

PETITIONER:
PUNJAB STATE ELECTRICITY BOARD & ANR

Vs.

RESPONDENT:
SHRI JASBIR SINGH

DATE OF JUDGMENT: 12/02/1999

BENCH:
M.Srinivasan, S.N.Phukan,

JUDGMENT:

DER
Leave granted.

The respondent's son had problem of growth in his height which was, in medical terms, attributed to disease of pituitary glands. Injection Norditropin was prescribed for treatment. The claim of the respondent for reimbursement of the medical expenses incurred on purchase of the said injection to the tune of Rs. 3,13,200/- was rejected by the appellant Board. The respondent, thereupon, filed a writ petition seeking a direction for reimbursement of the said amount with interest in the High Court. The writ petition was resisted primarily on the ground that the policy of the Board was not to reimburse expenses on "imported medicines".

The High Court noticed that the drug in question was not available in India and that the same was an imported drug. The High Court, however, allowed the writ petition observing that the respondent's son had a serious problem and that since the imported drug had been duly prescribed by the doctor at the Post Graduate Institute of Medical Sciences, Chandigarh the respondent was entitled to be reimbursed for the expenses incurred in purchasing the imported drug. The Bench observed:

"In fact, instances are not lacking where people have gone abroad for treatment and the expenses have been paid by the State. Surely, if a particular medicine is not available in India and has to be imported, nobody can help. A poor patient has to import the medicine and take it. This is precisely what appears to have happened in the present case. Still further no reason whatsoever has been advanced in the written statement to indicate as to why a person is not entitled to reimbursement of expenses incurred by him on account of the import of medicine. It can be imagined that if a drug is available in India and yet a person chooses to import a particular medicine and spends money which is avoidable, the competent authority may take the view that no re-imbusement should be allowed or that it should be confined to the expense which the patient would have incurred on getting the drug within the country. However, it is not even suggested in the present case that the drug is available in India. In such a

situation, it appears fair to assume that this life saving drug had to be imported. That being so, there would be no reasonable basis for declining to reimburse the expenses."

Aggrieved by the direction issued by the High Court to re-imburse the amount together with interest, the Board is in appeal by special leave.

We have heard learned counsel for the parties and examined the record.

It is an admitted case of the parties that the policy of the Government of India, which has also been adopted by the Govt. of Punjab and the Board, is that where the drugs manufactured in India have proved ineffective and the prescription of some imported life saving drug is imperative for "saving the life of the patient", such a drug can be prescribed and the patient can procure the same either by placing an order with the foreign firm or otherwise and when that is done and the certificate is issued by the Chief Medical Officer of the District/Medical Superintendent of the hospital to the effect that he is satisfied that the drug in question is considered absolutely essential to "save the life of the patient", reimbursement of costs of the drug, excluding the packaging charges, customs duty from charges etc. is permissible. The High Court, however, appears to have assumed that the drug in question was a "life saving drug". The certificate issued by the Post Graduate Institute of Medical Sciences, Chandigarh which is available on the record at page 32, shows that the disease was not life threatening and Norditropin injection is "not a life saving drug". The submission of learned counsel for the respondent that since the son of the respondent was suffering from a chronic disease, he was entitled to reimbursement of the medical expenses including the expenses incurred on the imported medicine on the basis of the instructions dated 1.1.1991 does not appear to be correct. A careful perusal of the instructions dated 1.1.91 shows that it only lists certain chronic diseases, the treatment for which can be done either as an out-door patient i.e. without being admitted in the hospital or by admission in the hospital. Vide para 2 of those instructions, no reimbursement limit has been fixed as an out-door patient for the employees and pensioners of the State Governments. These general instructions, however, have to be read along with the specific instructions contained in the Government of India instructions dated 21.7.1972 and the instructions issued by the Board in 1997 declaring as a policy of the Board that reimbursement of imported drug shall be permitted only where the imported drug is a "life saving drug". It becomes obvious from joint reading of various instructions (supra) that reimbursement of the drugs, whether imported by the patient himself or purchased from a chemist who has imported those drugs, is permissible only where the imported drug is considered as absolutely essential to "save the life of the patient". It is not in dispute that the drug in question was essential for "saving the life of the patient". That the disease of the patient was a "chronic disease" does not mean that it was "life threatening" in view of the unambiguous certificate issued by the PGI, as referred to above. The Board was, therefore, perfectly justified on the basis of instructions referred to above and its policy decision, to

decline to reimburse the medical expenses incurred on the purchase of the imported drug Norditropin, being not a "life saving drug". Since, the High Court wrongly assumed the drug to be a "life saving drug" it clearly fell in error in issuing the direction for reimbursement of the amount. The judgment of the High Court under the circumstances cannot be sustained.

This appeal, therefore, succeeds and is allowed. The judgment of the High Court is set aside. The writ petition, filed before the High Court shall stand dismissed. No costs.

JUDIS