

THE SUPREME COURT OF INDIA
(ORIGINAL CIVIL WRIT JURISDICTION)
Under Art 32 of the Constitution of India
Civil Writ Petition No of 2015
W.P.(C)No. of 2015

In the matter of:

SHIVA KANT JHA

**J- 351 SFS Sarita Vihar,
 Mathura Road, New Delhi- 76**

.... Petitioner-in-person

vs.

UNION OF INDIA

Through The Secretary,

Ministry of Health & Family Welfare,

Department of Health and Family Welfare,

Nirman Bhavan

New Delhi

.... Respondents

SYNOPSIS

This humble Petitioner is a CGHS beneficiary in his late Seventies. He holds a CGHS Card No. 849831 (Pensioner) valid for whole life for medical treatment in Private Ward. This Petitioner submitted two sets of his Medical bills to the CGHS for reimbursement of the expenditure he had already incurred on his treatment under Emergency conditions at the Escorts Heart Hospital, New Delhi, and again at the Jaslok Hospital. Mumbai.

At the Escorts Heart Hospital, he was taken in emergency conditions, and was examined by Padma Bhushan Dr, Ashok Seth and the doctors of his team, and they decided, on 12 November 2013, to implant the CRT-D device on this Petitioner as part of the Cardiac resynchronization therapy (CRT) to ward off the imminent risk of congestive heart failure (CHF) caused by weakening of the heart muscle (cardiomyopathy), and many other factors taken into consideration by the eminent cardiologists, some of which factors are summarized in this Petitioner's self-drawn 'Medical History' (**Annexure P-10**). The Doctors had perused the comprehensively documented this Petitioner's 'Shadow Medical file' that ran into 313 pages.

On April 31, 2014, he went to Mumbai but within a few hours of arrival there he was struck by an acute stroke, and suffered paralysis of the right side of his body. He was shifted in an ambulance to the Jaslok Hospital where he was treated by a team of cardiologists and neurologists headed by Padmashri Dr. A,B. Mehta.

The treatment that this Petitioner's claims received from the CGHS is demonstrated by the facts set forth in the following table:

Bills submitted on	Amounts of Paid by the CGHS	Amounts outstanding even now
(a) Bill for treatment at the Escorts Heart Hospital, New Delhi, submitted on January 01, 2014 for Rs. 986343	Rs. 490000 paid on 31 March 2015	Rs. 496343
(b) Two Bills for treatment at Jaslok Hospital, Mumbai, submitted on July 19, 2014 for Rs. 398097	Rs, 94885 paid on 25 August 2014	Rs. 303212
	Amount wrongfully denied	<u>Rs. 799555.</u>

The partial payment of the claim for the treatment at the Escorts Heart Hospital was made after 15 months of the submission of the Claim papers, and after several rounds of the knockings at the gate of the authorities. First the Standing Committee of the CGHS rejected this Petitioner's claim twice without hearing the Petitioner, and without hearing him on what stood against his claim. With an indefatigable courage, believing in 'Satyameva Jayte', this Petitioner pursued his claim by submitting, first, a Representation addressed to the Secretary to the Ministry of Health & Family [vide **Annexure P-6**], to which the President of India had allotted the duty to provide health care facilities to the Central Government Servants under the Government of India (Allocation of Business) Rules, 1961, framed under Article 77(3) of the Constitution of India; and then he submitted a memorial addressed to the Director General of the CGHS [vide **Annexure P- 8**].

The partial payment on the Bills pertaining to this Petitioner's treatment at the Jaslok Hospital at Mumbai for stroke and paralysis has been made, after this Petitioner's vexatious experience,

that is hardly one-fourth of the rightful claim for reimbursement of the treatment under gross medical emergency. This slashing down of the claims was made without hearing this Petitioner, and without giving any reasons.

But the aforementioned partial payments (a) have the effect of establishing some points in favour of the Petitioner's claims, but (b) also have the effect of generating a number of grievances for getting which settled under the aspects of justice is this invocation to this Hon'ble Court's jurisdiction under Article 32 of the Constitution of India, These two sets of points are summarised hereunder to be developed in this Writ Petition.

