NEUTRAL CITATION NO: 2023/DHC/000131

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

% **Reserved on : 3rd November 2022**
Pronounced on: 9th January, 2023

\+ W.P.(C) 3272/2006

MAHENDRA KUMAR VERMA ..... Petitioner

Through: Mr. Rajat Aneja and Ms. Palak Vasisth, Advocates

versus

GOVT. OF NCT OF DELHI & ORS. ..... Respondents

Through: Mrs. Avnish Ahlawat, Standing Counsel (Services) with Mr. N. K. Singh, Mrs. Tania Ahlawat and Ms. Laavanya Kaushik, Advocates

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant writ petition has been filed by the Petitioner under Article 226 of the Constitution of India seeking reimbursement of the medical expenses incurred by the Petitioner for the treatment of his son in accordance with the relevant rules applicable to the Petitioner *inter alia* the following reliefs:

> *"(a) To issue a writ of mandamus or any other appropriate writ, direction or order in the nature of mandamus directing the Respondents to fully reimburse the Petitioner to the extent of bills raised by Sir Ganga Ram Hospital and Rajiv Gandhi Cancer Institute and Research Centre in which his son had*

received treatment and not to effect recovery of Rs. 51,824/- being the amount sought to be deducted by the Respondents from the claim submitted by the Petitioner alongwith supporting bills;

(c) To pass an interim order directing the Office of the District & Sessions Judge, Delhi to re-pay the amount of Rs. 8,000 arbitrarily and illegally deducted from the salary of applicant for the month of February 2006;"

FACTUAL MATRIX

2. The Petitioner was employed in the Tis Hazari Courts, Delhi as a Reader in the Court of the Metropolitan Magistrate. The Petitioner being a government employee was covered by the Central Government (Medical Attendance) Rules, 1944 and the orders passed there under from time to time. In June 2003, the fifteen year old son of the Petitioner, Master Roshan Verma, felt severe pain in his head and was immediately taken to Sir Ganga Ram Hospital. On 11th June 2003, he was admitted in the emergency ward and was diagnosed as suffering from Madulloblastoma (Postop). On 12th June 2003, he was operated upon and thereafter, again on 20th June 2003, another major operation was performed on him. For the said treatment, the doctor-in-charge of hospital gave an estimate of Rs. 80,000/- for medical expenditure.

3. The said estimate was submitted by the Petitioner in the Office of the District & Sessions Judge, Tis Hazari Courts, Delhi and accordingly, 90% of the estimate amount was sanctioned for grant as medical advance. On 3rd July 2003, the Petitioner's son was discharged from Sir Ganga Ram Hospital and he submitted a final bill of Sir Ganga Ram Hospital for an amount of Rs. 1,03,122/-. However, the Petitioner was only reimbursed an amount of Rs. 89,226/- out of the total claim submitted by the Petitioner.

4. After being discharged from Sir Ganga Ram Hospital, son of the Petitioner was referred to Rajiv Gandhi Cancer Institute and Research Centre for further treatment like radiation and chemotherapy which is a Director General of Health Services (hereinafter referred to as the **'DGHS'**) recognized Hospital. The son of the Petitioner received the treatment from Rajiv Gandhi Cancer Institute for a period of one and a half years and in this period; four estimates were given by the doctors at Rajiv Gandhi Cancer Institute. The description of the estimates is as hereunder:

Estimate No.	Amount of estimate
First	80,000/-
Second	30,000/-
Third	1,50,000/-
Fourth	1,00,000/-

5. Against the first three estimates totalling to Rs. 2,60,000/-, an amount of Rs. 2,34,000/- was sanctioned whereas, the actual expenditure against these three estimates was Rs. 2,28,429/-, which left a credit of Rs. 5,571/- to be adjusted in the medical sanction against the last estimate of Rs. 1,00,000/-. However, the medical advance granted against the last estimate was of Rs. 90,000/- while the actual expenditure incurred against the last estimate was of Rs. 1,02,587/- again leaving the Petitioner in the deficit of Rs. 7,016/-.

