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

+ **W.P.(C) 3063/2019**

KAMAL KUMAR RAJOURIA

.....Petitioner

Through: Ms. Deepali Gupta, Advocate.

versus

**NAVYUG SCHOOL EDUCATION SOCIETY
& ORS**

.....Respondents

Through: Mr. Tushar Sannu and Mr. Utkarsh Mishra, Advocates for Respondents No.1 and 2.
Mr. Vaibhav Agnihotri, ASC with Mr. Harshit Kiran, Advocate for Respondent No.3/NDMC.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER
29.11.2024**

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India to bring to light the inaction of the Respondents in not releasing the medical reimbursement in the sum of Rs.15,000/- to the Petitioner for which he has been agitating since 2011.
2. Facts to the extent necessary are that Respondent No.1 issued an advertisement was issued in the year 2008-09 for filling up vacancies for the post of TGT and Primary Teachers (Academics and Activities) on regular basis. Petitioner qualified the selection process and on 26.06.2009, he was offered appointment to the post of TGT (Work Experience) in the pay scale of Rs.6500-10500 under 5th CPC. Petitioner accepted the offer and vide



letter 05.10.2009, he was appointed as TGT at Navyug School, Sarojni Nagar/Respondent No.2 with immediate effect. In February 2011, Petitioner fell ill and underwent medical treatment at Holy Family Hospital, Delhi. On being discharged, he submitted his claim for medical reimbursement.

3. It is averred in the writ petition that on 22.06.2012 some ex-contractual teachers, who could not get selected in the aforementioned recruitment process, filed complaints before several authorities, pursuant to which an order dated 22.06.2012 was issued by Respondent No.1, whereby the Recruitment Drive of 2008-09 was cancelled. This order was challenged by the appointees before this Court in various Writ Petitions. Petitioner also challenged the said order in Writ Petition No.4164/2012 and the impugned order dated 22.06.2012 was stayed by the Court and Petitioner continued in service. By order dated 11.12.2014, a batch of writ petitions with lead case being W.P.(C.) No.3808/2012 titled ***Chhavi Grover & Ors vs. Navyug School Educational Society and Anr.*** were allowed setting aside order dated 22.06.2012 holding that the appointments were valid.

4. Pursuant to order passed by this Court, Respondent No.1 vide order dated 29.12.2014 directed that all benefits will be available to the appointees including the Petitioner. Writ petition being W.P.(C.) No.4164/2012 filed by the Petitioner was also allowed vide order dated 27.01.2015 and it was directed that he will be treated as being in continuous service from the date of original appointment. However, Respondent No.1 did not update the pay and other benefits accruing to the Petitioner, aggrieved by which he filed W.P.(C.) No.10215/2016 whereafter Respondent No.1 released the outstanding dues, save and except, the dues towards medical reimbursement.

5. Petitioner filed an RTI Application, in response to which he was



informed that his claim was received back in the School as per Despatch Register, on 10.10.2011 but the relevant documents were not traceable in the School and therefore, payment cannot be made, leading to filing of the present writ petition.

6. Ms. Deepali Gupta, learned counsel for the Petitioner submits that Petitioner is entitled to Rs.15,000/- towards his claim for medical reimbursement as he underwent medical treatment in Holy Family Hospital, a fact never disputed by Respondent No.1. She relies on noting dated 11.02.2019 received by the Petitioner under the RTI Act, wherein it is clearly stated that Petitioner had submitted his claim during the year 2011 and the same was referred to Deputy Director, NSES after which the file was sent to Director (MS), Charak Palika Hospital to calculate the admissible amount on approved rates of CGHS and on 10.10.2011, the file was received back in the school, as per the Despatch Register. It is further stated in the note that Petitioner did not pursue his case within the stipulated period and in the interregnum, the file was not traceable.

7. Mr. Tushar Sannu, learned counsel for Respondents No.1 and 2 vehemently opposes the writ petition and contends that there is concealment by the Petitioner inasmuch as he has already been paid the dues which includes the dues towards medical reimbursement as also that the petition is barred by principle of constructive *res judicata* since Petitioner had earlier filed a writ petition seeking pay and allowances and it is not open to him to agitate the issue of medical reimbursement again. It is also urged that the writ petition is barred by delay and laches since cause of action, if any, arose in 2011 and the writ petition was filed in 2019.

8. Heard learned counsel for the parties and examined their rival



submissions.

9. It is not disputed that Petitioner had earlier filed writ petitions in this Court, the first one being W.P.(C.) No. 4164/2012, wherein he challenged the nature of his employment and the second was W.P.(C.) No. 10215/2016, wherein he sought certain monetary benefits at par with similarly placed teachers. Separately, certain other ex-contractual teachers had approached this Court questioning the appointment of the appointees recruited in the year 2008-09 including the Petitioner, which he defended. Petitioner has not filed any writ petition laying a claim of medical reimbursement and therefore, there is no merit in the argument of the Respondents that the present petition is barred by the principle of *res judicata* or *constructive res judicata*.

10. Insofar as objection of delay and laches is concerned, there is no merit in the same. Petitioner had approached this Court in 2016 seeking pay and allowances and other benefits that he was entitled to pursuant to an earlier decision of the Court recognising his appointment as a regular employee. This writ petition being W.P.(C.) No. 10215/2016 was decided on 20.02.2018 and once the benefits were paid to him, Petitioner realised that the amounts paid did not include the medical expenses incurred by him on his treatment. Thereafter, he sought information under the RTI Act on the status of his claim and after he received the noting dated 11.02.2019 indicating that his claim was examined but the file was lost, he filed this writ petition.

11. Coming to the merits of the case from the noting dated 11.02.2019, it is palpably clear that Petitioner had preferred his claim for medical reimbursement in 2011, wherein he claimed a sum of Rs.15,000/- incurred



as expenditure on his treatment. The claim was examined by Deputy Director, NSES and after examination, the same was referred to Director (MS), Charak Palika Hospital only to calculate the admissible amount as per approved rates of CGHS. The noting further indicates that the file was received back in the School as per the Despatch Register. However, the file was subsequently lost and the documents were not traceable and thus, payment was not released to the Petitioner, a fact clearly evident from the said noting.

12. Petitioner is, therefore, right in his submission that the factum of his treatment in the Holy Family Hospital was never disputed and the only issue that was remaining to be examined was the quantum of the amount payable in consonance with CGHS rates. It is not understood why the calculation was not done, assuming for the sake of argument, that the Petitioner did not pursue the matter. Once the matter was under examination, it was the obligation of Respondents No.1 and 2 to take the same to a logical end and reimburse the medical claim. *Albeit* there is no doubt that there is no determination of the amount payable to the Petitioner as per the CGHS rates and ordinarily the Court would have remitted the matter back to Respondent No.1 for calculation of the amount payable, however, considering that the claim relates to the year 2011 and the amount claimed is only Rs.15,000/- and there is no dispute to the treatment undertaken by the Petitioner, this writ petition is allowed directing Respondent No.1 to pay a sum of Rs.15,000/- to the Petitioner towards his claim for medical reimbursement within eight weeks from the date of receipt of this order along with interest @ 6% per annum from the date of filing of this writ petition till actual payment. It is made clear that this order is passed in the peculiar facts of this



case where the file pertaining to the case of the Petitioner is lost due to negligence of Respondent No.1 for which Petitioner cannot be blamed. This order will not be treated as a precedent in any other case.

JYOTI SINGH, J

NOVEMBER 29, 2024

B.S. Rohella