(A) The points which are admitted by the CGHS:

- (i) The CGHS is satisfied that the treatments at the Escorts Heart Hospital, New Delhi, and also at the Jaslok Hospital, were taken under *genuine emergency* (otherwise even the part payments could not have been made);
- (ii) The CGHS, by paying Rs490000 towards the reimbursement of the Petitioner's claim of Rs. 986343, has admitted the propriety of the implant of the CRT-D as done in the Emergency of the Escorts Hospital;
- (iii) The claim for Rs 986343, pertaining to this Petitioner's treatment at the Escorts Heart Hospital, was worked out by the Petitioner on facts stated in the Writ Petition the genuineness of which is not questioned;
- (iv) The partial payments on this Petitioner's Bills for reimbursement of expenditure establish that the Government has already exercised its discretion to relax the rigours of the Rules & procedure, and considered the Petitioner's treatment under emergency GENUINE.

(B) The points which constitute this Petitioner's grievances for which remedies are sought through this Writ Petition,

- (i) The CGHS was duty-bound to pay the Petitioner the cost of the CRT-D as it existed on the date of implant, i.e. on 12 November 2013, that was Rs.800000 on September 21, 2013 vide the quotation given to this Petitioner by the **Medanta Hospital** recognized by CGHS for the treatment of cardiac ailments [vide **Annexure P-3** at p. 142 of the W.P.]. It was reasonable to pay the price as quoted in the open market, or as quoted by the Medanta Hospital recognized by the CGHS, as at that time even the CGHS had not fixed its price. Two points are worth mentioning;

(ii) that the CGHS must pay the price of the device that the doctors planted on this Petitioner in medical emergency the genuineness of which is now admitted by the CGHS:

(iii) that the CGHS has found this Petitioner's claim so justified that it has relaxed the rules of procedure to grant the claim but has acted arbitrarily and unfairly by not granting the full claim as it represented the real expenditure to this Petitioner under medical emergency.

(iv)Apropos this Petitioner's Bill for Reimbursement of expenditure on medical treatment at the Jaslok Hospital. Mumbai, the CGHS has paid Rs 94885 on 25 August 2014 thereby denying the rightful claim of Rs. 303212. This was done by direct payment into my bank Account without passing any speaking order, without letting this Petitioner know the reasons for slashing down this Petitioner's claim for the reimbursement of the expenditure already incurred on medical treatment under Emergency conditions at the Jaslok Hospital at Mumbai, and without taking into the consideration the standard of medical treatment to which this Petitioner was entitled.

II

On the proper construction of (a) the Constitutional duties cast on the Ministry of Health and Family Welfare under the Government of India (Allocation of Business) Rules, 1961 framed under Article 77(3) of the Constitution of India; (b) the provisions the CS (M A) Rules, 1944, read in the light of various recent judicial decisions; and (c) the Government's own policies and rules, a government servant, whilst under yoke or retired, is entitled to 'comprehensive' and full treatment, and is entitled to full reimbursement of the medical expenditure incurred. Besides he contends that his Fundamental Rights under Articles 14 and 21 have been violated in many ways to be stated later in this Writ Petition.

III

This Petitioner has invoked this Hon'ble Court's Jurisdiction under Article 32 (read with the Article 142) of the Constitution of India as he has no other effective and adequate remedy for redressal of his grievance. Some of the reasons driving him to this view are precisely thus stated, to be developed in the Writ Petition:

(i) The impugned decisions violate this Petitioner's Fundamental Rights granted under Articles 14 and 21 of the Constitution of India;

(ii) The Writ Petitioner feels his grievance is not only against the Government violations of/ or indifference to his Fundamental Rights under Articles 14, and 21, but also against the blatant breach of the mandatory requirements of compliance with the Rules of Natural Justice which, in effect, has been considered by this Hon'ble Court as a mandatory requirement emanating from a liberal interpretation of Articles 14 and 21 of our Constitution¹ as "it has become an implied principle of the rule of law that any order having civil consequences should be passed only after following the principles of natural justice"²

(iii) As this Petitioner has *already incurred* heavy expenditure on his medical treatment, and he is in his late Seventies, he cannot be expected to seek justice through a long litigious process via the Administrative Tribunal as it would not only not help him to tide over his present financial distress, it would help the Government drag the matter beyond this Petitioner's lifetime, besides subjecting this Petitioner to the stress of wrecking long litigation in this phase of failing health, and the burden of the consequent expenditure which he cannot bear.

