

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 4945 of 2022

Santosh Kumar Verma

... **Petitioner**

-versus-

1. Bharat Coking Coal Ltd., a subsidiary of Coal India Limited, having its head office at Koyla Bhawan, PO Koyla Nagar, PS Saraidhella, District Dhanbad, Pin 826005, through its Company Secretary.
2. Coal India Ltd., a Government of India Undertaking, having its head office at Coal Bhawan, Premises No.04, MAR, Plot No. AF-III Action Area IA, New Town, Rajarhat, PO PS New Town, Kolkata, 700156, West Bengal, through its Company Secretary.
3. The Director Personnel, Personnel Division, Policy Cell, Coal India Ltd., Coal Bhawan, Premises No.04, MAR, Plot No.AF-III Action Area IA, New Town, Rajarhat, PO PS New Town, Kolkata 700156, West Bengal.
4. The Director Personal, Bharat Coking Coal Ltd., a subsidiary of Coal India Limited, having its head office at Koyla Bhawan, P.O. Koyla Nagar, P.S. Saraidhella, District Dhanbad, Pin-826005.
5. The Chief Medical Services (Hq), Bharat Coking Coal Ltd., a subsidiary of Coal India Limited, having its head office at Koyla Bhawan, PO Koyla Nagar, PS Saraidhella, District Dhanbad, Pin-826005.

... **Respondents**

CORAM : SRI ANANDA SEN, J.

For the Petitioner : Mr. Gyan Ranjan, Advocate

For the Respondents: Ms. Swati Shalini, Advocate

ORDER

Reserved on 29.01.2025

Pronounced on 07.02.2025

7/ 07.02.2025 By filing this writ petition, petitioner prays to quash the Office Note dated 26.10.2019 (Annexure 4) and letter dated 23.01.2020 (Annexure 6), by which the Medical Bill for psychiatric treatment of petitioner's wife has been rejected on the ground that the same is not admissible as per Clause 6.3(i) of CPRMSE Rules. It has also been prayed that the respondents be directed to reimburse the amount, which has been spent by the petitioner for psychiatric treatment of his wife, which has been illegally deducted from the bills raised by the petitioner.

2. Learned counsel appearing on behalf of the petitioner submitted that the wife of the petitioner was suffering from some disorder, which needed psychiatric treatment. He argued that as a retired executive of Bharat Coking Coal Limited, he is entitled for reimbursement of the amount spent on his wife

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for psychiatric treatment, but the respondents, taking shelter of Clause 6.3(i) of the Contributory Post Retirement Medicare Scheme for Executives of CIL & its Subsidiaries (hereinafter referred to as CPRMS), have denied reimbursement, which is absolutely illegal. He submitted that treatment of mental health and mental healthcare cannot be differentiated with other healthcare treatments. He argued that there cannot be any distinction so far as it relates to mental illness and other type of physical illness. He argued that this artificial differentiation by the respondents is not based on any intelligible differentia. The embargo created by class / differentia is illegal, discriminatory and without any basis.

3. Learned counsel appearing for the respondents-BCCL submitted that reimbursement of medical bills for retired executives are guided and governed by the CPRMS. As per Clause 6.3(i) of the said CPRMS instructions, the petitioner is not entitled for reimbursement of the expenses incurred by the petitioner which relates to psychiatric treatment. Since there is an embargo as per the said CPRMS instructions, petitioner is not entitled to any relief as claimed by him.

4. I find that the facts are admitted in this case. Petitioner is a retired executive of Bharat Coking Coal Limited, a subsidiary of Coal India Limited. He got his wife treated by psychiatrist, as she was suffering from mental illness. The bills were raised and he claimed reimbursement, but the respondents deducted the amount, which was spend for psychiatric treatment on the ground that as per the CPRMS, petitioner is not entitled for reimbursement of the amount spent for psychiatric treatment of his wife.

5. Reimbursement of medical expenses in Coal India Limited and its subsidiaries, so far as superannuated executives are concerned, is governed by CPRMS. As per Clause 1.1 of the CPRMS, medicare is provided to retired executives including Board Level appointees of Coal India Limited and its subsidiaries and also to their spouses. There is no dispute that the petitioner is governed by the CPRMS. The entitlement and the benefits are provided in Clause 3 of the CPRMS. Though the maximum limit of reimbursement is provided, but in terms of Clause 3.2.1.d, there is no fiscal limit in case of treatment of the deceases mentioned in the said clause, i.e., heart and vascular diseases involving surgical or interventional therapy, cancer, renal disease, paralysis, AIDS and Addison's disease & Adrenal Histoplasmosis. It suggests that there is an unlimited reimbursement though in respect of limited

number of diseases. So far as Outpatient/Domiciliary Treatment is concerned, the amount payable is Rs.36,000/- per year.