6. The Petitioner was not fully reimbursed against the medical expenditure of his son's ailment and further, the Petitioner was issued a letter dated 6th August, 2004 from Drawing & Disbursing Officer, Officers

of District and Sessions Judge, Delhi, Respondent No. 3 herein, asking him to deposit a sum of Rs. 51,854/- against the medical advance granted to him from time to time of Rs. 2,34,000/- for the medical treatment of his son in Rajiv Gandhi Cancer Institute. The Petitioner on receiving the aforesaid letter dated 6th August, 2004, requested the Disbursing Officer to provide him the details of deductions, if any. In view of the representation made by the Petitioner, the Respondent No. 3 sought the opinion of the Director, Directorate of Health Services, as to why the Petitioner should not be fully reimbursed for the medical expenses incurred for his son's treatment. This representation was rejected vide letter dated 23rd August 2005 and subsequently, the learned District & Session Judge, Delhi passed the order dated 17th January 2006 for recovery of amount of Rs. 51,854/- from the pay of the Petitioner.

7. Hence, aggrieved by the said deductions as well as by the demand of Rs. 51,824/- sought by the Respondents, the Petitioner has filed the instant writ petition.

SUBMISSIONS

(ON BEHALF OF THE PETITIONER)

8. Learned counsel appearing on behalf of the Petitioner submitted that the Respondents have acted arbitrarily, ***first***, by making unreasonable deductions from the medical claims submitted by the Petitioner for his son's treatment from the Government recognised hospitals, and ***secondly***, by not informing the reasons for such deductions to the Petitioner despite his several reminders and representation. Hence, the said actions of the Respondents suffer from gross illegality and violation of principles of law.

9. It is submitted that from 4th April 2004 to 1st March 2005, the Petitioner wrote several representations to the Respondents pointing out that the details provided against the sanctions of his medical advance show that some of the medical expenses have not been fully reimbursed to the Petitioner in spite of the fact that the he had submitted the bills. Vide these letters, he had also requested the Respondents to point out why he is not entitled to full reimbursement of the medical expenses incurred by him and why recovery of the said amount of Rs. 51,824/- was sought from him, even though he had submitted all the bills from the hospital.

10. It is further submitted that the Directorate of Health Services has expressly permitted the Petitioner and granted the medical advance as well towards the treatment of his son from Sir Ganga Ram Hospital in view of the fact that the ailment suffered by the Petitioner's son was serious in nature and that the treatment in Sir Ganga Ram Hospital (being a Private and non-recognized for Delhi Govt. Employees) may also be allowed for the specific disease. Learned counsel for the Petitioner submitted that after the discharge from Sir Ganga Ram hospital, the Petitioner did not go on his own volition to Rajiv Gandhi Cancer Institute and Research Centre but was referred to go there for further treatment of his child including chemotherapy and radiation. It is further submitted that both these hospitals are recognized by the Government and it is not even the case of the Resondents that the Petitioner is not entitled for reimbursement on account on non-recognition of either of the two hospitals.

11. Learned counsel for the Petitioner has vehemently argued that right to health is a constitutional right protected under Article 21 of the Constitution of India and hence, the Government is under a constitutional mandate to

reimburse the Government Servant, for the legitimate expenses incurred by him for the medical attention received by him or his dependants. It is further stressed upon by the Petitioner that this Court in a plethora of cases dealing with similar issues, has unequivocally held that a Government Servant is entitled to reimbursement of the full amount of the medical expenses and not only at the rates specified in the circulars issued by the Government from time to time. Therefore, it is submitted that the Petitioner cannot be denied full reimbursement if the hospital has charged from him a rate exceeding the package deal rate and it is for the Government to effect recovery from the hospital rather than issuing a demand in favour of the Petitioner.

12. Learned Counsel for the Petitioner further submitted that under the Central Services (Medical Attendance) Rules, 1944 (hereinafter referred to as the 'CS (MA) Rules') which are applicable to him, the Petitioner is entitled for full reimbursement of all the medical expenses incurred by him. It is further submitted that the Respondents have not pointed out any provision in the Rules denying full reimbursement to the Petitioner. He further stated that no reason worth the name has been offered by the Respondents for the rejection of his representation except for a bald statement that "as per the existing CS (MA) Rules and Delhi Government Employees Health Scheme the medical claims are reimbursed as per entitlement and as per CGHS approved rates" and the claim of the Petitioner is not in consonance therewith. Therefore, the rejection order is bereft of any reasoning and is thus bad in law.

