

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS No1176 of 2011 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. Siddhartha Sah, learned counsel for the petitioner. Brief facts of the case are, that respondent no.3, had agitated his claim, for the grant of gratuity, on the basis of the revised pay-scale, and the proceedings in that regard was instituted by him under the Payment of Gratuity Act on 27.05.2007. His contention was that since the Government has revised the pay-scale and the same has been determined to be made payable @Rs.26,423/- he contended that he will be entitled for payment of gratuity, as per Section 4 of the Payment of Gratuity Act, on the basis of the said revised scale till the date of attaining the age of his retirement i.e.31.08.2002. The contention of the petitioner was that during the pendency of the proceedings before respondent no.3, the petitioner has been paid the amount of Rs.1,11,972/- towards the additional gratuity vide cheque, being Cheque No.000047 from the accounts standing at Syndicate Bank. The petitioner has submitted that they have already paid the said amount and hence, the request of interest to be paid on the same would

		not be tenable and hence on the said issue the matter travelled to the authorities i.e. respondent no.2 herein. It was that vide application, thus preferred by the petitioner on 06.05.2008, before respondent no.2, where the proceedings was being agitated, the petitioner has made aware, the Court, that he has already remitted an amount of Rs.1,11,972/- as payable on the revised pay-scale and it also requested that the interest would not be payable on the same. Respondent no.2 has allowed the claim proceedings by order dated 22.06.2010 and the interest @9% per annum, on the balance gratuity amount was directed to be made payable for the period w.e.f. April 2006 to 29.03.2008, as per the provisions contained under Section 3A to be read with Section 7 of the Payment of Gratuity Act. The matter was taken in appeal by respondent no.1 and respondent no.1 while scrutinizing the order which was passed by the controlling authority has observed, that the whole issue, which was involved for consideration, was limited with regards to the non-payment of interest on the plea of condition of profitability, in accordance with the Payments of Gratuity Act, 1972, which is statutory in nature. Consequently, the appellate authority has modified the decision taken by the controlling authority by awarding the simple interest @ 10% per annum on the
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		balance amount of Rs.1,11,972/-. It is this judgment, which has been put to challenge by the petitioner in the present writ-petition, whereby the following direction has been issued by the appellate authority:- "After careful examination the decision of controlling authority I am of the considered opinion that learned controlling authority has committed on error of judgment on the whole issue regarding non payment of interest on the plea of condition of profitability. The payment of gratuity under Payment of Gratuity Act, 1972 is statutory liability of the employer and can not be diluted by any administrative instruction. Accordingly I modify the decision of learned controlling authority by awarding simple interest @ 10 % per annum on the balance amount of Rs. 1,11,972/- (Rupees One Lakh Eleven thousand Nine Hundred Seventy Two only) from 17.06 2004 to 29.03.2008. Given under my hand and seal this 23rd day of March 2011 and parties informed accordingly" During the pendency of the writ-petition, initially the respondent was represented by Mr. Pratiroop Pandey, the learned counsel for the respondent, but no counter affidavit has been filed to the writ-petition. But, owing to the fact, that practice of Mr. Pratiroop Pandey has switched over to the State side and hence none appears for respondent no.3. As such, the notice was issued to respondent no.3 on 07.08.2023, which was served upon him. As a consequence of the service of notice upon him, he has made a communication to the Deputy Registrar (Judicial), High Court of Uttarakhand on
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14.08.2023 with a copy served to the Chairman and Managing Director, Central Electronics Limited, wherein he has submitted that, owing to his earlier communication made by him and forwarded by the Private Secretary to the Minister for Science & Technology and Earth Sciences, Govt. of India vide its DO No.4646 PS/M(S&T&ES)2015 to the Director General, Counsel Scientific and Industrial Research for withdrawal of the writ-petition because on the balance, the relevant communication is extracted herein:-

*“To
The Chairman & Managing Director
Central Electronics Ltd.
4, Industrial Area
Sahibabad, Ghaziabad (UP)*

Sub: Writ Petition No.1176 of 2011 (M/S)

Respected Sir,

The above Writ Petition is pending in Hon'ble High Court of Uttarakhand at Nainital. The High Court has fixed the date of hearing of this Writ Petition on 28/08/2023. I had submitted an application dated 12/05/2015 to Ministry of Science and Technology for withdrawal of this Writ Petition (copy enclosed), the same was forwarded by Private Secretary of the Minister vide his DO letter No. 4646 PSM (S&T & ES/2015) (copy enclosed) to The Director General Council of Scientific & Industrial Research, but it appears that my application has not reached to your good offices from office of the Director General Council of Scientific & Industrial Research.

Moreover, it is further stated that I am not interested to claim any interest as awarded by Regional Labour Commissioner (Central) Dehradun vide his order dated 23 March 2011.

In view of the above, I request your goodself to kindly take the necessary proceedings to withdraw

			<i>the said Writ Petition filed by Central Electronics Ltd., Pardon me.</i> <i>Thanking you,</i> <i>Yours sincerely,</i> <i>(R.A. AGARWAL)</i> <i>Asstt. General Manager (Retd)</i> <i>Code No. 10843</i> <i>copy to: The Deputy Registrar (J),High Court of Uttarakhand, Nainital - for information & necessary proceedings in this matter, please. with reference to his notice dt. 14.08.2023”</i> For the reason being, that it is not on record by way of an affidavit, but it has been referred to the Deputy Registrar by a correspondence made by him, owing to the statement made by the respondent, that he is not interested to claim any interest on the award amount made by the Regional Labour Commissioner (Central), Dehradun vide his order dated 23.03.2011. Based on the said communication, the writ-petition would stand allowed. The appellate order dated 23.03.2011, so far as, it relates to the enhancement of the interest on the amount payable @10%, would hereby stand quashed. The writ-petition would stand allowed, in terms of the correspondence made by the private respondent on 24.08.2023. The same is taken on record. (Sharad Kumar Sharma, J.) 05.10.2023 Sukhbant
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