(iv) This Petitioner has paid the whole amount required to be paid by the Hospital Bills before getting his discharge, and has toiled a lot before the CGHS to obtain reimbursement. It is submitted that his conditions are more precarious than that of the companies whose Writ Petitions are admitted as they have to pay tax as conditions-precedent before pursuing their appeals. H. M. Seervai³ said: " The question whether an alternative remedy is onerous arises most frequently in tax cases. Taxing statutes generally provide for appeals and revision, but they also generally provide that the tax demanded shall be paid or deposited, as a condition precedent to the right to appeal or to apply for revision. In such cases, the weight of authority is in favour of the view that the alternative remedies are not adequate...."

(v) If this Petitioner were to seek remedy at the High Court or the Administrative Tribunal, he would be embarrassed to find his Fundamental Right of seeking justice under Article 32, itself a Fundamental Right, would have gone; and if at all he comes before this Hon'ble Court he would be just an appellant, not a Writ Petitioner exercising his Fundamental Right under Article 32 of the Constitution of India..

¹*Union of India v. Tulsiram Patel* AIR 1985 SC 1416; *Olga Tellis v. Bombay Municipal Corp.* (1985) 3 SCC545, pp. 577-84

²*Raghunath Thakur v. Bihar* AIR 1989 SC 620 at p. 62

³ Constitutional Law of India (4th ed.) p. 1604

(vi) Over several years several retired government servants, in their old age, have suffered, even died, aghast at the unfair treatment they got from the CGHS, and its controlling Ministry, the Ministry of Health and Family Welfare, in discharge of their constitutional duties owed to those who had borne the heat and burden of public service all through their working life. The CAG's Performance Audit for 2010-11 deserves to be kept in view. The most relevant portion in the CAG's Report pertains to 'Reimbursement of Medical Claims to the Pensioners under CGHS'. The High Courts too have expressed their anguish again and again, but this Petitioner's Case would demonstrate that the authorities refuse to improve, and refuse to spare even old and ailing retirees from receiving their unkindest cut, and shabby indifference. This Petitioner believes that it is this Hon'ble Court's constitutional duty to consider their ways, and to command them to do their Duties with compassion; and to order the Executive Government to so arrange its affairs as to spare them from being wracked this way trying just to get what is their due.

(vii) This Petitioner's Writ Petition is both *adversarial* as it presents this Petitioner's own case; and also *inquisitorial* as it has a PIL dimension too illustrating what someone said: while persons laugh diversely, they suffer alike. This Writ Petitioner's grievance presents the hardship and anguish of most of the retired public servants who silently suffer helplessly.

(viii) It is most humbly submitted that the CGHS has outsourced its functions to others in cases of super-VIPs, thus discriminating *inter se* the retirees from one realm and those from the other realms even though they all are paid from the public fund of the Government of India⁴, under similar legal provisions. The Government Servants, yet in active service, can somehow manage through their influence, contacts, pressure and persuasion. The ordinary retirees, like this humble Petitioner and the seven other souls whose plight has been studied in the 7 Cases portrayed by the CAG in his Report, are made to suffer, some time with tongue-tied patience, sometime by wasting time suffering the administrative rigmarole, and then, when none comes to rescue, to the

⁴The undersigned is also directed to state that CGHS guidelines currently provide for relaxation of guidelines to cover full reimbursement in individual cases depending upon merits of each case. In the case of Hon'ble Members of Parliament, the powers to relax the guidelines have been delegated to the Lok Sabha Secretariat and Rajya Sabha Secretariat respectively and in the case of Hon'ble Chief Justice of Supreme Court and Judges of the Supreme Court to the Secretary General of the Supreme Court. OFFICE MEMORANDUM Date the 20th February, 2009 (No: 4-18/2005-C&P [Vol. 1 – Pt. (1), Ministry of Health & F.W.]

Tribunals and courts before accepting their lot wistfully. This distress becomes all the more agonizing when we come to know that in the case of some super-retirees even the RTI is not good enough to provide access to their medical expenditure.⁵

(ix) This Petitioner submits that in an analogous case this Hon'ble Court has already exercised its jurisdiction under Article 32 of the Constitution of India to provide an effective remedy in *Kuldip Singh v. Union of India* [JT 2002 (2) S C 506].

