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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 10th May, 2023

+ **W.P.(C) 14335/2022**

SATISH KUMAR GAUR Petitioner

Through: Ms Saahila Lamba, Advocate. (M-9818153010)

versus

PRINCIPAL DISTRICT AND SESSIONS JUDGE Respondent

Through: Mrs. Avnish Ahlawat (SC, GNCTD) along with Mr. NK Singh, Ms. Palak Rohmetra, Ms. Laavanya Kaushik and Ms. Aliza Alam, Advocates

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner-Mr. Satish Kumar Gaur has filed the present petition seeking reimbursement of his medical expenses from Respondent No. 2-Directorate General of Health Services (*hereinafter*, 'DGHS'), incurred during the COVID-19 pandemic.
3. The Petitioner had joined the Tis Hazari District Court, Delhi as an employee in 1973, and superannuated on 31st October, 2010 as Superintendent North-District Court, Tis Hazari Court, Delhi.
4. During May, 2021, the Petitioner fell ill due to COVID-19 and was admitted to Nulife Hospital and Maternity Center, GTB Hospital (*hereinafter*, 'the hospital'). There, he was diagnosed with COVID-19/Bilateral Pneumonia. He remained in the said hospital between 15th May, 2021 to 25th May, 2021.
5. The total expenses incurred by the Petitioner for his medical treatment at the hospital is to the tune of Rs.5,95,816/-. The Petitioner's grievance is

that only Rs.1,26,500/- has been reimbursed out of the total amount, and the balance Rs.4,69,316/- has not been reimbursed. The Petitioners' case was covered by the Delhi Government Employees' Health Scheme (*hereinafter*, 'DGEHS') floated by the DGHS.

6. Upon the claim being lodged for reimbursement by the Petitioner with the District Judge, a Technical Standing Committee had been appointed which in its order dated 17th February, 2022 directed as under:

"As per para 33, page no. 7/N, it is a case of COVID 19 pneumonia and found the case fit for full reimbursement. The file may be sent back to the respective department to reimburse the amount as per O.M. dated 20/06/2020. The department may also identify the excess amount and may lodge a complaint with the DM of the respective district where the hospital is located for refund of the excess amount charged by the hospital, thus, violating the order of H&FW, GNCTD dated 20/06/2020."

7. Vide order dated 7th March 2023, this Court passed the following order:

"3. Considering the nature of the matter, the DGHS is impleaded as Respondent No.2 in the present petition. Let the amended memo of parties be filed. Further, an affidavit shall be placed on record by the DGHS as to the extent of reimbursement which has been recommended by it in terms of the said opinion passed by the Technical Committee dated 17th February, 2022.

4. The ld. Counsel for the Petitioner places reliance on an order dated 22nd November, 2022 passed in Writ Petition Civil 15853/2022 titled Dinesh Kumar v. Government of National Capital Territory of Delhi and Ors. A short affidavit shall be placed on record."

8. Today, the short affidavit on behalf of DGHS has not been filed.
9. Heard. A perusal of the Technical Standing Committee's above report would clearly show that though there has been overcharging by the hospital. However, the fact that the Petitioner had incurred the expenses set out above, for his medical treatment is not disputed.
10. Under such circumstances, the present petition would be clearly covered by the decision of this Court in ***Dinesh Kumar v. Government of National Capital Territory of Delhi [2022/DHC/005039]*** where the Court directed that reimbursement would have to be given to similar placed persons by the DGHS. However, it will be open to the Respondent No. 1-GNCTD to initiate recovery proceedings against the hospital, if it perceives that there has been excess charging of the services offered by the hospitals. The relevant portion of the said judgment is set out below:

“9. In the light of the aforesaid, I have no hesitation in holding that the respondent nos.1 to 3 ought to forthwith reimburse the petitioner by paying him the differential amount of Rs.16,93,880/-, and if permissible, recover the same from the respondent no.5. It is however made clear that this Court has not expressed any opinion on the validity of the circular dated 20.06.2020 and therefore, it will be open for the respondent nos.1 to 3 to pursue its remedy as per law, against respondent no.5, including taking penal action, and recovery of any amount which it perceives has been charged in excess.”

11. The above judgment has also been followed by this Court in ***Mahendra Kumar Verma v. GNCTD [2023/DHC/000131]***. In the said case, a petition was filed seeking reimbursement of the remaining medical expenses incurred by the Petitioner for the treatment of his minor son. The

DGHS had refused to reimburse the full amount of medical claim, even though the entitlement of the Petitioner was not disputed. In these circumstances, the Court held as under:

“31. The Respondents in this present case have also not disputed the estimates given by Rajiv Gandhi Cancer Institute. The case of the Respondents herein, is only that after scrutinizing the bills submitted by the Petitioner for Rs.2,28,429/-, the Petitioner is only entitled for the reimbursement of Rs. 1,82,146/- as per the approved rates. It is pertinent to note here that when the Petitioner is recommended to Rajiv Gandhi Cancer Institute and Research Centre, the Respondents cannot deny the reimbursement of the medical expenses incurred even on the basis that the amount charged by the hospital has exceeded the approved rates.

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35. It is therefore observed by this Court that the Petitioner cannot be faulted or penalised to pay the excess amount that was charged from him from the Rajiv Gandhi Cancer Institute, when Petitioner in the first instance did not even choose the Hospital but was referred there.

CONCLUSION

36. In consonance with the above-cited laws and in the peculiar facts and circumstances of the present case, it cannot be disputed that the Petitioner was entitled to be fully reimbursed for the expenses incurred by him in the treatment of his minor child. Accordingly, this court is inclined to allow the instant writ petition. 37. The Respondents are directed to fully reimburse the Petitioner to the extent of bills raised by both the Hospitals, and to release the amount retained in the FDR, along with interest accrued from time to time, deducted from the salary or allowances of the

Petitioner as soon as possible, but positively within a period of four weeks from the date of this judgment.

38. Before parting, this Court expresses its deep dismay that as to how a petition seeking reimbursement for only Rs. 51, 824/- has been pending since 16 years, and is being vehemently contested by the GNCTD.”

12. In view of the above two decisions, the Petitioner is directed to be granted reimbursement of the expenses incurred of Rs.4,69,316/- within 2 weeks by the Respondent No. 2-DGHS, failing which, simple interest at 6% would be liable to be paid on the said amount from the date the Petitioner had lodged the claim with the Respondent No. 2-DGHS till the date of payment.

13. Petition is disposed of in these terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

MAY 10, 2023

Rahul/DN

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