

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

Date of Order: December 13, 2018

+ **W.P.(C) 5887/2013**

M/S DEEPAK MEMORIAL HOSPITAL EMPLOYEES UNION
(REGD) Petitioner

Through: Mr.Krishna Chandra Dubey,
Advocate

versus

MGT. OF DEEPAK MEMORIAL HOSPITAL & MEDICAL
RESEARCH CENTRE Respondent

Through: Mr.Harvinder Singh and Mr.
Sandeep Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 28th February, 2012 (*Annexure P-1*) rejects petitioner's application of 8th August, 2011 under Section 29 of *the Industrial Disputes Act, 1947* (hereinafter referred to as '*the ID Act*') for violations of terms of Agreements entered into between the Management and the Employees' Union on 23rd July, 1996, 21st October, 2003 and 27th January, 2005. Petitioner's another similar application of 5th December, 2011 alleging violation of paragraphs No.3 & 5 of Settlement of 16th September, 2006 also stands dismissed vide impugned order of 28th February, 2012.

2. Impugned order of 28th February, 2012 (*Annexure P-1*) notes the stand of the parties and refers to the record of the Management to the

effect that 44 workers are covered by the Employees' State Insurance Company (*hereinafter referred to as 'ESIC'*) in terms of the Agreement of 16th September, 2006 and the Management is contributing towards ESIC for these workers and there is no legal liability of the Management to provide free medical facilities to these workers as they are not covered by ESIC Policy. The stand of management of there being no violation of paragraph No.5 of the Settlement of 16th September, 2006 is also adverted to in the impugned order and cryptically the concerned Deputy Labour Commissioner concludes in the impugned order that the stand of petitioner-workers is not legally tenable. No reasoning to arrive at the aforesaid conclusion is forthcoming in the impugned order. The operative portion of the impugned order refers to the consensus of a draft fresh settlement and it is stated in the impugned order that no fresh settlement could be arrived at, despite meetings being held by the Management and the Workers on different dates.

3. Upon hearing, I find that the impugned order cannot be sustained as it does not consider petitioner's application of 8th August, 2011 in proper perspective. Reference to the Settlement of 16th September, 2006 in the impugned order is not required to be gone into, as during the course of hearing, both the sides had submitted that the challenge to the legality of these Settlements is *sub judice* before the concerned Industrial Tribunal and now, the petition challenging the Settlement of 16th September, 2006 stands dismissed in default.

4. Be that as it may. Since it is stand of respondent-Management that there is no violation of the aforesaid four Settlements, therefore, the

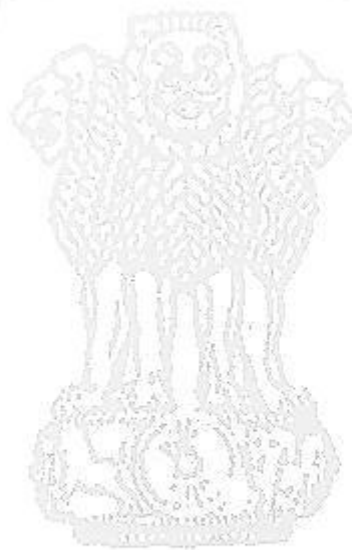
concerned Authority is required to pass a speaking order regarding purported violation of the afore-referred Agreements. In light of the above, impugned order of 28th February, 2012 (*Annexure P-1*) is hereby quashed while expressing no opinion on the merits, and with direction to the concerned Authority to reconsider petitioner' applications of 8th August, 2011 and 5th December, 2011 expeditiously and to pass a speaking order thereon.

5. With aforesaid directions, this petition is disposed of.

DECEMBER 13, 2018

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**(SUNIL GAUR)
JUDGE**



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