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

+ **W.P.(C) 9960/2017**

ANGOORI DEVI GAUTAM

..... Petitioner

Through: Mr. H.S. Gautam, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Jitendra K.Singh, Standing
Counsel with Mr.Amit Kumar,
Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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14.11.2019

1. The Petitioner is aggrieved by an order dated 26th May, 2017 of the Central Administrative Tribunal ('CAT'), Principal Bench, New Delhi rejecting her OA No. 2069 of 2015 in which she sought directions to the Respondents to reimburse the expenses incurred by her on her medical treatment for various ailments during 2014 in the total sum of Rs.7,85,004/-.

2. The admitted facts are that the Petitioner's husband retired from the Railways on 31st March 1992. On his retirement, pension was sanctioned. He died on 21st January, 2009. Thereafter, the Petitioner was sanctioned family pension, which she has been provided.

3. As regards her claim for reimbursement of the medical expenses, the

Respondents have denied the same on the ground that she is not a member of the Retired Employees Liberalized Health Scheme ('RELHS'), 1997.

4. Before the CAT the Petitioner placed reliance on the decision in ***Ram Kumar Kaushik v. Govt. of NCT of Delhi 229 (2016) DLT 219*** and argued that even though the Petitioner was not member of the RELHS, she would still be entitled for the reimbursement. The Tribunal has distinguished the said judgment on the ground that it concerned a retired employee and not a spouse.

5. The Court has heard the learned counsel for the parties. It appears that in ***Ram Kumar Kaushik (supra)***, a learned Single Judge of this Court relied on an earlier decision in ***Kishan Chand v. Govt. of NCT of Delhi 169 (2010) DLT 32*** where it was observed as under:

"8. It is quite shocking that despite various pronouncements of this Court and of the Apex Court the respondents in utter defiance of the law laid down have taken a position that the pensioner is not entitled to the grant of medical reimbursement since he did not opt to become a member of the said health scheme after his retirement or before the said surgery undergone by him. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any other medical treatment. Under Article 21 of the Constitution of India, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired. Clearly in the present case by taking a very inhuman approach, these officials have

denied the grant of medical reimbursement to the petitioner forcing him to approach this Court. The respondents did not bother even after the judgment of this Court was brought to their notice and copy of the same was placed by the petitioner along with the present petition.

9. In the light of the aforesaid, the present petition is allowed.

10. The respondents are directed to pay the said medical claim of the petitioner along with 18% interest from the date of submission of his bill. The said payment shall be made by the respondent within one month from the date of this order. Additional costs of Rs. 10,000/- is also imposed on the respondents for causing delay in making the said payment to the petitioner."

6. A careful perusal of the above decision reveals that the ground on which Respondents in that case had denied the relief to the Petitioner, who was the former employee himself, was that he had not become a member prior to the surgery undergone by him.

7. Learned counsel for the Respondents points out how in respect of all retired employees as of 20th January 2005, who had not yet become members of the RELHS, a further 11 month window up to 21st December 2005 was provided to become members of the RELHS. It was made clear that the said time limit would not be extended under any circumstance.

8. The Petitioner's husband did not become member of the RELHS despite the above extension of time. In the circumstances, the Respondents appear to be justified in declining the Petitioner's request for medical reimbursement.

9. Learned counsel for the Petitioner urged that the Petitioner was not aware of the RELHS and even now she is prepared to become a member. The Court is unable to find any error in the decision of the Respondents in declining the Petitioner's request. With the Petitioner's spouse not having become a member of the RELHS even during the extended period, permitting the Petitioner now to become a member thereof would not set a correct precedent. The Court is accordingly unable to accede that request either.

10. No grounds have been made out for any interference in the impugned judgment of the Tribunal. The petition is accordingly dismissed.

11. The Petitioner's request for being granted a medical card will be considered on its merits by the Respondents and a decision will be taken thereon within 12 weeks from today. The said decision will be communicated to the Petitioner within a week thereafter. If aggrieved on that score, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 14, 2019 / tr