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

\+ W.P.(C) 204/2017 & CM No. 950/2017

GOVT OF NCT OF DELHI AND ORS ..... Petitioners

Through: Mr. Anuj Aggarwal, ASC, GNCTD along with Mr. Deboshree Mukherjee, Advocate.

versus

JAGANNATH BANSAL ..... Respondent

Through: Mr. R.K. Mirg, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% 08.05.2017

The petitioners have assail an order dated 26.08.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 4164/2015. The Tribunal has allowed the said Original Application of the respondent and directed the petitioners herein to make payment of Rs. 43,649/- which is the remaining amount out of the total bill of Rs. 70,511/- raised by the Saroj Hospital and amount of Rs. 2,64,593/- raised by the Fortis Hospital to the respondent/applicant within 60 days from the date of the receipt of the order.

During the pendency of this petition, the petitioners have made a payment of amount of Rs. 1,19,614/- as per the approved rates in respect of the treatment received by the respondent at Fortis Hospital.

The respondent is satisfied with the said payment received qua Fortis Hospital and does not insist on payment of Rs. 2,64,593/- which is the amount spent by him for his treatment at Fortis Hospital. So far as the amount expended by the respondent for treatment at Saroj Hospital is concerned, the petitioners have not released an amount of Rs. 43,649/- out of the total bill amount of Rs. 70,511/- raised by Saroj Hospital.

Mr. Aggarwal, learned counsel for the petitioners submits that when the respondent went for treatment at Saroj Hospital, he did not show his CGHS card and consequently Saroj Hospital had raised the bill at the normal rates and not at the approved rates.

We cannot accept this submission of the petitioners. If the respondent was entitled to receive treatment at the empanelled hospital, the petitioners are bound to reimburse the entire amount incurred by the employee. In case, Saroj Hospital has raised the bill at higher rates than the approved rates, it is a matter for the petitioners to take up with Saroj Hospital and the respondent cannot be made to suffer on that account. Pertinently, the aforesaid plea was not even raised by the petitioners in their counter affidavit filed before the Tribunal and the same is being raised for the first time before this Court.

Accordingly, we affirm the directions issued by the Tribunal, directing the petitioners to make payment of Rs. 43,649/- to the respondent. The said amount was directed to be paid within 60 days from the receipt of the copy of the impugned order dated 26.08.2016. Same is still yet not been paid.

In view of the aforesaid, we direct that the petitioners shall pay interest at the rate of 10% per annum on the amount of Rs. 43,649/- as well as on the amount of Rs. 1,19,614/- from the date of the submission of the application for refund till payment.

The petitioners shall pay costs of Rs. 10,000/- to the respondent within two weeks since this is the third round of litigation between the parties.

Dasti.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 08, 2017
ss