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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4664/2015 and C.M. Appl. Nos. 8439/2015, 18460-61/2015

M/S. REEBOK INDIA COMPANY

..... Petitioner

Through: Mr. Gulshan Chawla, Advocate.

versus

VISHNU BHAGAT

..... Respondent

Through: Mr. Rupesh Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

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31.01.2017

1. By this writ petition the petitioner had effectively sought for stay of proceedings which are pending before the competent authority under the Payment of Gratuity Act, 1972. Petitioner's case is predicated on the petitioner's defence of disentitlement of the respondent no. 2 from any gratuity from the petitioner on account of the defence of the petitioner that respondent no. 2 has caused losses to the petitioner and therefore petitioner is justified in not making payment of gratuity in view of the defences of the petitioner under Section 4(6) of the Payment of Gratuity Act.

2. It is seen that the issue as regards whether or not there are valid defences under Section 4(6) of an employer entitling the employer to forfeit the gratuity payable to the employee, is subject to a detailed procedure under Section 7 of the Payment of Gratuity Act including from sub-Section (4) onwards.

3. It is only after a detailed procedure is followed and a detailed inquiry conducted that the competent authority under the Payment of Gratuity Act will thereafter pass an order of deposit of gratuity, and which order also is subject to challenge by appeal under Section 7(7) of the Payment of Gratuity Act.

4. In view of the above, since the issues involved in this writ petition are essentially issues of defences of the petitioner as to disentitlement of the respondent no. 2 to claim gratuity from the petitioner, accordingly, this writ petition is not pressed with liberty to the petitioner to urge all these defences in the proceedings before the competent authority under the Payment of Gratuity Act and the competent authority will after following the due procedure as provided under the Payment of Gratuity Act, will pass final order in accordance with law with respect to the entitlement or disentitlement of gratuity of respondent no. 2 from the petitioner.

5. The writ petition is accordingly disposed of as not pressed with the aforesaid observations.

6. This Court makes no observations on merits of the cases of the respective parties and which merits of the respective cases will be examined and decided by the competent authority under Payment of Gratuity Act.

VALMIKI J. MEHTA, J

JANUARY 31, 2017

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