

IN THE COURT OF MS. VANDANA, CIVIL JUDGE (JUNIOR
DIVISION) NARNAUL (UID NO.HR0454)

HRNR020000162024



CIS No.CS-16-2024

Date of Institution: 04.01.2024

CNR No.HRNR020000162024

Date of Decision: 08.07.2026

Dharam Singh son of Din Dayal, retired Lecturer, Govt. Girls Sr. Sec. School, Bachhod, Tehsil Narnaul, District Mahendergarh, resident of House No.1816, Sector-1, Part-I, HUDA, Narnaul, Tehsil Narnaul, District Mohindergarh, Haryana.

.....Plaintiff

Versus

1. Government of Haryana through Deputy Commissioner, Narnaul, District Mohindergarh.
2. Director, Directorate of School Education Haryana, Siksha Sadan, Sector-5, Panchkula, Haryana.
3. District Education Officer, Narnaul, District Mohindergarh.
4. Block Education Officer at Primary School Building, Dhanonda, Ateli, District Mohindergarh.
5. Principal, Govt. Girls Senior Secondary School, Bachhod, District Mohindergarh, Haryana.

.....Defendants.

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SUIT FOR DECLARATION AND MANDATORY INJUNCTION

Present. Sh. Hanuman Tanwar, Advocate for the plaintiff.
Smt. Sushil Kumari, GP for the defendants No.1 to 5.

JUDGMENT:

The plaintiff has filed the present suit seeking relief of declaration against the defendants to the effect that plaintiff is entitled to reimbursement of medical bills alongwith interest at the rate of 24% per annum and relief of mandatory injunction directing defendants No. 1 to 5 to pay the amount of medical reimbursement bill.

2. Brief facts, as averred by the plaintiff which led to the filing of the present suit, are that the plaintiff is pensioner of Haryana Government having PPO No.162347-S/HR and is a senior citizen of 72 years old. It is pleaded that the wife of plaintiff namely Smt. Koshalya Devi is also a senior citizen of 68 years of age and she has become a victim of Soft Tissue Sacroma, a fatal and deadly form of Cancer. A tumor on her back shoulder in right side has arose and she has develop physical and physiological pain, which was unbearable and in full swing, so she was rushed to Bhagwan Mahabir Cancer Hospital & Research Center, Jaipur, where she has been operated on 18.06.2020. She remained admitted in said hospital w.e.f. 16.06.2020 to 21.06.2020.

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It is submitted that Bhagwan Mahabir Cancer Hospital & Research Center, Jaipur is a famous Cancer Hospital having a good reputation and A Grade NABH Accredited. It is also pertinent to mention that the above-mentioned hospital works as no profit and no loss basis. It is submitted that the re-imbursement bill alongwith complete related documents was submitted by the plaintiff to the defendant No.5 on 14.12.2020 but the same was not reimbursed with the objection that the hospital, which treated the patient, is not on the panel of Haryana Government and situated out of State and concerned CMO has not issued emergency certificate as required by the department. Plaintiff had also filed a civil suit bearing No.32/2022 in the Court of learned Civil Judge (Sr. Divn.), Narnaul which has been decreed vide order dated 20.09.2023. Now, both the parties have preferred appeal qua the same. The instant bill is for the treatment which was given to the patient as Radiation Therapy performed on 16.07.2020 to 19.10.2020. It is further averred that very after the major treatment in the form of surgical treatment as follow up treatment and the amount increased on follow up is also recoverable in the form of reimbursement.

It is further averred that defendants No.-1 to 5 also made objection that the bills for the re-imbursement was submitted with delay.

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However, in this reference the Hon'ble Supreme Court of India has suspended the time limitation w.e.f. 22.03.2020 to 28.02.2022 due to outbreak of Corona disease. Further, the patient was under treatment till her death on 13.01.2023. After the surgical and radiation therapy, the patient was diagnosed with bone cancer and she was got admitted in PGIMS, Rohtak on 17.11.2022 for treatment of the same. She was firstly taking treatment for the soft tissues cancer and then bone cancer. The bill was submitted to the department on 10.10.2023 and the same was received on 13.10.2023 which is within one year of her last treatment date i.e. 13.01.2023. It is submitted that the order passed by defendant the No.5 bearing No.444/2023 dated 19.10.2023, is wrong, illegal, arbitrary, against the law governing the post of plaintiff against Medical Attendance Rules, 1940 and against the rules and regulations and instructions issued by the Government of Haryana, hence not ineffective against the plaintiff and voidable, kindly be declared void. Hence, plaintiff is also entitled for issuance of mandatory directions to defendants No. 1 to 5 to pay the amount of medical bills. Hence, the present suit.