13. It is thus humbly prayed that this court may allow the instant writ petition and protect the inviolable right to health as enshrined under Article 21 of the Constitution of India.

(ON BEHALF OF THE RESPONDENTS)

14. *Per contra*, learned Standing Counsel for the Respondents though, has not disputed the entitlement of the Petition, but has submitted that the Petitioner is entitled for medical re-imbursement only in terms of CS (MA) Rules as well as the instructions issued by the Government of NCT of Delhi from time to time and accordingly, the Petitioner was sanctioned medical advances summing up to Rs. 2,34,000/- from time to time against the billing amount of Rs. 2,28,429/-, i.e., less than the amount advanced. It is further submitted that after scrutinizing the bills and calculating his entitlement as per applicable CS(MA) rules, he was found to be entitled for a grant of Rs. 1,82,146/- against the bills submitted by him for Rs. 2,28,429/-. Therefore, he was directed to deposit the excess amount of Rs. 51,854/- sanctioned to him vide letter dated 6th August 2004.

15. Learned Standing Counsel for the Respondents submitted that the Petitioner was reimbursed with the approved rates against his medical claim with respect to the treatment in Sir Ganga Ram Hospital and hence, there is no deficit as claimed by the Petitioner. It is submitted by the Respondents that the Petitioner manipulated the documents at Rajiv Gandhi Cancer Institute & Research Centre, Delhi and illegally obtained the balance amount of Rs. 5,571/- himself which should have been refunded by the hospital to the District & Session Judge, Delhi through cheque only. It is stated that not only did he obtain the amount from the hospital and did not

deposit the same with the Office, but also misappropriated the same and thus, has committed financial irregularities.

16. Learned Standing Counsel for the Respondents further submitted that the Petitioner was provided a detailed description regarding the deduction of the excess amount, calculated as per the applicable CS(MA) rules, running into seven pages. It is further submitted that along with the detailed description, the Petitioner was again directed to deposit the excess amount within seven days. It is also submitted that the Petitioner's representation before the Directorate of Health Services was also rejected vide letter dated 23rd August 2005 on the ground that as per the existing CS (MA) Rules and DGEHS the medical claims are reimbursed as per entitlement and as per CGHS approved rates.

17. Learned Standing Counsel for the Respondents further submitted that the Petitioner was again directed to deposit the excess amount vide office letter dated 18th October 2005 within 15 days, failing which disciplinary proceedings would be initiated along with the stoppage of pay. It is submitted by the Respondents that instead of depositing the amount, frivolous letters were written time and again by the Petitioner to avoid the payment of said amount. And therefore, the learned District & Session Judge, Delhi passed the order dated 17th January 2006 for recovery of amount from the pay of the Petitioner.

18. It is submitted that the Petitioner was reimbursed as per his entitlement according to the law and hence, the instant petition is liable to be dismissed being devoid of any merit.

FINDINGS AND ANALYSIS

19. Heard learned counsels appearing on behalf of both the parties and perused the records. I have given thoughtful consideration to the submissions made by the parties. The question that has arisen before this Court is:

> **Whether in a case where the actual medical expenditure in a government recognized hospital is more than the approved rates as per applicable rules, the excess amount is liable to be recovered from the beneficiary Government employee?**

20. The Petitioner herein was a government employee serving as a reader in the court of Metropolitan Magistrate in Tis Hazari Court, Delhi and hence, he and his dependants are covered under CS (MA) Rules. The 15-year old child of the deceased Petitioner was suffering from brain tumour for which the medical advances were claimed by the Petitioner as per the applicable rules. The CS (MA) Rules, 1944 related to re-imbursement are reproduced hereunder:

> *"Rule 3. Medical Attendance*
>
> *Rule 3 (i)- A Government servant shall be entitled, free of charge to medical attendance by the authorised medical attendant;*
>
> *Rule 3 (ii)- Where a Government servant is entitled under sub-rule (i), free of charge, to receive medical attendance, any amount paid by him on account of such medical attendance shall, on production of a certificate in writing by the authorised medical attendant in this behalf be reimbursed to him by the Central Government.*

Rule 6. Medical Treatment

Rule 6 (1)- A Government servant shall be entitled, free of charge, to treatment-

(a) in such Government hospital at or near the place where he falls ill as can in the opinion of the authorised medical attendant provide the necessary and suitable treatment; or
(b) if there is no such hospital as is referred to in sub-clause (a) in such hospital other than a Government hospital at or near the place as can in the opinion of the authorised medical attendant, provide the necessary and suitable treatment;

Rule 6(2)- Where a Government servant is entitled under sub-rule (1), free of charge, to treatment in a hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorised medical attendant in this behalf, be reimbursed to him by the Central Government."

