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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1424/2019 & CM APPL. 6542/2019 -Stay**
DELHI TRANSPORT CORPORATION Petitioner
Through: Mrs. Avnish Ahlawat, SC with Mr.
Nitesh Kumar Singh, Adv.
versus

SH. SURESH KUMAR Respondent
Through: none

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
13.05.2024

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1. The present petition under Article 226 of the Constitution of India seeks to assail the order dated 04.07.2018 passed by the learned Central Administrative Tribunal (the Tribunal) in O.A. No.3843/2016. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondent by directing the petitioner to extend him the benefits of the Delhi Government Health Scheme.
2. Learned counsel for the petitioner submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that the Delhi Government Health Scheme was never adopted by the petitioner/corporation and therefore, the benefit thereof could not be extended to the respondent. Furthermore, the petitioner/corporation is only giving a fixed monthly medical allowance to all its superannuated employees, which amount is also being paid to the respondent.
3. Despite pass-over, none appears for the respondent. In these circumstances, we are taking up the petition for disposal today itself without



granting any further opportunity to the respondent.

4. Taking into account the petitioner's categorical stand that Delhi Government Employees Health Scheme has not been adopted by the petitioner/corporation and therefore, all its superannuating employees including the respondent are being granted only a monthly medical allowance from the date of their superannuation, we are of the view that the impugned order which directs the petitioner to extend the benefit of a scheme which in itself is not applicable to the petitioner is unsustainable. The learned Tribunal appears to have overlooked the fact that it is always open for an autonomous organisation to decide whether to adopt or not a particular scheme formulated by the Government. This being purely a policy decision, the courts cannot issue any directions to the employer to extend the benefit of a scheme, which having not been adopted by the employer, is not binding on the employees and directing the petitioner to continue to pay monthly medical allowance to the respondent as per their applicable guidelines.

5. For the aforesaid reasons we set aside the impugned order by directing the petitioner to pay to the respondent monthly medical allowances as per their existing guidelines.

6. The petition is, accordingly, disposed of alongwith pending application.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 13, 2024/So