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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 215/2024**
LAJ MADAN & ANR.Petitioners

Through: Ms. Nandini Sharma, Advocate.

versus

GIRIDHAR ARAMANE & ORS.Respondents
Through: Mr. Virender Pratap Singh Charak,
Ms. Shubhra Parashar, Mr. Dipesh
Chaudhary, Advocates for UOI.

+ **W.P.(C) 8650/2022**
LAJ MADAN & ANR.Petitioners

Through: Ms. Nandini Sharma, Advocate.

versus

SECRETARY, ESW & ORS.Respondents
Through: Mr. Virender Pratap Singh Charak,
Ms. Shubhra Parashar, Mr. Dipesh
Chaudhary, Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
15.07.2024

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W.P.(C) 8650/2022

1. Petitioner No. 1 was admitted to the ECHS (Ex-Servicemen Contributory Health Scheme) empanelled Fortis Hospital in Faridabad on 25th May 2020, where she was diagnosed with a right-sided cervico-



trochanteric fracture of the hip. During routine preoperative check-ups on 27th May 2020, she tested positive for COVID-19. Given that Fortis Hospital was not designated to treat COVID-19 patients, Petitioner No. 1 was subsequently discharged. During this period, a nationwide lockdown was in effect, significantly limiting the availability of COVID-19 wards and beds. No ECHS empanelled hospital in Faridabad was designated as a COVID-19 treatment facility at that time. Consequently, due to these exceptional circumstances, Petitioner No. 1 was admitted to the non-ECHS empanelled Apollo Hospital in Delhi on 28th May 2020. There, she underwent partial hip replacement surgery on 22nd June 2020. Petitioner No. 1 was hospitalized from 28th May, 2020 to 26th June, 2020, during which she incurred medical expenses amounting to INR 9,57,022/-.

2. Regarding Petitioner No. 2 (deceased), represented herein by his son/legal heir, the facts are similar. Petitioner No. 2, also an ECHS beneficiary and the husband of Petitioner No. 1, tested positive for COVID-19 during routine RT-PCR testing under COVID guidelines. Like his wife, he was admitted to the non-ECHS empanelled Indraprastha Apollo Hospital in Delhi due to the same circumstances of the national health emergency and the specific lack of available ECHS-designated COVID-19 treatment facilities. Petitioner No. 2 was hospitalized from 4th June 2020 to 18th June 2020, during which he incurred medical expenses amounting to INR 5,30,529/-.

3. Subsequent to their medical treatments, the Petitioners submitted their hospital bills (total amount of INR 14,87,551/-) for reimbursement before OIC, Polyclinic, Faridabad. However, Respondents approved only an amount of INR 3,81,724/- for reimbursement of hospital bills and made a



deduction of INR 11,05,827/-. In light of the same, they also made representations to Respondents for settlement of their entire bills *vide* E-mails dated 25th May, 2021, 24th February, 2021, 22nd March, 2021, 16th April, 2021, 5th May, 2021 and 25th May, 2021.

4. In the above background, relying on the judgment of the Supreme Court in ***Shiva Kant Jha v. Union Of India***¹ and of this Court in ***Shri Prithvi Nath Chopra v. Union Of India (UOI) And Anr.***,² the Petitioners seek following prayers:

“A. Set aside the impugned Final Reply vide Letter No. 501/NM/Gen dated 06-05-2021 & impugned E-mail dated 28-05-2021.

B. Issue directions to the Respondents for releasing the remaining hospital bill amount of Rs 11,05,827/- with 18 % p.a interest w.e.f. July, 2020.

C. Issue directions to the Respondents for compensating the litigation cost of Rs 60,000/- (At par Government Standing Counsel).”

5. Respondents have in their counter affidavit explained the process for clearance of the bills and the delay caused in the matter. They have explained that the MD ECHS requested Lt. Col. V. K. Madan (Retd), son of both Petitioners to submit a supplementary claim, which was placed before High Powered Committee, in terms of instructions dated 08th April, 2019. They state that the bills in ECHS are processed at CGHS rate and are governed by the Rules laid by the Ministry of Defence and the Ministry of Health and Family Welfare.

6. Be that as it may, during the pendency of the present proceedings, the balance payment of the Petitioners i.e. INR 11,05,827/- (INR 3,50,092/- + INR 7,55,735/-) has since been paid. This fact has been acknowledged by

¹ dated 13th April, 2018 being Writ Petition (Civil) No. 694 of 2015



counsel for the Petitioners.

7. In light of the above development, the primary relief sought in the present petition does not survive as Petitioners' grievance has been redressed. However, counsel for Petitioners, however, presses for issue of directions for payment of interest on the aforementioned amount with effect from July 2020 and for compensation towards litigation costs of INR 60,000/-, which is at par with fee of standing counsel for Government of India.

8. In the opinion of the Court, since the Petitioners have received the substantive relief, they initially sought, with the payment of INR 11,05,827/- the proceedings should now be concluded. The balance payment was approved by a High-Powered Committee, suggesting a level of deliberative assessment and subsequent endorsement of the claims under exceptional policy provisions. The Court finds no compelling justification for the imposition of additional financial burden on the Respondents in the form of interest payments. The approval and payment process, while admittedly delayed, was conducted in accordance with extraordinary policy measures. Likewise, concerning the request for litigation costs, the Court acknowledges that the Petitioners would have incurred some expenses in the present proceedings, however, the delay in payment did not result from any wrongful conduct or negligence on the part of the Respondents. The Respondents acted within the bounds of the existing legal and policy framework, which understandably took time, given the circumstances. It does not constitute sufficient grounds for awarding litigation costs.

9. In light of the above, the present proceedings are closed.

10. No orders as to costs.

² 2004 (74) DRJ 175



CONT.CAS(C) 215/2024

11. In light of the fact that the Petitioners' balance of payments stand paid, the above captioned contempt proceedings stands closed.

SANJEEV NARULA, J

JULY 15, 2024

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