IV

The inter-play of the Rights and the Duties

The claim of the reimbursement of medical treatment undergone by the Government servants, whilst in service or retired, is supported by the Central Government Health Scheme [CGHS]/ Central Services (Medical Attendance) Rules, 1944 [referred hereinafter as the CS(MA) Rules] and also is in accordance with the norms and standard prescribed through Notifications/ Circulars/ Office Memoranda, and a number of judicial decisions. The reach and content of the responsibilities and duties, cast under these provisions, are controlled and conditioned by the Constitutional obligations and restraints to which the Central Government is itself subject. Such Rights, and correlative Duties; emanate from the Right to Life that inheres in Government servants whilst in service, and also after retirement if they hold a valid CGHS Card. Besides, the entitlement is also on account of the operation of the **Doctrine of Legitimate Expectations**, the reach of which has been well explained by this Hon'ble Court in para 35 of *Confederation of Ex-Servicemen Association & Ors v. UOI & Ors* AIR 2006 SC 2945.

This Petitioner is entitled to get 'comprehensive treatment' and 'full reimbursement' of his medical claim. The Website of the Ministry of Health & Family Welfare aptly mentions:

“The “Central Government Health Scheme”(CGHS) provides comprehensive health care facilities for the Central Govt. Employees and pensioners and their dependents residing in CGHS covered cities.”⁶

⁵<http://thewire.in/2015/07/02/judges-medical-expenses-will-not-be-disclosed-under-rti-says-sc-5337/>

⁶ <http://msotransparent.nic.in/cghsnew>

V

GROUND'S SUMMARISED

[The CGHS and the appropriate authorities of the Ministry of Health & F.W. are compendiously referred in the Grounds as 'authorities']

I. For that once the CGHS accepts that this Petitioner had to undergo his treatment under Medical Emergency, then full effect is to be given to just and fair medical claim on account of the medical expenditure already incurred under conditions where the Doctrine of Necessity controls the course of action.

II. For that this Petitioner was treated in the Emergency of the Escorts Hospital by a team of cardiologists headed by Padmabhushan Dr. Ashok Seth who, on the holistic view of this Petitioner's conditions and his long cardiac complications and other medical parameters set forth in his 'Medical History' (**Annex P- 10**), implanted CRT-D device as part of cardiac resynchronization therapy (CRT) that resynchronizes the contractions of the heart's ventricles by sending tiny electrical impulses to the heart muscle, which can help the heart pump blood throughout the body more efficiently, and can also function as defibrillators to save heart from a failure. The doctors not only took a holistic view of their patient's health, they perused the comprehensively documented this Petitioner's 'Shadow Medical file' that ran into 313 pages. If their medical decision-making was to be doubted by the CGHS, the right course was to hear the doctors to appreciate what led them do what they did in the Emergency of the Hospital: or, at least to hear this Petitioner who could have produced his medical papers which could provide a necessary perspective for a right medical decision-making in the emergency situations.

III. For that the effect of the existing Government decisions, relevant to this Writ Petition, has been thus stated in Appendix VIII (Reimbursement in Relaxation of Rules in Emergent Cases') to Swamy's *Compilation of Medical Attendance Rules* at page 297:

"(1) *Circumstances to justify treatment in private medical institutions.* In emergent cases involving accidents, serious nature of disease etc., the person/ persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognized hospital is available nearer than the private hospital....."

"(2).It is clarified that the patient while he is in a private hospital should act according to the advice of the hospital authorities. He should get his discharge from the hospital only when the hospital authorities discharge him."

To the same effect is the observation by the Delhi High Court in *Narendra Pal Singh vs. Union of India & Ors* [1999 (79) DLT 358 para 3].

