

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

+ W.P.(C) 7194/2007

RAGHU NATH KAPOOR ..... Petitioner  
Through: Ms.Richa Kapoor, Advocate

versus

DIRECTORATE OF HEALTH  
SERVICES & ORS ..... Respondent  
Through: Ms.Zubeda Begum with Ms.Iram  
Majid, Advs. for respondents

**CORAM:  
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**ORDER**  
**07.07.2008**

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**CM No.6586/2008**

1. Vide afore-noted application prayer is made for an early disposal of the writ petition.
2. Learned counsel for the parties state that the writ petition may be heard and disposed of today itself.
3. The application accordingly stands disposed of.

**WP(C) No.7194/2007**

1. Rule was issued on 7.3.2008.
2. The Rule was preceded by a notice to show cause. Response has been filed to the writ petition. Learned counsel for the respondents state that the response to the notice to show cause may be treated as a response to the Rule.
3. Heard learned counsel for the parties.

4. Instant writ petition has raised an issue pertaining to reimbursement of medical expenses claimed by the petitioner, who is stated to be a family pensioner under the Government of NCT, Delhi. Petitioner claims that he has complied with the necessary requirements of law pertaining to reimbursement of medical expenses incurred by him and that respondents 1 to 3 have illegally declined his request for reimbursement of emergency medical expenses in the sum of Rs.3,08,533/- on the ground that the claim has been filed beyond the specified period of 3 months after the completion of treatment.

5. According to the respondents, Rule 11 of the Central Services (Medical Attendant) Rules require a claim to be submitted within 3 months of completion of the treatment.

6. According to the petitioner, he had to incur the expenditure on account of a sudden serious heart failure coupled with multi-organ failure.

7. It be noted that the petitioner undertook the treatment at Escorts Hospital.

8. Record of the writ petition shows that on the first date of hearing i.e. 28.9.2007, while accepting notice in Court, learned counsel for respondents 1 to 3 sought time to take instructions whether the delay in submitting the claim could be

condoned.

9. It was reported to this Court, a fact recorded in the order dated 7.3.2008, that the relevant Rules do empower the Heads of Departments under the Government of NCT, Delhi to condone delay in the submission of claims and that in the instant case the relevant Head of Department has not applied his mind on the issue whether the delay ought or ought not to be condoned for the reason the concerned officer rejected the claim as barred by limitation at the inception stage.

10. Under the circumstances, without going into any other further issue, the writ petition can be disposed of by following either of the 2 methods. Firstly, to direct the Head of the Department to consider the entitlement of the petitioner for delay in seeking medical reimbursement to be condoned, and if condoned, to consider the claim of the petitioner for reimbursement on merits. Second course available could be to condone the delay in filing the claim with a direction to the Competent Authority to process the claim on merits.

11. Normally, Courts require the statutory authorities to direct themselves on the issues which arise for consideration and have not been considered by the authorities.

12. As noted hereinabove, the petitioner is a family pensioner. It means that he claims pension on account of

service rendered by somebody else and that somebody else is his wife. It is thus obvious that the petitioner is a widower. The petitioner is aged 71 years. He had to undergo emergency medical treatment when he suffered multiple organ failure triggered by a weak heart. After successfully completing the medical treatment, the petitioner would presumably be physically weak and mentally exhausted. Under the circumstances, it would not be proper to reject the claim of the petitioner on account of limitation. Needless to state, rules of Limitation and Procedure are intended to subserve the cause substantive justice and not act as tripping stones. I accordingly condone the delay in the petitioner seeking reimbursement of the emergency medical expenses incurred by him.

13. The letter of rejection dated 31.8.2007 is quashed. Mandamus is issued to the respondents to process the claim of the petitioner on merits. Necessary decision would be taken within 4 weeks from today on receipt of the order. Should the claim be allowed, the money spent by the petitioner would be reimbursed. Should the claim be denied, a reasoned order would be communicated to the petitioner who would, in said eventuality, be entitled to take action in accordance with law.

14. No costs.

15. Copy of this order be supplied dasti to learned

counsel for the parties.

**PRADEEP NANDRAJOG, J.**

**JULY 07, 2008**  
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