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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9579/2016**
DR RAM MANOHAR LOHIA HOSPITAL THROUGH MEDICAL
SUPERINTENDENT

..... Petitioner

Through Mr Himanshu Upadhyay and Ms
Ruby Sharma, Advs.

versus

YOGESH KUMAR AND ORS

..... Respondent

Through Ms Avnish Ahlawat with Ms Latika
Chaudhary, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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19.10.2016

CM 38388/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application is disposed of.

W.P.(C) 9579/2016 & CM 38387/2016 (stay)

Learned counsel for the petitioner submits that the Central Administrative Tribunal, Principal Bench, New Delhi, by the impugned order dated 12.08.2016 has exceeded the scope and ambit of contempt jurisdiction in directing that allowances would be included while computing the minimum scale of pay.

2. The sole submission is that the aforesaid directions could only have been issued in an original application and not in the contempt petition.

3. We do not find any merit in the submission for the objection is technical and is *ex facie* contrary to the directions of the Tribunal in their order dated 20.02.2015 passed in OA No.2966/2013. This order refers to the

judgment of the Delhi High Court dated 15.02.2013 in *Deen Dayal Upadhyaya Hospital represented by its Medical Superintendent & Others v. Mahesh Bhardwaj & Ors.* (W.P.(C) No.4863/2012) and to the decision of the Tribunal in the case of *Victoria Massey's v. NCTD & Ors.* (W.P.(C) No. 8476/2009). The order in the case of *Deen Dayal Upadhyaya Hospital* (supra) specifically directs that the wages at the minimum scale would include all allowances as are payable to the regular employees, sans annual increment.

4. Learned counsel for the respondents, who appears on advance notice submits that the order dated 20.02.2015 passed in OA No.2966/2013 was assailed and challenged in W.P.(C) No. 142/2016, *Dr Ram Manohar Lohia Hospital v Yogesh Kumar & Ors.* and vide judgment dated 08.01.2016, the writ petition was dismissed. In the said writ petition, specific challenge was made to the directions given by the Tribunal that allowance was to be included in the minimum pay scale. The Division Bench had referred to the decision in the case of *Deen Dayal Upadhyaya Hospital represented by its Medical Superintendent & Others v. Mahesh Bhardwaj & Ors.* [W.P.(C) No.4863/2012] and rejected the submission. Thus, the impugned order merely gives another opportunity for compliance and does not issue a new direction.

5. There is merit in the contention of the respondents. The mandate of the order dated 20.02.2015, as recorded above, is clear and categorical. In these circumstances, we would not like to entertain the present writ petition and the same is dismissed. We hope and trust that the petitioner, which is a hospital run by the Union of India, would comply with the directions which have been issued in not one but several cases to include the allowances in

the minimum pay scale. The stance of the petitioner is unsupportable and cannot be accepted.

6. At this stage, learned counsel for the petitioner prays that an extension of time may be granted for compliance with the order. Learned counsel for the respondents states that she has no objection.

7. In view of the prayer made by the petitioner, a further period of one month is granted to the petitioner to comply with the order.

8. The writ petition is disposed of.

9. Pending CM is also disposed of.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 19, 2016/rd