

W.P.S.T. 164 of 2025

**Damber Singh Sunar
Vs.
The State of West Bengal & Ors.**

Mrs. Pampa Dey (Dhabal),
Ms. Sangita Banerjee,
Mr. Biswarup Chatterjee,
Ms. Sarbani Dutta

...for the Petitioner

Mr. Amitava Chaudhuri,
Mr. N. Roy,
Mr. P. Siddhanta

...for the State

1. Heard the learned advocate for the petitioner as well as the learned advocate for the State.
2. The writ petitioner, a retired Commandant in the RAF, 2nd Battalion, approached the West Bengal Administrative Tribunal ('Tribunal' for short) assailing a decision of the Deputy Inspector General of Police (P&W) as contained in a communication dated 19.03.2024, rejecting the petitioner's claim for the reimbursement/cashless payment to the Health Care Organisation (HCO), namely, Apollo Hospital at Chennai.
3. The petitioner, as per claim set out in the Original Application, had gone for a check up to the hospital when he had symptoms of perspiration, restlessness etc. When he was attended for such symptoms, it was revealed that he was suffering with a cardiac ailment, namely, Double Vessel Disease MID Lad having 100% Chronic Total

Occlusion. The doctor at the HCO suggested immediate percutaneous Transluminal Coronary Angioplasty (PTCA) to avoid any risk involving the petitioner's life. It is under such circumstance that the procedure was performed and petitioner submitted an application for reimbursement of the expense over such procedure (₹.429697/-).

4. The application clearly explains these circumstances; and it is specific averment of the petitioner in his application dated 23.02.2024 that in the above circumstances, he had no alternative but to follow his doctor's advice of immediate medical treatment and undergo the surgery without wasting any time whatsoever. The petitioner has stated in his application that the circumstances did not permit obtaining a prior permission from the authorities.
5. It appears from the application filed by the petitioner that he was conscious that a prior approval was required from the Secretary of the Department. He, however, has justified non-obtaining of such prior approval in view of the above circumstances stated in his application.
6. The learned advocate for the writ petitioner submits that in view of the circumstances which were brought to the notice of the authorities, the rejection order is unsustainable. The rejection

order is based solely on the fact that there was no prior approval sought.

7. Relevant extract of the rejection order dated 26.07.2024 is being quoted:

“On scrutiny no copy of prior approval for treatment outside state of the Govt as per rules of WBHS for the said treatment has been found.

It is request to direct the incumbent to submit the proposal along with the copy of the prior approval of the Govt for the said treatment for taking further N/A.”

8. The requirement of prior approval as per the learned advocate representing the State is clearly stipulated in Clause 14(2) of the West Bengal Health Scheme, 2008 (‘The 2008 Scheme’ for short).
9. We have considered the rival submissions, examined the petitioner’s application dated 23.02.2024 and the rejection order dated 26.07.2024.
10. We find no dispute regarding the fact that a prior approval was required under the 2008 Scheme, for the treatment taken by the petitioner outside the State of West Bengal.
11. We also find an admitted position that his claim for reimbursement was rejected solely on the ground of not having obtained a prior permission.

12. We find from a perusal of the 2008 Scheme relied upon by the parties that the consequences of not obtaining such a prior approval is not stipulated or specified in the Scheme.
13. We called upon the learned Government advocate to point out any such provision. He has fairly submitted that there is no such provision. However, he has submitted that there is sufficient scope in the Scheme for any family member also to make a communication prior to undergoing such procedure outside the State through electronic mode. The State has provided full convenience for ensuring fulfilment of such requirement and therefore, having failed to do so, the petitioner cannot expect a direction for reimbursement of the treatment done outside the State.
14. We find that there is no material-on-record to suggest the facts that there was sufficient opportunity or sufficient number of family members with the petitioner at the Health Care Organisation for fulfilling the requirement of intimation or request for approval, prior to undergoing the procedure in question. From the application of the petitioner, it appears that there was a sudden requirement and a life saving procedure was performed. There is nothing in the

order of rejection from which the Court can gather that the assertion regarding such procedure being on medical advice as a life saving measure, is in doubt. Rather we find that a mechanical approach has been taken by the authority in rejecting the claim merely for the fact that a prior approval was not obtained. There is also no issue raised in the impugned rejection order regarding the claim being in excess of the entitlement of the petitioner or in any manner being unjust.

15. Given the above circumstances, when there is no procedure or provision prescribing any consequence for failure to give a prior approval, we ventured to examine the 2008 Scheme otherwise, and found that 17(2) of the 2008 Scheme reads :

“17(2) If any difficulty arises in the course of implementation of the scheme, it shall be referred to the Finance Department and the decision of the Finance Department thereon shall be final.”

16. The 2008 Scheme acknowledges that a difficulty may arise in implementation of the Scheme. The clause, therefore, acknowledges any “*difficulty*”.
17. We find that there is no case made out or averment in the rejection order doubting the genuineness of the claim.

18. The lapse of not obtaining a prior approval, therefore, was required to be viewed keeping in background the difficulty raised by the petitioner in his claim dated 23.02.2024, which unfortunately the authorities have not done.
19. We, therefore, find the rejection order dated 26.07.2024 to be unsustainable. We quash the same.
20. We, therefore, remit the matter to the Deputy Inspector General of Police (P&W) [Respondent No.6] to consider the petitioner's claim without raising an issue of there being no prior approval.
21. Subject to fulfilment of the other requisite circumstances, the claim is required to be disposed of and payment of the admissible amount made within six weeks from the date of receipt/production of a copy of this order before the Respondent No.6.
22. Should the authority be of an opinion otherwise, it would be obligatory to pass an order assigning reasons in support of such decision, within the same period.
23. The Writ Petition is accordingly allowed.
24. The O.A. No.617 of 2024 stands allowed in these terms.
25. There will be no order as to costs.

26. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)