



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 11.09.2025

1.CWP-28760-2022 (O&M)

Om Prakash Dhingra

....Petitioner

Versus

State of Haryana and others

....Respondents

2.CWP-23119-2025 (O&M)

Om Prakash Dhingra

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lekh Raj Sharma, Advocate
with Mr. Abhishek Sharma, Advocate
and Ms. Shagun, Advocate
for the petitioner in both the cases.

Mr. Piyush Khanna, Addl. A.G., Haryana.

Mr. Himanshu Jain, Advocate
with Mr. Vishal Satija, Advocate
for respondent No.2 in CWP-28760-2022.

Mr. Vikrant Pamboo, Advocate
for respondent No.2 in CWP-23119-2025.

HARPREET SINGH BRAR J. (Oral)

1. Vide this common order, I intend to dispose of CWP Nos.28760 of 2022 and 23119 of 2025, as common questions of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP-28760-2022.



2. Prayer in the writ petition (in CWP-28760-2022) filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for quashing/setting-aside the letters dated 15.06.2022 (Annexure P-3) and letter No.49139 dated 27.07.2022 (Annexure P-5) whereby the claim of reimbursement of medical claim has been rejected by respondent No.2 and 3. Further a writ of *mandamus* has been sought, directing the respondents in general/especially respondents No.2 and 3 to reimburse the medical claim/bills of the petitioner. The same petitioner (in CWP-23119-2025) is seeking quashing of letter dated 19.01.2024 (Annexure P-10) whereby the claim of the petitioner for reimbursement of medical bills of follow-up treatment w.e.f. 21.03.2023 to 27.03.2023 has been rejected and to direct respondents No.2 and 3 to reimburse the medical bills of the petitioner.

3. The brief facts of the case are that the petitioner is a retired government officer who served as Mandi Supervisor under the Market Committee, Panipat, Haryana, and retired on 30.11.2009. On 05.04.2022, while visiting relatives in Noida, the petitioner experienced severe low backache, trembling in the lower body and difficulty in walking. Quickly seeking medical attention, he was admitted to Kailash Hospital, Noida on 06.04.2022, where he was diagnosed with Lumbar Canal Stenosis and admitted under emergency conditions. Thereafter, the petitioner underwent a surgical procedure (re-exploration and decompression) on 08.04.2022 and remained hospitalized until



20.04.2022. After discharge, the petitioner required continued treatment and follow-up for a few months. The petitioner submitted claims for reimbursement of the medical expenses incurred, totaling Rs.9,49,999/-, along with all requisite documents, bills, and affidavits to respondent No.2. Respondents No. 2 and 3, however, rejected the claim of the petitioner on two primary grounds:(i) the treatment was not considered an “emergency” by the Chief Medical Officer, Panipat, and (ii) Kailash Hospital, Noida is not on the panel of government approved hospitals under the Haryana Government’s Medical Attendance Rules. Similarly, subsequent follow-up claims were also denied to the petitioner on similar grounds.

4. Learned counsel for the petitioner submits that the rejection of the petitioner’s medical reimbursement claims is arbitrary and violative of his fundamental right under Article 21 of the Constitution of India. The petitioner, a retired government employee aged over 70 years, while visiting relatives in Noida, suffered from severe lower backache, neurogenic claudication, and functional immobility, leading to his admission at Kailash Hospital, Noida on 06.04.2022, where he underwent a major spinal surgery on 08.04.2022, specifically, *re-exploration of previous fusion and decompression of Lumbar Canal Stenosis and extension of construct from L4 to D11 and D12*. The treatment was necessitated by a sudden medical emergency, as shown in the discharge summary (Annexure P-1) and the petitioner could not have been reasonably expected to consult a list of empaneled hospitals



or obtain prior approval. Learned counsel for the petitioner further submits that once the treatment is shown to be medically necessary and advised, the rejection of reimbursement claims of the petitioner solely on the ground of the hospital being unapproved is unsustainable.