6. The procedure for claim has been provided in Clause 6 of the CPRMS. Clause 6.3 is the exclusion clause, which provides for the conditions and the diseases for which if expenses is incurred, will not be reimbursed. As per Clause 6.3.(i) of the CPRMS, any psychiatric treatment is excluded from reimbursement. It is necessary to quote Clause 6.3.(i) of the CPRMS for better appreciation: -

6.3 Other conditions

The Company shall not be liable to reimburse any expenses whatsoever incurred by the retired employee in connection with or in respect to:

(i) Venereal disease, psychiatric treatment, intentional self injury, intemperance or the use of intoxicating drugs or liquor or/and injury, disease or illness directly or indirectly attributable to one or more of these causes.

(ii) ... (iii) ... (iv) (v) ...

Thus, from a plain reading of the aforesaid provision, any expenses for psychiatric treatment, which is undergone by the retired employee or the spouse, is not reimbursable.

7. This Contributory Post Retirement Medicare Scheme (CPRMS) is a scheme formulated/adopted by the Board of Coal India Limited in its 240th Meeting held on 08.03.2008. Admittedly, CPRMS is not a statutory scheme, rather is a beneficial arrangement to give benefits to the retired executives and their spouses, provided they become a member of CPRMS. In the instant case, admittedly, the petitioner and his wife are covered under the Scheme and the petitioner's wife, admittedly, had undergone psychiatric treatment.

8. The Parliament of India promulgated the Mental Healthcare Act of 2017 (Act 10 of 2017), which received the assent of Hon'ble the President of India on 07.04.2017, which was published in the official gazette on the same date. The Act was promulgated to provide mental healthcare and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto. This Act repealed the earlier Mental Health Act of 1987. The Act recognizes that persons with mental illness are a vulnerable section of the society and are subject to discrimination in our society. Families bear financial hardship, emotional and social burden of providing treatment and care for their relatives with mental illness. It also

recognizes that persons with mental illness should be treated like other persons with health problems.

To achieve the aforesaid goal, the Act of 2017 was promulgated. It is necessary to deal with some of the provisions of the Act.

(i) Section 2 (o) defines “*Mental healthcare*”, which includes analysis and diagnosis of a person’s mental condition and **treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness**. [emphasis supplied].

(ii) Section 2 (r) of the Act defines “*mental health professional*”. As per the said definition a “*psychiatrist*”, as defined in Clause 2 (y) is a “*mental health professional*”. As per Section 2(y), a “*psychiatrist*” means a medical practitioner possessing a post-graduate degree or diploma in psychiatry awarded by an university recognized by the University Grants Commission established under the University Grants Commission Act, 1956 or awarded or recognized by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956 or recognized by the Medical Council of India. He is a person, who has knowledge and experience in psychiatry.

(iii) The word “*psychiatry*” has not been defined in the Act, but from Oxford dictionary, the word “*psychiatry*” means the study and treatment of mental illness. Thus, a psychiatric patient suffering from some sort of mental illness, who needs treatment, has to be treated by a “*psychiatrist*”. Be it noted that the word “*mental illness*” has been defined in Section 2(s) of the Mental Healthcare Act, which means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterized by sub-normality of intelligence.

(iv) Section 18 of the Mental Healthcare Act, 2017 provides for “*right to access mental healthcare*” to every person, thus, every person has a right to access mental healthcare and treatment.

(v) Section 21 of the Mental Healthcare Act, 2017 gives right to equality and non-discrimination to every person with mental illness. It

provides that a person, who is suffering from mental illness, shall be treated as equal to persons with physical illness. It provides that there shall be no discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability. It further provides that all the facilities and services for mental illness shall be of the same quality as those provided to persons with physical illness. They are also entitled to use ambulances in a similar manner as provided to person with physical illness.

(vi) Section 21(1)(e) provides that **any other health services provided to persons with physical illness shall be provided in the same manner to the persons with mental illness. The extent and quality will also remain the same.** [Emphasis supplied].

Another very important provision, which is very relevant for this case is Section 21(1) and 21(4) of the Act. It is necessary to quote Section 21(1) of the Mental Healthcare Act, 2017, which reads as follows: -

21. Right to equality and non-discrimination.-(1) Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare which shall include the following, namely:-

(a) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;

(b) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;

(c) persons with mental illness shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;

(d) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and

(e) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.