IV. For that the CGHS erred in not appreciating that in case of genuine emergency, "the Doctrine of Necessity comes into play where there is no express legal rule on the subject⁷ and there is a compelling urgency". This norm operates with greater relevance where a Patient is carried to the Emergency of a hospital, and is not himself in a position to take decision, and decide on the course of actions to be adopted. Once such a person is taken to some hospital, it is for the hospital to attend to him in accordance with the norms of medical ethics. It accords with justice and fair play not to deny or reduce the quantum of the claim if it is on account of treatment obtained under the emergency conditions. 'Emergency' brooks with no rules supposed to govern normal circumstances where the Patient is himself a decision-maker, or he is capable to take rounds for currying administrative favours. The Madras High Court aptly observed in [*C. Ganesh v. The Central Administrative Tribunal, Chennai Bench represented by its Registrar, Madras H C Dated: 27.09.2011 W.P.No.11583 of 2011*]:

" A holistic, a humanitarian and pragmatic common sense approach should be the guiding factor in a pragmatic manner in honouring the medical reimbursement claim made by the Petitioner. "

V. For that the CGHS and the authorities of the Ministry of Health & Family Planning erred in not reimbursing the whole amount of expenditure already incurred on this Petitioner's medical treatment under genuine EMERGENCY. It deserves to be noted that under the conditions of genuine EMERGENCY, the distinction between 'authorized' or unauthorized' hospitals ceases to be relevant, because by allowing the possibility of medical treatment at any of the nearest hospital, the Government has, by express implication, recognized that in emergency situations the routine administrative instructions do not apply. In *UoI vs. J.P.Singh*, the Hon'ble Delhi High Court observed:

"It is also not in dispute that various instructions have been issued under the scheme from time to time..... But, what should happen in the case of emergency? Neither a policy nor a circular has been shown to us which deals with the said situation. Now, when would ill luck strike a person? Nobody can predict." [2010 LIC 3383 para 5]

⁷ "It is also not in dispute that various instructions have been issued under the scheme from time to time..... But, what should happen in the case of emergency? Neither a policy nor a circular has been shown to us which deals with the said situation." (*UoI vs J.P.Singh*)

VI. For that the authorities relaxed the rules, but erred in not giving full effect to that decision having the effect of unfair curtailment of the claim for disbursement of the expenditure incurred under emergency conditions.

. The ambit of Relaxation of procedure for Treatment under Emergency as clarified under the Government's operative Instructions/ Circulars

VII. For that the impugned orders are not in conformity with the Governments Notifications [No. 4-18;2005- and that bearing No. H. 11022/01/2014-. providing guidelines to be followed in considering requests for relaxation of procedures in *considering requests for medical reimbursement over and above the approved rates* in the Emergency Cases. They contemplate relaxation of the prescribed procedure and the reimbursement in excess of the approved rates under conditions including (a) the treatment obtained in a private hospital not empanelled hospital under emergency but got "admitted by others when the beneficiary was unconscious or severely incapacitated", (b) the treatment was obtained in a private hospital not empanelled under emergency for Coma; and (c) "any other special circumstances".

VIII. For that the authorities failed to appreciate that the medical conditions of this Petitioner, whilst admitted at the Escorts Hospital, Delhi, and at the Jaslok Hospital, Mumbai, were precisely those considered as the adequate reasons for treatment under emergency for which the Government provided the relaxation of the procedure, and authorized full payment towards the expenditure incurred on medical treatment under emergency. This Petitioner had been taken to the Emergency of the Escorts Hospital by his daughter : to quote from the Essentiality Certificate issued by the said Hospital:

" This is to certify that Mr. S. K. Jha (IPD) No - 00026353) is a patient of mine and was **brought** to emergency....."

And at the Jaslok Hospital, Mumbai, he was carried to the Emergency on **an ambulance** [vide the Bill No ALS-22-1674 dated 1/5/2014 issued by Ambulance Access For All],

IX. For that the authorities failed to appreciate that this Petitioner had been taken to the Hospitals when he was himself comatose. At the Escorts Hospital, the doctors took note of the Petitioner's 'Medical History'⁸ and subjected him to a life-saving procedure by implanting the device of the CRT-D. At the Jaslok Hospital, he was brought to the hospital just after suffering a

⁸Annexure P-10

stroke and paralysis. What was done to him at the Jaslok Hospital is described by Padmashri Dr A.B. Mehta who led the team of cardiologists and neurologists vide para 37 of the W.P. & Ground 15.