21. A reading of these provisions provides that all the expenses incurred upon by a government servant towards the medical treatment of himself or his dependants has to be free of charge and any amount that is paid by him on account of such medical attention or treatment shall be reimbursed fully to him. This Court is of the opinion that the medical attendance rules formulated by Central and State Governments are not merely the rules relating to medical attendance, but are the beneficiary piece of legislation to facilitate good and sound health for all the government employees and their families. It does not stand to reason as to why any impediments are read in the rules which have the tendency to defeat the cherished Constitutional rights for which this Court has always stood as a custodian.

22. I have carefully perused the hand-written document (Annexure 'A' to the Counter Affidavit) explaining the amount sanctioned as reimbursement as against the amount of expenses incurred by the Petitioner. I am unable to figure out even a single provision of law which has been taken in support by the Respondents to justify the deductions made in the claim of the Petitioner. Merely making a statement that calculations have been made in accordance with the relevant rules as applicable to the Petitioner will not help the case of the Petitioner.

23. It is no longer *res integra* that these provisions are required to be construed liberally in order to achieve the objectives aimed for and any interpretation which makes the rules pedantic and too technical must be avoided as then the entire purpose of enacting such rules would become futile and fall to the ground. In ***Allahabad Bank vs. All India Allahabad Bank Retired Employees Association*, (2010) 2 SCC 44**, the Hon'ble Supreme Court while iterated the following proposition of law:

> *"16..... Remedial statutes, in contradistinction to penal statutes, are known as welfare, beneficent or social justice oriented legislations. Such welfare statutes always receive a liberal construction. They are required to be so construed so as to secure the relief contemplated by the statute. It is well settled and needs no restatement at our hands that labour and welfare legislation have to be broadly and liberally construed having due regard to the directive principles of State policy. The Act with which we are concerned for the present is undoubtedly one such welfare oriented legislation meant to confer certain benefits upon the employees working in various establishments in the country."*

24. In ***Som Prakash Rekhi* v. *Union of India*, (1981) 1 SCC 449** the apex Court stated that a benignant provision must receive a benignant

construction and, even if two interpretations are permissible, that which furthers the beneficial object should be preferred. It has been further observed:

> *"66. ... We live in a welfare State, in a 'socialist' republic, under a Constitution with profound concern for the weaker classes including workers (Part IV). Welfare benefits such as pensions, payment of provident fund and gratuity are in fulfilment of the directive principles. The payment of gratuity or provident fund should not occasion any deduction from the pension as a 'set-off'. Otherwise, the solemn statutory provisions ensuring provident fund and gratuity become illusory. Pensions are paid out of regard for past meritorious services. The root of gratuity and the foundation of provident fund are different. Each one is a salutary benefaction statutorily guaranteed independently of the other. Even assuming that by private treaty parties had otherwise agreed to deductions before the coming into force of these beneficial enactments they cannot now be deprivatory. It is precisely to guard against such mischief that the non obstante and overriding provisions are engrafted on these statutes."*

25. In ***Workmen* v. *American Express International Banking Corpn.*, (1985) 4 SCC 71**, the Hon'ble Supreme Court made the following observations:

> *"4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Lilliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the 'colour', the 'content' and the 'context' of such statutes (we have borrowed the words from Lord Wilberforce's opinion in Prenn v. Simmonds [(1971) 3 All ER 237 : (1971) 1 WLR 1381]). In the same opinion Lord*

Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations…"

26. In ***Chunni Lal Sonkar vs. State of Uttar Pradesh & Ors.*, Service Single No. 11949 of 2018, decided on 19th May 2021**, the Allahabad High Court while considering a question, as to whether a person who has been enrolled with the Bar Council only a few days back could be said to be a 'earning member' so as to exclude him from the definition of dependants, held as follows:

"17. The U.P. Government Servant (Medical Attendance) Rules, 2011 is a beneficial piece of legislation and it is a settled law that interpretation of such statutes should be very liberal. Beneficial legislation is a statute which purports to confer a benefit on individuals or a class of persons. Such benefit is given by interpreting the statute liberally and thus beneficial legislation should be interpreted liberally in a purposive manner.