3. Per contra the averments of the plaintiff, the defendants No. 1 to 5 filed a joint written statement taking objections of maintainability,

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time barred etc. On merits, it was denied that the Hon'ble Supreme court has suspended the limitation for submission of medical bills for reimbursement. However, the Hon'ble Apex Court has given only relaxation of limitation for filing of suit, appeals etc. It was also denied that the period of 12 months counts from the date of last treatment rather plaintiff was required to submit the bills within 12 months of treatment, whereas the bills for which reimbursement was claimed were from 16.07.2020 to 19.10.2020 which is after about 35 months of treatment. It was also denied that cause of action arose to the plaintiff on 19.10.2023 rather the same was arose with effect from 19.10.2020 accordingly the suit of the plaintiff is time barred. It is averred that reimbursement on outdoor treatment shall be allowed to the employee subject to the condition on obtaining Chronic Disease Certificate from the concerned Civil Surgeon and the bills will be worked out as per instruction applicable to the hospital in case of indoor treatment. In this regard, the Additional Chief Secretary to Government of Haryana, Health Department, Chandigarh has issued circular Memo No.2/51/2016-1HB-III dated 31.07.2017 which is annexure D-1. Also, the employee who is claiming reimbursement on chronic disease will not be entitled to any other medical allowance. However, the plaintiff was getting medical

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allowance in the sum of ₹1000/- per month during the period when her wife got the outdoor treatment as shown in the bills submitted by the plaintiff. Therefore, for claiming reimbursement of bills as outdoor patient will be allowed only after getting Chronic Disease Certificate from the Civil Surgeon or when the employee concerned surrenders his right of medical allowance. Thus, the plaintiff is not entitled to reimbursement of medical bills on account of non-fulfillment of aforesaid conditions. In this respect, the Commissioner & Secretary to Government of Haryana, Health Department has issued instructions vide Memo dated 11.08.1992 which is Annexure- D2. It is further averred that the plaintiff has submitted the medical bills for its reimbursement on 13.10.2023 whereas the claimed treatment was taken during the period from 16.07.2020 to 19.10.2020. As such, the bills were submitted after about three years of treatment. As per Haryana Government instructions bearing H.D. Hr. No.2/660/2003-1 HB-III dated 11.12.2003 which is Annexure-D3, it is specifically provided that employee concerned should submit the medical bills for reimbursement within a period of 12 months from the date of treatment whereas the plaintiff the submitted the same after about more than 35 months of treatment. Thus, the same cannot be entertained. Therefore, in view of aforesaid

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instructions, the plaintiff was directed to explain the delay before the Health Department and to get the approval of the same and also directed to submit approval of open medical. However, instead of complying with the above-said directions, plaintiff has filed the present suit. Remaining averments of the plaint have been specifically denied and a prayer was made for dismissal of the suit.

4. Replication was not filed. From the pleadings of the parties, the following issues were framed on 27.08.2024:-

1. Whether the plaintiff is entitled to a decree of declaration against the defendants as prayed for ?
OPP
2. Whether the plaintiff is entitled to a decree of mandatory injunction against the defendants as prayed for? OPP
3. Whether the suit of the plaintiff is not maintainable in the present form? OPD
4. Relief.

5. In order to prove his case, the plaintiff got examined Radha Mohan Sharma, Senior Executive, Medical Record Department, BMCHRC, Jaipur as PW1, who produced the authority letter, medical bills, medical treatment summary and operation record of Koshalya Devi as Ex.P1 to P-17. The plaintiff Dharam Singh himself stepped into witness-box as PW2 and he tendered his affidavit Ex.PW2/A wherein he reiterated the contents of plaint in toto, therefore, there is no need to

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reproduce the same. He also produced essentiality certificate for medical re-imburement as Ex.PW2/B.

Thereafter, plaintiff closed his evidence vide a separate statement on 21.05.2025.

6. On the other hand, the defendants examined Anita Devi, Principal Govt. Girls Sr. Sec. School Bachhod as DW1, who tendered her affidavit Ex.DW1/A wherein she reiterated the contents of written statement filed by defendants No. 1 to 5 in toto, therefore, there is no need to reproduce the same. She also produced copy of Memo No.2/51/2016/1HB-III Dated 31.01.2017, instructions issued by the Commissioner and Secretary to Government of Haryana, Health Department vide Memo dated 11.08.1992, Haryana Government instructions bearing H.D. Hr. No.2/660/2003-1 HB-III dated 11.12.2003 and letter No.444/2023 dated 19.10.2023 issued to plaintiff Dharam Singh by the Principal, Govt. Girls Senior Secondary School, Bachhod as Ex.D1 to Ex.D4.

Thereafter, she closed evidence on behalf of defendants vide a separate statement on 10.02.2026.

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7. No rebuttal evidence has been led by learned counsel for the plaintiff and the same has been closed by learned counsel for the plaintiff.

8. The learned counsel for the plaintiff has argued that plaintiff is entitled for the reimbursement but learned GP appearing for the defendants argued that no reimbursement to be made as plaintiff has not complied the essential conditions for the same.

9. I have heard learned counsel for both the parties and gone through the case file very carefully. My issue-wise findings are as under:

ISSUES NO. 1 AND 2:

10. These issues are taken up together for adjudication being interconnected and interdependent and in order to avoid repetition of facts and evidence. The onus to prove issues No.1 and 2 was upon the plaintiff. The point for adjudication and determination in these issues before this Court is whether the plaintiff is entitled to a decree of declaration to the effect that order passed by defendants No.5 dated 19.10.2023 is illegal, null and void and whether the plaintiff is entitled to decree of mandatory injunction directing the defendants No. 1 to 5 to reimburse amount of medical bills.

