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

+ **W.P.(C) 2506/2019, CM APPLs. 19643/2021 & 19644/2021**

ANJANA GOSAIN Petitioner

Through: Ms. Shalini Nair, Advocate.

versus

GOVERNMENT OF NCT AND ANR. Respondents

Through: Mr. Sameer Vashisht, ASC, GNCTD
with Ms. Urvi Kapoor and Ms.
Sanjana Nangia, Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **07.07.2021**

1. This hearing has been done through video conferencing.

CM 19644/2021 (exemption from filing court fee and attested affidavits) in W.P.(C) 2506/2019

2. This is an application seeking exemption from filing the court fees and duly attested affidavits. Binding the deponent of the affidavits to the contents of the application, the exemption is granted. However, the physical copy of the attested affidavits be filed in the Registry within two weeks after the physical court functioning resumes. Insofar as the court fee is concerned, the same be deposited within one week.

3. Application is disposed of. Registry to submit a report in case the court fee is not filed after a month.

CM APPL.19643/2020 (seeking compliance of o/d 17.02.2021) in W.P.(C) 2506/2019

4. This is an application seeking compliance of order dated 17th February, 2021.

5. The dire circumstances, which has prompted the filing of the present petition, are that the Petitioner is a counsel for the GNCTD, who had raised various memos for her professional services, which were outstanding and were not being cleared by the Government. Repeated emails and communications sent to the GNCTD rendered no positive response, which had led to the filing of the present petition.

6. In the present petition, after hearing the submissions made by the parties on 17th February, 2021, this Court directed as under:

“2. The present matter concerns the outstanding bills of the Petitioner who is a lawyer and the non-payment of the outstanding fee by the Respondent.

3. Ms. Kapoor, ld. counsel for the Respondent submits that even during the lockdown period various bills of the Petitioner have been cleared and they are in the process of being cleared.

4. The Court has perused the reply filed by the Petitioner, to the status report dated 22nd September, 2020 filed by the Respondent. As per the reply of the Petitioner, in paragraph 4 there are details of approximately 36 memos which are still pending and in para 5 there are 8 memos which are still pending. According to the Petitioner, in some of the bills, the Brief Transmission Form (hereinafter ‘BTF’) was not issued.

*5. The order passed in **W.P. (Crl.) 1549/2009 titled Court on its Own Motion v. State**, dated 12th December, 2013, deals with payment of Government Counsels. The said order holds that even if the BTFs have not been issued by the Law Department of the GNCTD, payment shall be made by all administrative Departments of the GNCTD to their concerned Standing Counsels. The said payments ought to be made, so long as the Petitioner has*

appeared for the Government and has represented the Government and such appearances are certified by the Standing Counsel. The relevant portion of the order is as under :

“So far as the payment of Government counsels is concerned, it is directed that all the administrative departments of the Government of NCT of Delhi shall make the payment without committing any default within a period of two months from the date of receipt of the bills. It is made clear that so far as the past pending bills of the counsels are concerned, even where the BTFs have not been issued by the Law Department, the payment shall be made by these departments on the certification of the concerned Standing Counsel on the bills.”

6. Accordingly, last and final opportunity is granted to the Respondent to clear all outstanding fee within a period of six weeks. If the Respondent fails to do so, the Petitioner is permitted to approach his Court by way of an application. If such a situation arises, the Court would then consider imposition of heavy costs, as also interest for delayed payment, in respect of the outstanding amounts.

7. The Law Department of the GNCTD shall, upon receiving sanction and making payments, intimate the Petitioner as to against which bills the payments are being made.”

7. The above order, as can be seen, was passed way back in February, 2021 and time was granted to clear all the outstanding dues within a period of six weeks. However, the present application shows that the bills have not been cleared and no payment has been made to the Petitioner. The petition was filed way back in 2019 and despite two years having passed, the

outstanding bills were not paid. Even the order of this Court has had no impact on the authority concerned.

8. As is clear from a reading of the order dated 17th February, 2021, there are other cases where repeated directions have been issued to the Government for making payment of outstanding dues of its counsels. Thus, this is not the first such case and the problem seems to be endemic.

9. Ld. counsel for the Respondent submits that there are various authorities who need to process the bills and hence, there is a delay.

10. Considering the fact that counsels cannot be made to wait endlessly for clearing of their outstanding payments for the professional services they have rendered, there ought to be a proper streamlined mechanism which is centralised to expedite and make timely payment. This would ensure that counsels are not made to run from pillar to post for submitting their bills, getting the same approved and thereafter, for following up on payment from the department/authority concerned.

11. In order to ensure that such a mechanism is put in place, it is directed that the Law Secretary, GNCTD would hold a meeting with relevant departments of the GNCTD and put up a proper centralized scheme for payment of counsels' bills. The said report shall be placed on record within four weeks.

12. The Law Secretary, GNCTD is requested to join the present proceedings virtually on the next date in order to appraise the Court of the recommendations made in the report.

13. As recorded in order dated 17th February, 2021, this Court would, upon receipt of the report, consider whether heavy costs, as also interest on the delayed payment, would be imposed in the present case for the delayed

period.

14. The present petition shall be treated as a part-heard matter.

15. List on 20th August, 2021.

PRATHIBA M. SINGH, J.

JULY 7, 2021/dk/T