(2) ...

The aforesaid provisions of the Act clearly indicate the intention of the legislature to the effect that there cannot be any discrimination between a person suffering from mental illness and a person suffering from any other physical illness. In one line it can be summarized that

there cannot be any difference so far as treatment and giving other facilities, between a mentally ill person or a physically ill person. Both of them are kept on the same pedestal so far as treatment is concerned without any discrimination.

The other important provision of the Act is Section 21(4), which provides that every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as is provided for physical illness. It is necessary to quote Section 21(4) of the Mental Healthcare Act, 2017, which reads as under: -

21. ...

(4) Every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as is available for treatment of physical illness.

The aforesaid statutory dictate mandates all the health insurers to make provision for treating mental illness in a similar manner as is done in respect of persons with physical illness. This is also an equality clause, which eliminates discrimination when it comes to medical insurance or reimbursement for treatment of mental illness. By virtue of this statutory provision, there cannot be any exclusion clause to exclude reimbursement of expenses incurred for treating mental ailment or psychiatric treatment in any health insurance policy.

9. The CPRMS of Coal India Limited is nothing but a sort of medical insurance cover granted to the retired executives of Coal India Limited or its subsidiaries. This scheme is for the members and the contribution has to be made by the members in terms of Clause 4 of the CPRMS. The said contribution is subject to revision from time to time which has to be deposited with the Company from where the executive has superannuated. Thus, this is a beneficial scheme for the executives of the Company on payment of contribution. This scheme has all the elements and characteristics of a medical insurance cover.

Further, as per Clause 1.1 of the CPRMS, medicare is provided to the retired executives and their spouses. Clause 1.1 of the CPRMS reads as follows:-

1.1 The scheme is to provide Medicare to the retired executives including Board Level appointees of Coal India Limited and its subsidiary companies and their spouses.

The term “*medicare*” will include medicare for mental ailment also.

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10. From Section 21 of the Mental Healthcare Act, 2017, which has been dealt with elaborately in the foregoing paragraphs, I come to the conclusion that there cannot be any discrimination in respect of reimbursement of expenses made by a person suffering from physical illness and mental illness. Clause 6.3(i) of the CPRMS, which denies reimbursement of any expenses incurred by the member for psychiatric treatment is directly in conflict with various provisions of the Mental Healthcare Act, 2017, especially Section 21(4) of the Act. This discrimination made in the CPRMS is not based on any intelligible differentia.

11. As noted above, the CPRMS is a scheme floated by the Coal India Limited and approved by its Board in its 240th Board Meeting. Coal India Limited and its subsidiary companies are State within the meaning of Article 12 of the Constitution of India. Their action or any resolution, which they adopt cannot be contrary to the provisions of any Statute promulgated by the legislatures, herein the Parliament of India. If any resolution or a part of the resolution, adopted by the Board, is in conflict with any parliamentary legislation, that part of the resolution will become null and void and the same cannot be given effect to. In this case, the CPRMS was adopted on 08.03.2008, but after promulgation of Mental Healthcare Act, 2017, provision of Clause 6.3(i) of the CPRMS as adopted by the Board, so far as it relates to non-reimbursement of expenses for psychiatric treatment, is in direct conflict with the Act. Thus, I hold and declare that after promulgation of Mental Healthcare Act, 2017 and especially taking into consideration Section 21(4) of the Act, exclusion of psychiatric treatment in CPRMS is rendered nugatory.

12. Considering what has been observed above, a patient receiving psychiatric treatment has to get the same benefit similar to a person suffering from physical illness and as the CPRMS provides for giving several benefits to the persons suffering from physical illness, persons suffering from mental illness are also entitled to receive the same benefit without any discrimination. The benefits also and must include reimbursement of medical expenses also. Accordingly, the Office Note dated 26.10.2019 (Annexure 4) and letter dated 23.01.2020 (Annexure 6), by which the Medical Bill for psychiatric treatment of petitioner's wife had been rejected on the ground that the same is not admissible as per Clause 6.3(i) of CPRMS, are hereby set aside. Respondents are directed to reimburse the amount of admissible expenses to the petitioner and they will not take the defence of Clause 6.3.(i) of the CPRMS. The

amount, which the petitioner is found entitled to, should be disbursed to the petitioner within six weeks from the date of this order.

13. This writ petition is, accordingly, allowed. Pending interlocutory applications, if any, stand disposed of.

(Ananda Sen, J.)

Kumar/Cp-02

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