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

\+ W.P.(C) 10157/2015

% ***Judgment dated 30th October, 2015***

UNION OF INDIA ..... Petitioner

Through : Mr. V.S.R. Krishna with Mr. A.K. Shrivastava, Advocates

versus

YOGESH NIRALA AND ORS. ..... Respondents

Through : Mr. M.R. Singh with Mr. Badal Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (*ORAL*)

CM.APPL25096/2015(delay in re-filing)

1. For the reasons stated in the application, delay of 75 days in re-filling the writ petition is condoned. The application is allowed.

W.P.(C) 10157/2015

2. Challenge in this writ petition is to the order of the Central Administrative Tribunal (hereinafter referred to for short as 'the Tribunal') dated 18.02.2015, by which an OA filed by respondent no.1 herein was allowed.
3. We may notice that the respondent had made a claim of Rs.7.0 lakhs on the petitioner for expenses incurred by him for the treatment of his son, who was suffering from Duchene Muscular Dystrophy(DMD). The respondent had made a claim with respect to Rs.7.00 lakhs spent by him for treatment of his son who underwent Stem Cell therapy at a private hospital in Pune. The claim of the respondent was rejected as the treatment was from a non-

government hospital and without prior approval and not being an emergency case.

4. The learned counsel for the petitioner submits that the learned Tribunal has exceeded his jurisdiction and not taken into account the rule position and has allowed the request of the respondent.

5. We have heard the learned counsel for the petitioner and considered the matter in detail as also examined the judgment passed by the Tribunal.

6. The facts which emerge are that the son of the respondent was detected suffering from serious disease of Duchene Muscular Dystrophy(DMD) from his birth. He developed the following deficiencies:

> "1. Bilateral Tendoachillis Tightness
> 2. Bilateral Equinusvarus Deformity (40-45 degree)
> 3. Bilateral ilipsoas Tightness
> 4. Bilateral Rectus femoris Tightness
> 5. Bilateral adductors
> 6. Bilateral Finger Flexor
> 7. Poor Balance
> 8. Bilateral Pes Planus
> 9. Kyphoscoliosis
> 10. Bilateral FFD of knee (50-55 degree)"

7. When the child was about three years of age, his parents found that his growth was not normal. The respondent approached the Central Hospital, Northern Railway, New Delhi for diagnosis and treatment and thereafter, case of the son of the respondent was referred to All India Institute of Medical Sciences(AIIMS), who diagnosed the deceased as DMD. As the respondent found that the treatment was not satisfactory, he consulted Santosh Medical & Dental Hospital, Ghaziabad and Rajpur Orthopaedic Centre, Bombay. He then approached Chaitanya Hospital and Nursing Home, Pune and got his son admitted from 17.11.2011 to 29.11.2011. The son of the respondent was administered Stem Cell doses for the treatment

for which Rs.4.0 lakhs were charged and subsequently, for further treatment Rs.3.0 lakhs was charged.

8. The Tribunal examined the entire documents available on record and reached a conclusion that in fact, the respondent's son was suffering from DMD and Rs.7.00 lacs were spent by the respondents for the treatment of his son, who has since died. The learned Tribunal has also noted that initially the respondent had approached the Central Hospital, Northern Railway and AIIMS for treatment. What has prevailed in the mind of Tribunal is that no parent could have left his child to die and he wanted to avail to every possible treatment for his child.

9. We find no infirmity in the reasoning of the Tribunal and thus, dismiss the writ petition, except to state that the present case would not be treated as a precedent. The amount be released in favour of the respondent within four weeks from today. No costs.

CM.APPL 25066/2015(stay)

10. Application stands dismissed in view of the order passed in the writ petition.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

OCTOBER 30, 2015
pst