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

% *Decided on: 22.09.2022*

+ **LPA 787/2017**

ASHWANI KUMAR SARPAL Appellant

Through: Mr. Ravi Gupta, Sr. Advocate
with Mr. Sachin Jain and Mr.
Himansh Yadav, Advocates.

versus

GOVT OF NCT OF DELHI & ORS Respondents

Through: Mr. Surya Kumar, Judicial
Assistant, Litigation Branch on
behalf of R-2.
Mr. Rajesh Kumar and Mr.
Harshit Garg, Advocates for R-
3.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI
HON'BLE MR. JUSTICE VIKAS MAHAJAN

NAJMI WAZIRI, J (ORAL)

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. This appeal impugns the order of the learned Single Judge passed on 13.10.2017 in W.P.(C) 5112/2017, dismissing the writ petition filed by the appellant, which sought the following reliefs:

“a. Issue a writ of mandamus or any other appropriate writ, order or direction against the



respondents to recognize the treatment taken by the petitioner through acupuncture therapy as a permissible medical therapy and allow him to take such treatment from expert doctor even working in private hospital not on the panel of DGHS.

b. Issue a writ of mandamus or any other appropriate writ, order or direction against the respondents to reimburse all the medical expenses of the petitioner incurred on his treatment relating to his ailments through acupuncture therapy submitted in past and to be submitted in future, in the interest of justice and equity;”

2. The appellant had expended monies towards treatment of his illness through acupuncture, which is not recognized by his employer-Government of NCT of Delhi. Albeit, he seeks reimbursement of monies spent on acupuncture treatment, he also seeks retrospective recognition of the said treatment and a corollary permission to obtain the treatment from the Centre/Institute where he claims to have already been treated. The entire issue pertains to policy decision of the Government, to which the writ jurisdiction would not extend unless it could be shown to be unreasonable or arbitrary. Dismissing the petition, the impugned order has reasoned as under:

“ ...

17. In the present case, it is not the respondent no.1's policy to provide any reimbursement of expenses for treatment through acupuncture, which is an alternate system of healing, in any private hospital. Thus, the only question that arises is whether the said policy is unreasonable or arbitrary. As discussed earlier, this Court finds no reason to answer the said question in



the affirmative.

18. The decision in the case of E Ramalingam (supra) is also wholly inapplicable in the facts of the present case. In that case, the claim was denied on the ground that it was delayed and the stenting procedure was not included in the Government Orders. The petitioner therein was admitted to a hospital due to a heart attack and underwent a stenting procedure. The Court found that the Government orders were subsequently revised and both the hospital at which the petitioner was treated and the procedure were recognised for the purposes of reimbursement of medical expenses. It is, in that context, that the Court held that the petitioner's claim for reimbursement could not be withheld on technical grounds.

... ”

3. At this stage, the learned Senior Advocate for the appellant submits that he would not press this appeal and only seeks that the appeal be treated as his representation by the GNCTD for due consideration for alteration of policy.
4. In view of the above, the appeal is disposed-off with liberty to the appellant to pursue the aforesaid relief with the respondent by treating this appeal as his representation.

NAJMI WAZIRI, J

VIKAS MAHAJAN, J

SEPTEMBER 22, 2022

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