X. For that the doctors, both at the Escorts Hospital, New Delhi, and the Jaslok Hospital, Mumbai, took note of the medical history of this Petitioner over all the years after 1989 when he had suffered his first Heart Attack and was treated at the Apollo Hospital, Madras on the CGHS reference. This 'Medical History' is summarized in the Discharge Summary⁹, and is also set forth in **Annexure P-10**.

Apropos the Medical Bill of the Escorts Heart Hospital

XI. For that the authorities erred in not paying for the implant, at the Escorts Heart Hospital, of the device of CRT-D at the market-price of the device as on that day of its IMPLANT, the CGHS had not even prescribed its price; or at price as quoted by any CGHS recognised hospital as was the Medanta Hospital which . was Rs 800000/ (see Annexure P-3).

XII. For that the authorities erred in questioning the doctors' decision, in discharge of their medical duty, taken on the holistic view of the Patient's conditions. If any authority doubted their medical decision, the only right course would have been:

- (a) to ask the Patient (here Petitioner) to produce all his medical papers for assessing the propriety of the medical decision under the stress of emergency; or
- (b) to request the doctors who had taken decision to implant the device on this Petitioner to explain their grounds for their decision under the conditions of emergency.

XIII. For that the authorities erred in not reimbursing to this Petitioner the cost of the CARELINK FOR REMOTE MONITERING which this Petitioner got installed, under the doctor's instruction in his Discharge Summary itself, for the continuous monitoring of the device implanted, and his cardiac conditions.

⁹ "The patient is hypertensive, non-diabetic with positive family history of ischaemic heart disease. He is a known case of coronary artery disease, old ASMI (1989), PTCA with stent to RCA &LCx (1989), PTCA with stent to LCx (1992), PTCA with stent to RCA (2001). He was brought to emergency with complaints of breathlessness at rest, syncope (1 episode) &ghabrahat. He was admitted to FEHI for further management." Discharge Summary, dated 14/11/2013.

XIV. For that the authorities erred paying only Rs. 94885 instead of the entire amount of the Medical Bills (aggregating to Rs 398097/) pertaining to this Petitioner's treatment at the Jaslok Hospital, Mumbai under medical emergency. This sort of arbitrary slashing down of the claim for reimbursement of the medical expenditure was without hearing this Petitioner, without even informing this Petitioner about things which stood in the way of the full payment.

XV. For that the authorities erred in deciding the issues pertaining to this Petitioner's Medical Bills for reimbursement of medical expenditure in total contravention of the Rules of Natural Justice mandated for compliance both by the Proviso to Rule 3 of the CS (MA) Rules 1944, and by Article 14 of the Constitution of India. All the decisions, which this Petitioner has impugned in this Writ Petition, were taken without giving an opportunity to the claimant of being heard in the matter, even without communicating to the claimant the reasons for not honouring the claim fully. In short, the decisions against which this Petitioner is aggrieved, were wholly arbitrary and irrational, and deserve to be set aside, and the Respondents deserve to be mandamussed to honour this humble Petitioner's CLAIMS in full.

XVI. For that when one is compelled to undergo treatment under acute emergency, when one has ceased to be one's own decision-maker, and is shifted to the hospital by others by calling Ambulance, one cannot be denied the benefit of 'comprehensive treatment' and 'full payment' of the claims on routine grounds. The CGHS Rates are the prefabricated norms which become otiose and irrelevant when applied to the medical treatment undergone under Emergency. What is reasonable in normal conditions, may not be reasonable under an emergency. 'Necessity's sharp pinch' overrides the norms by substituting what is reasonable under the circumstances when the medical treatment is obtained. It is this wisdom on which the Rajasthan High Court decided in the case of *Bodu Ram Jat Vs State of Rajasthan and Ors.* reported in 2006 (5) SLR 705 recognising two categories of 'medical treatment': one where the medical benefit is given for routine medical treatment; and the other where the medical benefit is for serious ailment. The said High Court held that "technicalities should not have been applied by the respondents". It would be arbitrary and unreasonable to impose ceiling limit on the amount to be reimbursed where the Government admits that the treatment was taken under Emergency. Once the factum of treatment under

emergency is beyond doubt, there is no option but to reimburse the entire claim pertaining to the medical expenditure incurred.

