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

+ **W.P.(C) 3349/2023 & CM Appls. 12986-12988/2023**

NATIONAL MEDICAL COMMISSION Petitioner

Through: Mr. T. Singhdev, Mr. Abhijit
Chakravarty, Mr. Tanishq Srivastava,
Mr. Bhanu Gulati, Ms. Anum Hussain
and Mr. Aabhaas Sukhramani, Advs.

versus

DR. PREM KUMAR AND ORS. Respondents

Through: Mr. Akash Vajpai, Sr. Panel Counsel
with Mr. Siddhant Gupta, G.P. for
R-14 to R-17

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **17.03.2023**

CM APPL. 12987/2023

Allowed, subject to just exceptions.

Application disposed of.

CM APPL. 12988/2023

For the reasons stated in the application, the same is allowed.

Application disposed of.

W.P.(C) 3349/2023 & CM APPL. 12986/2023

1. The challenge in this petition is to the order dated September 29, 2022 passed by the Central Administrative Tribunal in O.A. 1111/2020 filed by the respondents herein, whereby the Tribunal has directed that the respondents who had retired from the service of erstwhile Medical Council



of India (hereinafter referred to as 'MCI') be extended the benefit of CGHS facility.

2. The submission of Mr. T. Singhdev, learned counsel for the petitioner, is that the Tribunal despite the fact that the autonomous/statutory bodies whose employees are not extended the benefit of CGHS facility after their retirement, directed the same must be provided to the retired employee of erstwhile MCI. Such a direction is even after the issuance of the notification dated September 24, 2020 whereby the MCI has been dissolved and National Medical Commission being the successor body has decided not to provide any CGHS facility either to its employees or to retired employees of the erstwhile MCI.

3. According to Mr. Singhdev, Ministry of Health and Family Welfare vide memorandum dated June 10, 2014 informed that the concerned statutory body must bear the expenses incurred towards extending the CGHS facilities along with certain other conditions but the petitioner being the successor body to the MCI has decided not to provide any CGHS facility either to its employees or to retired employees of the erstwhile MCI.

4. That apart, even the Ministry of Health and Family Welfare vide letter dated September, 19 2022, had categorically informed the petitioner that the pensioners of erstwhile MCI were not covered under CGHS benefit and as per the prevailing policy of the Ministry no CGHS facilities is being extended to new organizations since the resources of the Ministry are limited.

5. That apart, it is his submission that the grant of benefit of any scheme including the CGHS benefit is a policy decision wherein the Courts should not interfere. The Tribunal failed to consider the aforesaid position of law



and directed the grant of the benefit to the respondents. That apart, he submits that the position of extending CGHS benefit to the retired employees of the erstwhile MCI had never been taken/communicated by the concerned Ministry to the erstwhile MCI prior or beyond its dissolution on September 25, 2020, thus, as per Section 60(2)(b) of the NMC Act, 2019, no right or obligation enures in favour of the respondents and similarly, no liability had acquired / accrued on the petitioner in this regard. Similarly, in reference with Section 61(1) of the NMC Act, 2019, the petitioner being the successor to the erstwhile MCI could not be saddled with the liability of extending CGHS benefit to the retired employees of erstwhile MCI since no decision had been taken by the Ministry till dissolution of the MCI on September 25, 2020.

6. Issue notice to the respondents, returnable on April 26, 2023.

7. Till the next date of hearing, there shall be a stay of the impugned order dated September 29, 2022, passed by the Central Administrative Tribunal in O.A. 1111/2020.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

MARCH 17, 2023/ds