5. In support of this arguments, he has placed reliance upon the judgments in *Surjit Singh vs. State of Punjab 1996(2) SCT 234*, *Om Prakash vs. State of Haryana* passed in *CWP No.1523 of 2011*, decided on 07.02.2013, *Waryam Singh vs. State of Punjab* passed in *CWP No.16570 of 1995*, decided on 12.04.1996, *Manoj Jain vs. State of Haryana* passed in *CWP No.13494 of 2016* decided on 03.12.2018, and *Devki Rani vs. State of Punjab* passed in *CWP No.82761 of 1994* decided on 30.08.1994, and submits that in case of urgent medical needs, especially involving retired employees, reimbursement cannot be denied on hyper-technical grounds and medical care must be ensured which is an integral part of the right to life and dignity under Article 21 of the Constitution of India.

6. Learned State counsel as well as learned counsel for respondent No.2 submits that the claim of the petitioner was rejected in accordance with the established rules and policy governing reimbursement of medical claims for retired employees of the State Government. Learned counsel for respondent No.2 submits that Kailash Hospital, Noida is not an approved hospital under Haryana Government's scheme and the petitioner failed to obtain prior approval for the treatment in a private hospital outside the list. Further, reliance



was placed on the opinion of the Chief Medical Officer, Panipat, who had opined that the treatment was not an emergency and could have been deferred to an approved hospital. He further submits that it is not a case of a surgery performed in emergency situation in order to preserve the life of the petitioner. It is an elective surgery and the same treatment is available in the other hospitals which are on the panel of respondent/Board.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. The claim for medical reimbursement ought not to be dismissed merely because the claimant underwent treatment in a non-empanelled. In such cases, the test of essentiality and emergency comes into play, which dictates that if the medical procedure was undergone by the claimant in an emergency, on the advice of a doctor based on his medical record, in order to save his life, the reimbursement for the same must be made. Not only is the preservation of human life instinctive, but it also forms a part of Article 21 of the Constitution of India, and therefore, it shall always retain the highest priority.

9. Moreover, the State bears an obligation to ensure the availability of timely medical care to those in need. As such, it cannot expect the citizens to refrain from availing timely care, merely for the reason of non-empanelment of the hospital. Such conduct on the part of the State does not satisfy the criteria of fairness and reasonableness and therefore, amounts to a violation of the fundamental rights enshrined in



Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgments rendered by a two Judge bench of the Hon'ble Supreme Court in ***Surjit Singh vs. State of Punjab and others(1996) 2 SCC 336***, whereby, speaking through Justice M.M. Punchhi, the following was opined:

“8. The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division Bench of the Punjab and Haryana High Court at Chandigarh in C.W.P. No. 13493 of 1992 titled as Sadhu R. Pall v. State of Punjab through Secretary, Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and others, 1994(1) SCT 552 (P&H). decided on 6.10.1993, wherein the claim of the then writ petitioner to medical reimbursement was accepted when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994. The other judgments of the High Court following the decision in Sadhu R. Pall's case are :

- (1) C.W.P. No. 18562 of 1992 decided on 10.5.95 titled K.L. Kohli v. State of Punjab and others, 1995(4) SCT 280 (P&H);*
- (2) C.W.P. No. 260 of 1995, decided on 30.5.1995 titled Ravi Mohan Duggal v. State of Punjab and others (DB)*
- (3) C.W.P. No. 5669 of 1994 decided on 4.9.94 titled Prem Singh Gill v. State of Punjab and others;*



(4) 1995(4) SCT 816 (P&H) : 1995 (III) Punjab Law Report 529 titled Tarlok Chander v. State of Punjab etc. (SB); and

(5) 1996(2) SCT 148 (P&H) : 1995 (III), Punjab Law Reporter 682 titled Mrs. Surya Pandit v. State of Punjab and others (SB)

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10. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India , fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law.

11. The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which, bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the Government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy. When the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary...”

10. In the matter at hand, the petitioner underwent spinal surgery i.e. *re-exploration of previous fusion and decompression with extension of construct from L4 to D11 and D12* at Kailash Hospital, Noida, which was not necessary at that moment in order to save his life,



as also depicted by his medical record. Therefore, the test of essentiality and emergency does not stand satisfied.

11. Accordingly, both the present petitions are dismissed.

12. A photocopy of this order be placed on the file of other connected case.

(HARPREET SINGH BRAR)
JUDGE

11.09.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No