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

\+ W.P.(C) 2537/2011

B.L. KHERA AND ORS ..... Petitioners
Through: Mr. Pramod Gupta & Mr. Ankit Lamba, Advocates.

Versus

FCI AND ORS ..... Respondents
Through: Mr. Kamal Sawhney & Mr. Amit Shrivastava, Advocates for R-1 FCI.

AND

\+ W.P.(C) 5730/2010

SH. P.P.S. KAPOOR & ORS ..... Petitioners
Through: Mr. Pramod Gupta & Mr. Ankit Lamba, Advocates.

Versus

FCI AND ORS ..... Respondents
Through: Mr. Kamal Sawhney & Mr. Amit Shrivastava, Advocates for R-1 FCI.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **06.05.2011**

1. This order is in continuation of the order dated 21st April, 2011 in W.P.(C) No.2537/2011 . As directed therein, W.P.(C) No.5730/2010 has also been listed today.

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By:AMULYA

2. Though the counsel for the petitioners in W.P.(C) No.2537/2011 had on 21st April, 2011 sought time to respond to the reasons stated in the order dated 21st April, 2011 for the petitioners not being entitled to the relief claimed but the counsel for the petitioners has today stated that the respondent FCI has filed/is proposing to file a Transfer Petition in the Supreme Court for transfer of writ petitions entailing similar question as entailed in these writ petitions and pending before several High Courts to the Supreme Court. It is contended that the respondent FCI also intends to obtain stay of proceeding in all the writ petitions including W.P.(c) No.5730/2010 pending consideration of the Transfer Petition in the Supreme Court. A copy of the application stated to have been filed in one such writ petition before the Madhya Pradesh High Court at Jabalpur along with annexures is handed over and taken on record. The counsel for the petitioners seeks adjournment of both the writ petitions pending consideration of the Transfer Petition by the Supreme Court.

3. The counsel for the respondent FCI appearing on advance notice states that he has no instructions qua the proposed transfer petition.

4. I am for the reasons disclosed in Court and not recorded at request of counsel for the petitioners, not inclined to adjourn the matters.

5. At this stage, the counsel for the petitioners seeks to withdraw both the writ petitions with liberty to approach the Appellate Authority under the Gratuity Act in terms of the judgment of this Court in ***B.S. Gupta Vs. Union of India*** MANU/DE/1142/2011.

6. The writ petitions are dismissed as withdrawn with liberty to the petitioners to approach the Appellate fora under the Payment of Gratuity Act, 1972. Since the petitioners have not been heard further in pursuance to the order dated 21st April, 2011, it is clarified that the *prima facie* observations made in the order dated 21st April, 2011 would not come in the way of the Appellate Authority considering the matter on merits, uninfluenced from the said observations.

No order as to costs.

RAJIV SAHAI ENDLAW, J

MAY 06, 2011
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