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

Date of Decision: 16th March, 2021

+ **W.P.(C) 3432/2021**

MUKUL TALWAR

..... Petitioner

Through: Mr. Kirti Uppal, Mr. Aman Bhalla,
Ms. Riya Gulati and Ms. Pallavi
Saigal, Advocates. (M:8826971251)

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Ms. Sarika Singh, Advocate with Ms.
Dacchita Shahi GP, Advocate.
(M:9971556985)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

CM APPL.10410/2021 (for delay in filing)

1. For the reasons stated in the application, the delay of 389 days in filing the petition is condoned. Application is disposed of.

CM APPL.10411/2021 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 3432/2021

3. The present petition has been filed seeking reimbursement of the medical expenses incurred on the medical treatment of Smt. Raj Mohini Talwar, who was the wife of a former judge of this Court Justice Charanjit Talwar, and is since deceased.

4. The present petition has been preferred by Mr. Mukul Talwar, the son of the deceased mother, seeking reimbursement of Rs.5,58,245/-, which was

incurred during the treatment of the deceased from 4th March, 2015 to 2nd April, 2015.

5. Ms. Sarika Singh, Id. counsel has entered appearance for the Union of India.

6. A perusal of the letters on record shows that the deceased - Smt. Raj Mohini Talwar had repeatedly written to the authorities for reimbursement from time to time but only portions of the claim were reimbursed. No reasons have been given in the calculation sheets placed on record as to why the other reimbursements are not being made.

7. Mr. Kirti Uppal, Id. Senior Counsel appearing for the Petitioner submits that the only possible reason could be that the hospital where the deceased was undergoing treatment was a private hospital i.e. Fortis Hospital. Id. Senior counsel relies upon two judgments i.e., the judgment of the Supreme Court in *Shiva Kant Jha v. Union of India, (2018) 16 SCC 187* and the judgment of this Court in *Basant Dabas v. Govt. of India & Ors., [W.P.(C) 9849/2015, decided on 31st July, 2019]* to argue that even if the CGHS beneficiary is admitted to a private hospital, as in the present case where the deceased was, in fact, admitted in the ICU, that is no ground for not granting reimbursement.

8. Heard. Smt. Raj Mohini Talwar was the wife of a retired Judge of this Court. Even during her lifetime, she repeatedly raised claims for reimbursement on 20th December, 2016, 5th January, 2017 and 3rd February, 2017. The office of the Additional Director, CGHS has simply written communications on 20th January, 2017 and 15th February, 2017 giving the claimed amounts and the admissible amounts. A perusal of the said calculations shows that no reasons have been given for refusal of a

substantial portion of the claims.

9. Insofar as Judges of this Court and their spouses are concerned, various facilities have been extended by the High Court, from time to time. As far back as on 17th September, 2014, the Medical Committee of the Delhi High Court had taken a decision that retired High Court Judges and their spouses would be entitled to the same medical benefits as are available to sitting High Court Judges. Medical treatment taken from private hospitals is also liable to be reimbursed to former judges and their dependent family members. Vide office memorandum dated 14th May, 2018, issued by the Ministry of Health & Family Welfare, the sanctioning of medical reimbursement claims is permitted to be made by the Delhi High Court Registry itself. The relevant extract of the said office memorandum is set out below:

“3. It has also been decided to delegate the power for relaxation of rules for sanctioning of medical reimbursement claims or for sanctioning of medical advances in respect of Sitting as well as Retired Chief Justices and Judges of High Court of Delhi to Registrar General of High Court of Delhi, who shall exercise this power with prior approval of Chief Justice of High Court of Delhi or his/her nominee subject to the condition that the reimbursement of medical expenses to the Rtd. Chief Justices of High Court of Delhi and Judges of High Court of Delhi holding CGHS pensioners’ card would also be made by the Delhi High Court Registry.”

10. Pursuant to the said office memorandum, the High Court of Delhi, vide order dated 23rd August, 2018, on the Administrative side, has delegated the power to the Id. Registrar General in respect of the amounts up

to Rs.1,00,000/- and to the Medical Committee in respect of amounts which are higher than Rs.1,00,000/-. The said order is also reproduced below:

“In terms of O.M. No. S.11030/06/2018-EHSS dated 14.05.2018 issued by Government of India, Ministry of Health & Family Welfare, Department of Health & Family Welfare, EHS Section, Hon’ble the then Acting Chief Justice Vide orders dated 24.05.2018 has been pleased to delegate the powers for relaxation of rules for sanctioning of medical reimbursement claims or medical advances in respect of sitting as well as Retired Chief Justices and Judges of this Court, (i) to the Registrar General of this Court, if there is a difference in the amount for re-imbursement under CGHS Rule and that charged by the empanelled/ non-empanelled Hospitals upto Rs.1,00,000/- and (ii) to the Medical Committee, if the said amount exceeds Rs.1,00,000/-, subject to the approval of Hon’ble the Chief Justice.”

11. The Hon’ble Supreme Court has considered the question of reimbursement to judges in various States in ***Contempt Petition No. 425/2016 & 426/2016 in Justice V.S. Dave President, The Association of Retd. Judges of Supreme Court and High Courts v. Kusumjit Sidhu & Ors [W.P.(C) 523/2002, decided on 24th October, 2018]***. The Supreme Court has clearly directed that the following facilities shall be provided to all retired chief Justices and Judges of High Courts, including their spouses and dependent family members, on a uniform basis throughout the country *qua* medical facilities:

- “1. All facilities at par with sitting Judges;*
- 2. Reimbursement for medical treatment in private hospital without prior approval of the State Government;*

3. *Sanctioning authority to be the Registrar General of the High Court;*
4. *Reimbursement to be provided for treatment taken in any other State; and*
5. *Cashless facility.”*

12. In view of the above decision and in view of the settled position in law in ***Shiva Kant Jha (supra)*** and ***Basant Dabas (supra)***, the Petitioner would be entitled for reimbursement of the amount that has been spent on the treatment of Smt. Raj Mohini Talwar even though the same was availed of in a private hospital.

13. Accordingly, in view of the settled legal position, the deceased's medical claims may be processed by the Id. Registrar General of this Court and the amounts be released to the Petitioner within a period of 8 weeks, in terms of the applicable rules.

14. The petition is disposed of in the above terms. The digitally signed copy of the order be considered as the certified copy for the purpose of processing the claims.

PRATHIBA M. SINGH
JUDGE

MARCH 16, 2021

dk/T

(corrected & released on 23rd March, 2021)