XVII. For that this Petitioner's CGHS Card entitled him to get treatment in a 'Private Ward' of a super-speciality hospital providing "accommodation as is ordinarily provided in the hospital and is suited to his status". So he was entitled to the grant of reimbursement at the CGHS rates prescribed for super-speciality hospital. This accords with the view of the Delhi High Court in *Jai Pal Aggarwal vs. Union Of India* (MANU/DE/2861/2013).

XVIII. For that the authorities have wrongfully ignored this Petitioner's Right to Life by the drastic and arbitrary reduction of the amounts of this Petitioner's claim. Not only this Petitioner had to disgorge a very heavy sum to the hospitals before getting his discharge, his resources to maintain himself in his late 70s of his life have been depleted. The authorities have wrongfully ignored this Petitioner's Fundamental Rights under Articles 14 and 21 of the Constitution by denying to this Petitioner the Right to be Heard thereby denying the benefit of the operation of the rules of Natural Justice that governs all decisions made under Administrative Law. In deciding this Petitioner's Case, these norms have been ignored deliberately as the authorities have convinced themselves that they are under no such duty as is evident from 2 things viz.:

(i) the fact that all the impugned decisions were made without hearing this Petitioner in utter breach of the Rules of Natural Justice; and

(ii) the wrongful omission of the Proviso to the Rule 3 of the CS (MA) Rules, 1944 [vide Ground 34], having the effect of wrongfully convincing the authorities that the opportunity of hearing was not required to be given to the claimant.

XIX. For that this Petitioner is aggrieved with the authorities as they have not exercised their discretion fairly as they did not appreciate the conditions under which this Petitioner was placed when he suffered his agonizing cardiac complications, cerebral stroke, and right side paralysis. Such decisions are also tainted with other gross defects, like illegality, irrationality and procedural impropriety. Not appreciating the stress of the Doctrine of Necessity, and not appreciating that the main decision-maker had lost his competence to decide and was bidden by the circumstance to act as the doctors directed in the Emergency of the Escorts Hospital and of the Jaslok Hospital, was both unfair and arbitrary.

XX. For that the authorities, who took these impugned decisions, failed to appreciate that this Petitioner was entitled to the benefit sought even under the **Doctrine of Legitimate Expectation** as expounded in in *Confederation of Ex-Servicemen Association & Ors v. UOI & Ors* AIR 2006 SC 2945.

XXI. For that the authorities violated this Petitioner's Fundamental Rights under Articles 14 and 21 of our Constitution and Rules of Natural Justice, and also by not adopting a holistic, humanitarian and pragmatic common sense approach in deciding this Petitioner's Case.

XXII. For that medical treatment under emergency is not subject to administrative instructions, or the memoranda issued by the CGHS, because the provision of proper treatment cannot be subjected to pre-fabricated rates, or rules.¹⁰

CONCLUSION

This Writ Petition is being filed to get the reimbursement of Rs 799555, wrongfully denied to this Petitioner by the CGHS, by not reimbursing this Petitioner's claims for full reimbursement of his medical expenditure, already incurred, on his treatment under emergency, at the Escorts Hospital, and the Jaslok Hospital.

This Petitioner's Writ Petition is both *adversarial* as it presents this Petitioner's own case; and also *inquisitorial* as it has a PIL dimension too for the weal of all retirees, like this humble self, who suffer with tongue-tied patience already noticed, with agony, by the High Courts, and comprehensively documented in the Report of the CAG on the Performance Audit of the Government of India No. 3 of 2010-11 in the Chapter on 'Reimbursement of Medical Claims to the Pensioners under CGHS' [Annex P-12]. Personal and Public dimensions so co-exist crying for Justice illustrating what someone said: while persons laugh diversely, they suffer alike. This Petitioner would refer to certain Case Studies recorded in the CAG's aforementioned Report, as these Case Studies come to this Petitioner's mind whenever he reflects over his own plight wrought by the administrative remissness of the CGHS.

This Writ petition advances for the consideration of this Hon'ble Court 58 grounds which form distinct clusters set out at pp. 43-44 of the W.P.

¹⁰"It is also not in dispute that various instructions have been issued under the scheme from time to time..... But, what should happen in the case of emergency? Neither a policy nor a circular has been shown to us which deals with the said situation." *UoI vs. J.P.Singh* [2010 LIC 3383 para 5] Del. H.Ct.