

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 8547/2005**
% **Date of Decision: 08th September, 2009**
DELHI TRANSPORT CORPORATION
..... PETITIONER
! Through: Mr. J.N. Aggarwal, Advocate
VERSUS
\$ SHRI BHIM SAIN SHARMA & ANOTHER
.....RESPONDENTS
^ Through: NEMO.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

The only short question that arise for consideration in this writ petition is whether the petitioner was justified in withholding Rs. 20,000/- from the gratuity amount payable to the respondent on account of non-vacation of official accommodation by him. The Controlling Authority under the Payment of Gratuity Act, 1972, has decided the said question against the petitioner and has directed for release of the said amount of Rs. 20,000/- to the respondent with interest @ 10% per annum immediately.

2. The question that arise for consideration in the present writ petition is squarely covered by an earlier decision of this Court in **D.T.C. Vs. O.P. Nandwani (W.P.(C.) No. 8293/2008 decided on 13.08.2009)**. In that case it was held by this Court that the employer cannot withhold the gratuity on account of non-vacation of official accommodation by the

employee. The earlier decision of this Court in the above-mentioned case is based upon a Division Bench judgment of this Court in **D.T.C. Vs. Dhanwant Rai & Others, LPAs No. 1086/2004 and 1118/2004 decided on 06.09.2007** and in that case also, it was held by the Division Bench that the gratuity payable to an employee cannot be withheld by an employer for non-vacation of official accommodation.

3. In that view of the matter, I do not find any perversity or illegality in the impugned order of the Controlling Authority that may call for an interference by this Court in exercise of its extraordinary discretionary writ jurisdiction under Article 226 of the Constitution. This writ petition, therefore, fails and is hereby dismissed with no orders as to costs.

September 08, 2009
'bsr'

S.N.AGGARWAL, J