18. It is a peculiar case where son of the petitioner was met with an accident just before two days of his enrollment as an Advocate and during treatment both the legs of the injured was amputated in order to save his life and was 100% disabled. The respondent authority has rejected the claim of the petitioner on technical ground without considering the facts and circumstances of the case. Mere enrollment as an Advocate just before two days of the accident, which cannot be said that he was in gainful employment, so he cannot debar the son of the petitioner from the definition of 'dependent children'."

27. In ***Kirloskar Bros. Ltd. v. ESI Corporation*, (1996) 2 SCC 682,** the Hon'ble Supreme Court made the following pertinent observations.

> *"9. The expression 'life' assured in Article 21 does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure facilities and opportunities to eliminate sickness and physical disability of the workmen. Health of the workman enables him to enjoy the fruits of his labour, to keep him physically fit and mentally alert. Medical facilities, therefore, is a fundamental and human right to protect his health. In that case health insurance, while in service or after retirement was held to be a fundamental right and even private industries are enjoined to provide health insurance to the workmen."*

28. In ***Paschim Banga Khet Mazdoor Samity v. State of W.B., (*1996) 4 SCC 37**, the Hon'ble Supreme Court held as under:

> *"9. The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail of those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The government hospitals run by the State and the medical officers employed therein are duty-bound to extend medical assistance for preserving human life. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21.*
>
> *XXXXXX*
>
> *16. It is no doubt true that financial resources are needed for providing these facilities. But at the same time it cannot be ignored that it is the constitutional obligation of the State to*

provide adequate medical services to the people. Whatever is necessary for this purpose has to be done. In the context of the constitutional obligation to provide free legal aid to a poor accused this Court has held that the State cannot avoid its constitutional obligation in that regard on account of financial constraints. The said observations would apply with equal, if not greater, force in the matter of discharge of constitutional obligation of the State to provide medical aid to preserve human life. In the matter of allocation of funds for medical services the said constitutional obligation of the State has to be kept in view."

29. In ***State of Punjab v. Mohinder Singh Chawla,*** **(1997) 2 SCC 83,** the Hon'ble Supreme Court held as follows:

"4. *……. It is an admitted position that when specialised treatment was not available in the hospitals maintained by the State of Punjab, permission and approval having been given by the Medical Board to the respondent to have the treatment in the approved hospitals and having referred him to the AIIMS for specialised treatment where he was admitted, necessarily, the expenses incurred towards room rent for stay in the hospital as an in-patient are an integral part of the expenses incurred for the said treatment. Take, for instance, a case where an in-patient facility is not available in a specialised hospital and the patient has to stay in a hotel while undergoing the treatment, during the required period, as certified by the doctor, necessarily, the expenses incurred would be an integral part of the expenditure incurred towards treatment. It is now settled law that right to health is integral to the right to life. Government has a constitutional obligation to provide health facilities. If the government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference whereat the government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, therefore, right in*

giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an in-patient."

30. It is observed that the child of the Petitioner suffered from a serious ailment and hence, the cost of surgeries underwent by him in Sir Ganga Ram Hospital, which is a private hospital, was reimbursed by the Directorate of Health Services to the extent of 90%. Hence, there lies no dispute from the Respondents that the treatment undertaken by the Petitioner's son was permissible as per the applicable rules as the disease was not an ordinary one but special in nature. The claims in dispute in the instant petition are the claims arising from the bills given by Rajiv Gandhi Cancer Institute and Research Centre for the amount of Rs.2,28,429/-. It is not denied by the Respondents that the Petitioner on his own, did not chose this hospital but he was referred there for the further treatment of his child.

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.

