scheme, 2016 is bound by the said Scheme and any entitlement for reimbursement or otherwise can be claimed by the petitioner only in terms of the said Scheme and he is not entitled to challenge the said Scheme having accepted the terms and conditions in the said Scheme. As the father of the petitioner is not falling within the meaning of family, as defined under the Scheme, 2016, the claim made by the petitioner was rightly rejected by the fourth respondent by passing the impugned order dated 21.02.2020.

5. The learned counsel for the petitioner contended that the Scheme, 2016, as framed by the respondent State seeks to include the parents of the Government Employee, who is unmarried and on marriage of the Government Employee, the said Scheme seeks to exclude the parents of the Employee from the purview of the



family, thereby dis-entitling the benefit of the Scheme to the parents of the Employee. According to learned counsel for the petitioner, the parents of the

WEB COPY

Employee continues to be the parents of the Employee, irrespective of the Employee's marriage and therefore, the exclusion of the parents from the purview of the family, once the Employee gets married is totally arbitrary and illegal and contrary to the principles of social justice. In support of his contentions, the learned counsel for the petitioner also placed reliance on the decision of the learned Division Bench of this Court vide order dated 24.10.2018 passed in W.A (MD) No.1472 of 2018 and also another decision of the learned Single Judge of this Court vide order dated 02.01.2020 passed in W.P.No.35621 of 2019.

6. The learned counsel appearing for the respondents reiterated the contentions raised in the counter-affidavit by placing reliance on the contents of the Scheme, 2016.

7. A similar rule, which excludes the parents of a married Government Employee from the purview of family or definition of family mentioned in the Tamil Nadu Government Employees Health Fund Scheme, 1991 came up for consideration before a learned Division Bench of this Court in W.A (MD) No.1472



of 2018 and a learned Division Bench held as under:-

“ 4. *The learned counsel appearing for the respondents would submit that the submission of the learned counsel for the appellants on the construction of the Rule, is not correct. One has to see the object of the Rule. A restrictive interpretation cannot be given to the word "family". It merely says the other categories to be included. Thus, there is no exclusion of the father from the definition. Therefore, no interference is required. It is further submitted that any restricted interpretation, would go against the Wivery gbiect of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which mandates a son to maintain the aged parents. The learned counsel further submitted that Section 3 of the aforesaid enactment deals with, the act to have overriding effect on the provisions of any other enactment, which is inconsistent. The learned counsel seeks support from Section 20 of the aforesaid enactment, which provides for medical support for senior citizens by the State Government.*

5. *The Rule is meant for public purpose. Therefore, a literal interpretation cannot be adopted for understanding it. As rightly submitted by the learned counsel appearing for the respondents, the Rule does not*



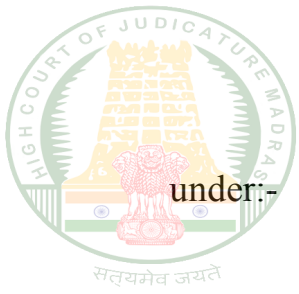
WEB COPY

W.P.No.786



specifically exclude a dependant parent. When we interpret the word 'include', it can adverse the illustration in nature. To put it differently, such definition does not exclude any other category. Therefore, when the definition "family" is mentioned include the wife and children, it cannot be stated that it excludes dependant parent. There cannot be a different yardstick that has to be adopted for a married son and an unmarried son. The question is with respect to the dependency of the parent which has got no rationale with the status of the son. After all, as per the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a son is the duty bound to maitain the dependant parent. Though Section 3 of the aforesaid enactment has got an overriding effect, to read the said provision along with other provisions of different Rules and enactments by way of purposive interpretation. Even under the Hindu Law, there is an implicit obligation upon the son to maitain the dependant parent. Thus, the contention of the learned counsel for the appellants cannot be sustained.”

8. In yet another decision, a learned Single Judge of this Court vide order dated 02.01.2020 passed in W.P.No.35621 of 2019 considered the very same scheme and the very same clause viz., Paragraph No.4 of Annexure – I and held as



WEB COPY

W.P.No.786



“ 6. *Per contra*, Mrs.K.Bhuvaneswri, learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 submitted that as per G.O.Ms.No.202 dated 30.06.2016 read with Annexure-I therein, 'Family Members' has been defined in Clause 4(iii). The learned counsel relied upon Clause 4(iii) and submitted that the parents of an employee will be treated as 'Family Member' until the marriage of the employee and not thereafter. The learned counsel submitted that the petitioner is admittedly married and therefore as per the Government Order, only the petitioner, his wife and children will fall within the definition of 'Family Members' and the father of the petitioner will not be covered under the Health Insurance Scheme. The learned counsel further submitted that the third respondent was perfectly right in rejecting the claim made by the petitioner.

7.This Court has carefully considered the submissions made on either side and perused the materials available on record.

8.The object of the Health Insurance Scheme 2016 is to help the employee to tide over the crisis faced by



WEB COPY

W.P.No.786



the employee due to a sudden and emergent medical emergency. The Government had thought it fit to appoint the United India Insurance Company Limited (the fifth respondent herein) for the implementation of the scheme and for the disbursement of the medical reimbursement. The scheme itself contemplates the list of hospitals where the employee and his family members can undergo treatment. It becomes important to take note of Annexure-I in G.O.Ms.202, dated 30.06.2016. Under Clause 4 of the Annexure, 'Family members' are defined. Clause 4(iii) states that the parents of the employee will also be covered only till the employee remains unmarried. The said Clause, if it is read literally, on the face of it, sounds illegal and illogical. The parents of an employee will not cease to be parents after the marriage of the employee. Unfortunately, even though this society is moving towards a state where the parents are disregarded after marriage, this Court does not expect the Government to give a similar treatment for the parents of employees, who get married. This Clause cannot be read in isolation and it cannot be given a literal meaning, since it will end up with disturbing consequences. The only way to read this Clause is that the parents will continue to be treated as family members till they continue to be



WEB COPY

W.P.No.786



the dependants of the Government employee. If this Clause is not assigned this meaning, the poor parents will be left in lurch during the evening of their life and more particularly, considering the cost of medical care that is prevailing at present. Therefore, the real purport of this Clause is that the parents of the employee must continue to be the dependants of the employee and in which case they will also fall within the definition of 'Family members'."