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It is the case of the plaintiff that plaintiff is a pensioner and 72 years old senior citizen and getting his pension. And wife of the plaintiff became a victim of Soft Tissue Sarcoma (Cancer). So, she was rushed to Bhagwan Mahavir Cancer Hospital and Research Centre, Jaipur where she was operated on 18.06.2020 and remained admitted there 16.06.2020 to 21.06.2020. The reimbursement bill was submitted by the plaintiff to the defendant No.5 on 14.12.2020 but defendants No.1 to 5 have not paid the bill with objections and vide civil suit No.32/2022 the suit of the plaintiff was decreed on 20.09.2023. Thereafter, a major surgical operation was performed on 18.06.2020 and radiation was given from 16.07.2020 to 19.10.2020. So, the amount increased on follow up is also recoverable in the form of reimbursement, however, defendants No.1 to 5 objected on the ground of delay and after the surgical and radiation therapy the patient has developed Cancer in her bones and then she was under treatment of bone cancer. She has developed fractures in various parts of her body and got admitted in PGIMS, Rohtak on 17.11.2022 and died on 13.01.2023. So, the bill was submitted to the department on 10.10.2023 and department received it on 13.10.2023 within the one year of last treatment i.e. 13.01.2023 with a proof of continuous treatment. So, the cause of action accrued on 19.10.2023

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when defendant No.5 returned the case to the plaintiff with objections. In reply, defendants submitted that plaintiff has challenged order dated 19.10.2023 and further claimed that he is entitled for the reimbursement bill of Rs.1,12,104/- regarding the treatment from 16.07.2020 to 19.10.2020 and plaintiff is getting the fixed monthly amount in the sum of ₹1000/- as retired from Education Department. They also submitted that reimbursement on outdoor treatment be allowed subject to the condition of obtaining chronic disease certificate from Civil Surgeon and bill shall be worked as per the instructions applicable to the hospital as in case of indoor treatment for this Additional Chief Secretary to the Haryana Government, Health Department, Chandigarh has issued circular vide memo No.2/51/2016-1HB-111 dated 31.01.2017 which is Ex.D1 on file and which shows that “for the outdoor treatment the reimbursement of outdoor treatment shall be allowed from Government and approved hospital subject to condition on obtaining chronic disease certificate from concerned Civil Surgeon and bills will be worked out as per instructions applicable to the hospital as in case of indoor treatment”. But the plaintiff is claiming reimbursement on chronic disease which he is not entitled and moreover plaintiff was getting medical allowance of ₹1000/- per month during the period when his

wife got the outdoor treatment as shown in the bill submitted by the plaintiff. So, plaintiff is not entitled for the same as he has not fulfilled the conditions as Commissioner and Secretary to the Government of Haryana, Health Department vide memo dated 11.08.1992 which is Ex.D2 has instructed that “persons claiming reimbursement on chronic disease will not be entitled to any other medical allowance either at fixed rate or at rate of ₹1000/- as an outdoor patient”. No employee claiming reimbursement on account of outdoor treatment on chronic diseases will be entitled to reimbursement of more than ₹500/- per month. Plaintiff has already got ₹1000/- per month allowance. So, plaintiff is not entitled for the same. It is also submitted that plaintiff submitted bills on 13.10.2023 whereas the claimed treatment was taken during 16.07.2020 to 19.10.2020. So, bills were submitted after three years of the treatment and Haryana Government vide HD HR No.2/660/2003-1 HP 111 dated 11.12.2003 which is Ex.D3 has instructed that “ the matter regarding time limit for preferring claims for reimbursement of medical expenses incurred by Government employees on their own treatment or on the treatment of their dependants shall be competent to sanction medical claims submitted after six months but within 12 months from the date of completion of treatment without

referring the same to the Health Department and the medical claim submitted after the period of 12 months from the date of completion of treatment shall be referred to Health Department”.

In the present case, plaintiff has applied directly which need to be filed through the Health Department only. Moreover, vide letter No.44/2023 dated 19.10.2023 plaintiff was informed that he had filed after a long delay. So, plaintiff was directed to submit the approval of open medical which is Ex.D4. No doubt, plaintiff himself examined as PW1 but does not prove that plaintiff has complied the necessary formalities which need to be followed for claiming the reimbursement of the outdoor treatment after lapse of 35 months. Therefore, these issues are decided against the plaintiff.

Issue No. 3 :

11. In view of the discussion made above, issues No.1 and 2, is decided against the plaintiff and in favour of the defendants.

Relief :

12. In view of the above said discussion and issue wise findings, this Court is of the view that the plaintiff has failed to prove the case. Hence, the suit of the plaintiff is hereby dismissed with costs.

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Decree sheet be prepared and file be consigned to record room after due compliance.

Pronounced in open Court:

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Note: All the pages of this Judgment have been checked and signed by me.

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Pankaj Kumar SG-II

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