32. The Division Bench of this Court in the case of ***Sqn. Commander Randeep Kumar Rana vs Union of India*, 2004 SCC OnLine Del 335**, has held as under:

"5. We have given our careful considerations to the arguments advanced by learned counsel for both the parties. It is not denied that the treatment taken at Escorts Hospital was pursuant to the recommendation made by the Safdarjung Hospital which is a Government hospital. Naturally, when a small child is to be treated for Ventrical Septal Defect involving open heart surgery, a specialised hospital and its services are required. Therefore, once the respondent themselves have recommended the treatment to be taken by the Escorts Hospital, they cannot deny the full reimbursement on the basis that the charges incurred by the petitioner over and above the package rate which the respondent has agreed with the said hospital cannot be reimbursed. At page 12 of the paper-book there is a letter conveying permission by the respondent to the petitioner to undertake specialised treatment from recognised private diagnostic centre. There is another letter of the respondent at page 22-23 of the paper-book in which it has been admitted that Escorts Heart Institute and Research Centre was also one of the hospitals which the petitioner was entitled for treatment. Now we come to the plea which has been taken by the respondent in the counter affidavit. It has been contended in para 11 of the counter affidavit that it is the duty of the citizens to see and ensure that such recognised hospital do not charge excess of the package rates. How a citizen can ensure that a hospital does not charge over and above the package rate? The power to lay down guidelines is with the respondent. A citizen is a mere spectator to what State authority do and decide. If the hospital has charged over and above the package rate, the respondent is under an obligation to pay to such charges as the petitioner has incurred over package rates at the first instance and if in law state can recover from the hospital concerned, they may do so but they cannot deny their liability to pay to the Government employee who is entitled for medical reimbursement."

6. We do not see any merit in the submission of the respondent. We direct the respondent to reimburse the full amount of Rs. 2,09,501/- after taking into consideration the amount of Rs. 1,42,736/- which has already been paid to the petitioner. The

balance amount be reimbursed within a period of four weeks. Petition stands allowed. Rule is made absolute."

33. A similar observation was also made in the case of ***Dinesh Kumar vs Government of National Capital Territory of Delhi and Ors.,*** **2022 SCC OnLine Del 3937,** which is reproduced as under:

"7. The petitioner, who had to spend his hard-earned savings, while undergoing treatment to save his life, cannot be simply told that, since respondent no. 5 has failed to abide by the circular dated 20.06.2020 issued by the GNCTD, he should seek refund from the said hospital which saved his life. This Court does not deem it appropriate or necessary to delve into the validity of the circular dated 20.06.2020, in the present petition, where an officer of Delhi Higher Judicial Service is seeking simpliciter reimbursement of the amount for the bona fide expenses incurred by him for treatment at the respondent no. 5 hospital for Covid-19, when the city was engulfed with the second wave of the pandemic. I am, therefore, unable to accept Mrs. Ahlawat's plea that the respondent no. 5 should be directed to explain its stand in the present writ petition regarding its action of charging amounts higher than the ones prescribed in the circular dated 20.06.2020, or should be directed to refund the amount of Rs. 16,93,880/-.

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."

34. In the case of ***GR Matta vs The Director of Panchayat & Ors*****. 2007 SCC OnLine CAT 1842**, the Principal Bench of CAT has also opted a

similar view point based on the earlier decisions in ***V.K. Gupta* v. *Union of India*, 97 (2002) DLT 337** and ***Sqn. Commander Randeep Kumar Rana* v. *Union of India* (Supra)** and held as under:

> *" 8. I have heard the applicant in person and the learned counsel for Respondent No. 2. As the case was listed for hearing and the reply of Respondent No. 1 was on record the matter was taken up in the absence of their counsel under the relevant provisions of the CAT (Procedure) Rules, 1987. The applicant has particularly emphasized that the patient was admitted in Apollo Hospital in emergency condition as a case of CAD Acute Anterior MI and was not referred for any particular treatment. She has suffered myocardial infarction, etc. and was not to be treated only by angiography although the latter was carried out. Therefore, keeping in view the grounds taken in the OA as well as the law on the subject, full claim preferred by the applicant on behalf of the treatment received by his wife at Apollo Hospital should be reimbursed.*
> *.....Therefore, the petitioner was held entitled to reimbursement of the full amount and the balance was ordered to be paid to him. It is trite that administrative orders cannot infiltrate an arena occupied by judicial pronouncements."*

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.

39. Accordingly, the instant petition stands allowed and disposed of. Pending applications, if any, also stands disposed of.

40. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

JANUARY 9, 2023
gs/mg