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

Date of Decision :- 21.11.2019

+ W.P.(C) 11404/2015

+ W.P.(C) 11418/2015

NATIONAL AGRICULTURAL CO-OPERATIVE MARKETING
FEDERATION OF INDIA LTD Petitioner

Through: Ms. Manu Bansal, Ms. Asmita
Duggal and Mr. Akash Saini, Advs.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr. Anil Soni, CGSC with
Mr. Devesh Dubey, Adv. for R1.
Mr. Bharat Gupta and Mr. Varun Tyagi, Advs. for
R3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present writ petition filed by the employer assails the order dated 22.07.2015 passed by the Controlling Authority under the Payment of Gratuity Act, 1972 appointed by the Government of NCT of Delhi, New Delhi ('Controlling Authority') on the ground that it did not possess the jurisdiction to deal with the respondents' claim.

2. As noted in the last order, learned counsel for the respondent no.3 had raised an objection regarding the maintainability of the present petition in view of the remedy by way of appeal available to

the petitioner under Section 7(7) of the Payment of Gratuity Act, 1972. However, today he submits, on instructions from respondent no.3, that in the light of the petitioner's plea that it was the Controlling Authority under the Central Government which was the correct forum to deal with the said respondent's claim, he has no objection if the impugned order is set aside and the matter is transferred to the Controlling Authority appointed by the Central Government for fresh adjudication. In support of this contention, he places reliance on the decision of this Court in *Balsara Hygiene Products Ltd. Vs. Appellate Authority (Under the Payment of Gratuity Act) 2001 VI AD (Delhi) 415*.

3. Learned counsel for the petitioner has no objection to the said course of action and, accordingly, with the consent of the parties, the impugned order dated 22.07.2015 passed by the Controlling Authority under the Government of NCT, is set aside. The matter is transferred to the Controlling Authority, Payment of Gratuity Act, as appointed by the Central Government, which will proceed to decide the respondent's claim petition after giving opportunity of hearing to both sides. The parties are directed to appear before the Controlling Authority, Payment of Gratuity Act appointed by the Central Government on 19.12.2019.

4. It will be open for the respondent to approach the Controlling Authority, Government of NCT with a copy of this order and seek transfer of relevant records pertaining to its case to the Controlling Authority appointed by the Central Government.

5. The amount deposited by the petitioner will be retained before

this Court and will remain subject to the outcome of the order passed by the Controlling Authority, appointed by the Central Government.

6. The writ petition is disposed of in the aforesaid terms. It is made clear that this Court has not expressed any opinion on the merits of the case and it will be open for the Controlling Authority appointed by the Central Government to examine the case on its own merits in accordance with law. Keeping in view the fact that the matter has remained pending for over four years before this Court, the Controlling Authority is requested to deal with the respondent's claim expeditiously

NOVEMBER 21, 2019
'SDP'

REKHA PALLI, J.