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

+ **W.P.(C) 3619/2018**

**THE MEDICAL SUPERINTENDENT, BABA SAHEB
AMBEDKAR HOSPITAL & ANR**

..... Petitioners

Through: Mr.Shadan Farasat, ASC with
Mr.Ahmed Said, Advs.

versus

DR. VINAY & ORS

..... Respondents

Through: Mr.U. Srivastava, Adv.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **11.07.2018**

**CM No.26105/2018 (by the petitioner for condonation of 17 days
delay in filing affidavit)**

1. For the reasons stated in the application, the delay of 17 days in filing the affidavit is condoned.
2. The affidavit is taken on record.
3. The application is disposed of.

W.P.(C) 3619/2018 & CM Nos.14295/2018 (for additional documents), 14296/2018 (for lengthy synopsis)

1. The petitioner/Baba Saheb Ambedkar Hospital is aggrieved by the judgment dated 17.11.2016 passed by the Principal Bench, Central Administrative Tribunal, New Delhi in OA No.2804/2016, which was filed by the respondents challenging the decision of the petitioner/hospital to replace them as Junior Resident Doctors

(Dental) with candidates from the waiting list on an ad hoc basis. By the impugned order, the Tribunal held that the petitioner cannot replace the respondents with another set of ad hoc employees and that their services can only be disengaged on arrival of regularly appointed Junior Resident Doctors (Dental). As a result, the petitioners were directed to extend the tenure of Junior Residency of the respondents till the posting of new regularly recruited Dental Doctors.

2. The petitioner is also aggrieved by the order dated 08.09.2017 passed by the Tribunal in a Contempt Petition filed by the respondents seeking implementation of the impugned judgment (CP 115/2017). In the said order, it was recorded that since the services of the respondents have been dispensed with by not allowing them to continue beyond 22.02.2017, even though the regularly appointed Junior Residents have joined on 21.06.2017, the hospital was willing to pay the respondents' remuneration meant for Junior Residents for the period between the aforesaid dates. While recording the aforesaid undertaking, the Tribunal granted a period of two months to the petitioner/hospital to pay the respondents' remuneration for the period from 22.02.2017 to 21.06.2017 and the contempt proceedings were dropped with liberty granted to the respondents to seek its revival in the event the petitioner/hospital failed to comply with the undertaking recorded in the order dated 08.09.2017.

3. Aggrieved by the aforesaid orders, the present petition has been filed by the petitioner in March, 2018.

4. On 13.04.2018, learned counsel for the petitioner was directed to file an affidavit explaining the delay in approaching the Court for relief against the judgment passed by the Tribunal as long back as on 17.11.2016. The said affidavit has been filed.

5. On perusing the same, we do not find any just or sufficient cause for explaining the delay of almost one year in filing the writ petition. Even on merits, we do not see any reason to entertain the present petition, when the petitioners have already dispensed with the services of the respondents by not allowing them to continue beyond 22.02.2017 and the hospital had itself expressed its readiness and willingness before the Tribunal to pay the respondents' remuneration for the period between 22.02.2017 to 21.06.2017 when the regularly appointed Junior Resident Doctors had joined. The petitioner cannot be permitted to renege from the undertaking given to the Tribunal as recorded in CP No.115/2017, on 08.09.2017.

6. We are informed by the learned counsel for the respondents that when the petitioner failed to comply with the undertaking recorded in the order dated 08.09.2017, the respondents were compelled to seek revival of the contempt petition and it is only at that stage that they woke up and filed the present petition. He states that as of today, the petitioner has still not complied with the undertaking recorded on 08.09.2017. As a result, vide order dated 03.07.2018, the Tribunal has directed the personal presence of the Medical Superintendent of the petitioner/hospital on 09.07.2018. He further submits that, while the Medical Superintendent of the hospital was present in the Tribunal

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on 09.07.2018, the matter could not reach for a hearing and was adjourned for today.

7. The writ petition is dismissed on the ground of delay and laches with a direction issued to the petitioner to release the amounts payable to the respondents within three weeks from today. If the remunerations are not paid to the respondents within three weeks from today, then the respondents shall be entitled to press the contempt petition further. The pending applications also stand disposed of.

HIMA KOHLI, J

REKHA PALLI, J

JULY 11, 2018
gm