

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 6491/2014

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27th January, 2015

PROF. D.K.SENGUPTA

..... Petitioner

Through: Ms. Nandni Sen, Adv.

versus

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS.

..... Respondents

**Through: Ms. Ferida Satarwala, Adv. for
GNCTD.**

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. 23.1.2015 was declared a holiday, and by the notification No.11/Genl/DHC dated 21.1.2015 the cases of 23.1.2015 were to be taken up today. This case is therefore taken up today.

2. By this writ petition under Article 226 of the Constitution of India, and which is filed in July, 2014, petitioner impugns the order of the erstwhile employer/respondent no.3 dated 7.7.2005 i.e issued around 9 years prior to filing of the writ petition. By the impugned order petitioner has been denied medical reimbursement on the ground that petitioner had not

subscribed to the medical scheme i.e D.H.S. Scheme after retirement, and consequently, petitioner cannot get medical reimbursement.

3. This writ petition is liable to be dismissed on two main grounds. First ground is that no doubt limitation act does not apply to a writ petition, but the spirit of the principles of limitation act will apply by applying the doctrine of delay and *laches* inasmuch as what cannot be done by means of filing of a civil suit, ordinarily cannot be done by filing of a writ petition much beyond the limitation period. Merely because petitioner claims to have been pursuing his grievances with the Public Grievances Commission cannot mean that delay and *laches* can be condoned. This is all the more so in this case because the Public Grievances Commission had closed the case of the petitioner first time way back on 30.1.2008. In any case, as stated above, howsoever good a case, the same is lost if the remedies are not availed of in around the period of limitation and hence this petition is barred by delay and *laches*.

4. The second ground for rejecting the relief claimed by the petitioner is that admittedly the petitioner, and who was also the Principal (Engineering) of the Govind Ballabh Pant Polytechnic/employer, was not a member to the Delhi Government Employees Health Scheme (DGEHS) on

and after his retirement i.e when he took medical treatment with respect to the by-pass surgery after retirement. Once a person is not a member of the medical scheme, benefits of the medical scheme cannot go to such a person.

5. I may note that petitioner claims that it was the duty of the respondent no.3/employer to inform the petitioner that petitioner must subscribe to the medical scheme, and the petitioner places reliance upon the circular of the Government of National Capital Territory of Delhi dated 26.7.1997, however, para 1 of the circular only states that with respect to employees who are in service, monthly contribution will be deducted from their salary, and this para does not pertain to retired employees, who have to by making payment become a member of the medical scheme . There is no rule that a retiring or a retired employee should be informed by the employer that he should become a member of the medical scheme viz the DGEHS.

6. Learned counsel for the respondents in my opinion rightly points out that it is not as if the petitioner was an illiterate person or a person in the clerical/class IV category employee inasmuch as the petitioner was in fact the Principal of the employer/respondent no.3.

7. In view of the above, no relief can be granted to the petitioner because admittedly petitioner was not a member of the medical scheme

when he took the treatment/underwent by-pass surgery and also because the petitioner cannot challenge in July,2014 an order of July, 2005 which denied medical reimbursement to the petitioner.

8. Dismissed.

JANUARY 27, 2015
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VALMIKI J. MEHTA, J.