9. The learned Judge also taken note of the order passed by the learned Division Bench of this Court in W.A (MD) No.1472 of 2018 and allowed the identical claim made for reimbursement of the medical expenditure incurred for the father of the petitioner therein.

10. In view of the fact that the very same issue has already fallen for consideration before this Court, this Court is of the considered view that there is no necessity to examine the matter in detail once again and this Court is in complete agreement with the reasoning given by the learned Single Judge vide order dated 02.01.2020 passed in W.P.No.35621 of 2019 and accordingly the impugned proceedings bearing **நா.கா.ஊ4/4531/2019** dated 21.01.2020 is quashed and



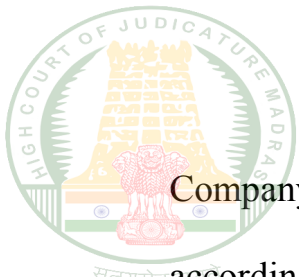
consequently there shall be a direction to the respondents 1 to 4 to re-consider the claim made by the petitioner for reimbursement of medical expenditure said to have

WEB COPY

been incurred by him and in case, if it is concluded that the father of the petitioner is dependant on the petitioner, the respondents 1 to 4 shall reimburse the medical expenses incurred by the petitioner for the treatment of his father within a period of eight (8) weeks from the date of receipt of a copy of this order. It is made clear that in case if the father of the petitioner had claimed any compensation towards medical expenditure incurred by him under the provisions of the Motor Vehicles Act, 1988 or otherwise, the same shall be deducted from the amounts that is being claimed by the petitioner under the Scheme, 2016 after verifying the same.

11. Before parting with the case, this Court deem it appropriate and duty-bound to make certain observations and issue appropriate directions.

11.1. The Government, as a measure of Welfare Scheme issued G.O (Ms) No.169, Finance (Salaries) Department, dated 09.06.2016 for implementation of New Health Insurance Scheme, 2016 to provide for health-care assistance to the employees of the Government, the State, Public Sector undertakings, Statutory Boards, Local Bodies, State Government Universities and their eligible family members. Accordingly, the Respondent No.5 herein was identified as Insurance



Company for implementation of New Health Insurance Scheme, 2016 and accordingly, G.O (Ms) No.202, Finance (Salaries) Department, dated 30.06.2016

WEB COPY

came to be issued, finalising the Scheme providing for self-insurance for the employees of the State Government and other Organizations. While formulating the said Scheme, the parents of an unmarried Government Servant were brought within the purview of the family, as defined under the Scheme viz., in Paragraph No.4 of Annexure-I of G.O (Ms) No.202, Finance (Salaries) Department dated 30.06.2016. But the parents of the married employee were excluded from the purview of the family, thereby dis-entitling the parents of a married Government employee from availing the benefit of Health Insurance under the New Health Insurance Scheme, 2016.

11.2. This Court, on more than one occasion has considered the aspect as to whether the parents of a married Government Employee can be taken out of the definition of family for the purpose of denying the health insurance benefits under the Scheme formulated by the State Government or not and came to the conclusion that such an action of the State in excluding the parents from the purview of family on the event of marriage of the Government Servant as highly arbitrary and illegal. Further, this issue is also coming up for consideration before this Court time and



again and is also likely to arise date-in and day-out causing great prejudice to the employees of the Government as well as their family members, resulting in cropping up of litigations. Hence, this Court deems it appropriate to draw the attention of the Chief Secretary of the State of Tamil Nadu to look into this aspect with special attention and take appropriate steps to bring the New Health Insurance Scheme, 2016 or any other subsequent Scheme in tune with the orders passed by this Court which are already taken note of in the former paragraphs in this order and make appropriate changes to the Scheme, so as to include the parents of the employee within the definition or purview of the family for the purpose of extending the benefits of the Health Insurance Scheme, if such parents are dependant on the employee concerned.

12. Registry is directed to communicate a copy of this order to the Chief Secretary to the State of Tamil Nadu for taking appropriate action. The Chief Secretary to the State of Tamil Nadu is directed to take a decision in this regard as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order and report compliance to this Court.

13. Accordingly, the Writ Petition is disposed of. No costs. Connected



Miscellaneous Petitions, if any shall stand closed.

WEB COPY

14. Post the matter on 04.11.2024 under the caption 'For Reporting Compliance'.

19.06.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Additional Chief Secretary to Government of Tamil Nadu,
Fianance (Salaries) Department,
Secretariat, Fort St. George,
Chennai – 600 009.
3. The District Collector,
Ariyalur Collector Office,
Ariyalur – 621 704.

MUMMINENI SUDHEER KUMAR, J.

skr

4. The Superintendent of Police,
Ariyalur – 621 704,



Ariyalur District.

W.P.No.7861 of 2021



5. The United India Insurance Company Ltd.,
Divisional Office, V Floor,
PLA Ratna Towers, 212, Raji Buildings,
Anna Salai, Chennai – 600 006.

6. The Chairman,
Meenakshi Hospital,
No.244/2, Trichy Main Road,
Near Bus Stand, Tanjore – 613 005.

W.P.No.7861 of 2021

19.06.2024