$~85, 86, 87

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

\+ CONT.CAS(C) 53/2026 and CM APPL.2138/2026

(85) RAJESH KUMAR JAIN .....Petitioner

versus

CHETAN PRAKASH JAIN & ANR .....Respondents

\+ CONT.CAS(C) 54/2026

(86) TRIBHUWAN SINGH AND ORS .....Petitioners

versus

CHETAN PRAKASH JAIN AND ANR. .....Respondents

Through:

\+ CONT.CAS(C) 55/2026 and CM APPL.2211/2026 (u/O XXII R 3)

(87) RAGHUNATH SINGH & ORS. .....Petitioners

versus

CHETAN PRAKASH JAIN & ANR. .....Respondents

Through:

<u>Presence</u>:

Mr. Naved Khan, Adv. for petitioners in item nos.85, 86, 87.

Mr. Anil Mittal, Mr. Shaurya Mittal and Mr. Bhim Singh, Advs. for R-1 in item nos.85 to 87.
Ms. Shiva Lakshmi, Mr. Vikrant Malwal, GP and Mr. Madhav Bajaj, Adv. for UOI in item no.85.
Mr. Jitesh Vikram Srivastava, SPC and Mr. Prajesh Vikram Srivastava, Advs. for R-2 in item no.86 (through v/c)
Ms. Manisha Agarwal Narain, CGSC and Mr. Navneet Saharan, Adv. for R-2 in item no.87.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **14.01.2026**

CM APPL.2206/2026 (Exemption) in CONT.CAS(C) 54/2026
CM APPL.2212/2026 (Exemption) in CONT.CAS(C) 55/2026

1. Allowed, subject to all just exceptions.

2. Applications stand disposed of.

CONT.CAS(C) 53/2026
CONT.CAS(C) 54/2026
CONT.CAS(C) 55/2026

3. The present petitions allege wilful disobedience of the directions contained in the judgment dated 17.09.2024 passed by this Court in W.P(C) 5942/2018 and judgment dated 26.11.2024 passed by this Court in W.P(C) 16319/2024. The operative directions in the judgement dated 17.09.2024 read as under:-

> *"18. In view of the limited relief now sought by the Petitioners and without entering into the merits of the inter se disputes, these writ petitions are disposed of leaving it open to the Petitioners to make a comprehensive representation(s) to CEL for reconsideration of the decision denying enhanced gratuity of Rs.20 lacs to the Petitioners in light of the submissions that may be made in the said representations and keeping in backdrop the judgment of the High Court of Uttarakhand in Nawab Khan (Supra) which was upheld by the Supreme Court. As and when the representation(s) are received, the same shall be decided by CEL within a period of 3 months from the date of receipt and a reasoned and speaking order shall be passed thereon. Needless to state Petitioners will be at liberty to take recourse to legal remedies in case of any surviving grievance."*

The operative directions in the judgement dated 26.11.2024 read as under:-

> *"10. Accordingly, at this stage, without entering into the merits, this writ petition is disposed of with a direction to Respondent No. 2 to consider the representation dated 05.11.2024 pending with Respondent No. 2 within a period of six weeks from the date of receipt of this order. Needless to state that the decision will be taken keeping in view the enhancement in the upper limit of gratuity by way of amendment to the Payment of Gratuity Act, 1 972 as also the judgment of the High Court of Uttarakhand in Nawab Khan (supra), which was upheld by the Supreme Court. While taking the decision, Respondent No. 2 will also take into consideration the Presidential Directive conveyed by Ministry*

of Science &Technology to Respondent No. 2 vide letter dated 13.10.2010 and O.M. issued by DPE on 02.06.2010 as also minutes of 158thmeeting of Board of Directors of Respondent No. 2. A reasoned and speaking order shall be passed by Respondent No. 2, which shall be communicated to the Petitioners within one week from the date of the decision and Petitioners will be at liberty to take recourse to appropriate legal remedies, in case of any surviving grievance and if so advised."

4. It transpires that pursuant to the above directions in both the judgments, speaking orders dated 11.03.2025 and 18.03.2025 have been passed by the Central Electronics Limited (CEL). The order dated 11.03.2025 holds, *inter alia,* as under:-

20. The Applicants today can not be allowed to reagitate and claim the enhanced gratuity when the issue has been finally decided by DLC and has been accepted by the applicants.

21. It is pertinent to note that the **Nawab Khan Judgment** directs enhanced payments to be made to the *'Petitioners'* therein and no rights are accrued in the favour of present applicants in terms of **Nawab Khan Judgment.** Merely by the fact that the **Nawab Khan Judgment** was not interfered with by the Hon'ble Supreme Court and the challenge was dismissed *in limine* by the order dated 25.07.2022, the applicants can not seek to agitate the dispute, which in the facts of the case of the applicants has attained finality with the order of DLC.

22. The applicants can not seek to re-open and make the claims against CEL after having accepted the gratuity amount as far back as in 2008 & 2009 and having not challenged the order of DLC for over 09 years. The applicants cannot now be allowed to take the benefit of **Nawab Khan Judgment** only after SLPs against the same were dismissed on 25.07.2022 *in limine.*

23. The applicants have also supressed material facts in their representation that there exist the orders of DLC which have perpetually settled the issues as far as the applicants making the representation are concerned.

24. Without prejudice to the aforesaid objections, the applicants are otherwise not entitled to any benefits as claimed under **OM 2007** as the issue with respect to the gratuity as governed by The Payment of Gratuity Act, 1972 (**'Gratuity Act'** in short), which provides for the limits and the manner in which the gratuity shall be paid to the employees. CEL is duty

bound by the provisions of the Gratuity Act and has at all times complied the same.

25. The ceiling on the gratuity is governed by Section 4 of the Gratuity Act and the limits imposed by the Central Government from time to time. As per the Gratuity Act existing at the time of the retirement of the applicants, the maximum ceiling of the gratuity was Rs. 3.5 lakhs. Till the commencement of Act 15 of 2010 (w.e.f. 24.05.2010), the statutory limit of Rs. 3.5 Lakhs was provided in the Gratuity Act itself. In compliance thereof, CEL was paying all its employees' gratuity with a ceiling of Rs. 3.5 Lakhs for the relevant period in terms of the statutory regimes.

26. On 24.05.2010, the Central Government amended the Gratuity Act by The Payment of Gratuity (Amendment) Act, 2010 (No. 15 of 2010) dated 17.05.2010 w.e.f. 24.05.2010, thereby enhancing the ceiling on gratuity from 3.5 Lakhs to 10 Lakhs. Accordingly, CEL increased the maximum ceiling on gratuity to Rs. 10 Lakhs w.e.f. 24.05.2010.

27. Thus, till the commencement of Act 15 of 2010 (w.e.f. 24.05.2010), the statutory limit of Rs. 3.5 Lakhs was provided in the Gratuity Act itself. It was only after the amendment of 2010 (w.e.f. 24.05.2010), the words '*three lakhs and fifty thousand rupees*' were substituted with '*ten lakh rupees*. These limits were subsequently amended by the Amendment Act 12 of 2018, where the words '*ten lakh rupees*' have been substituted with '*such amount as may be notified by the Central Government from time to time*'. After Amendment Act 12 of 2018, the maximum limit of gratuity admissible to an employee is amended by the central government through notification in the official gazette rather than making an amendment in the Gratuity Act.

28. CEL can not be faulted for following the statutory regimes and paying gratuity in terms of the limits as sanctioned by the Central Government in terms of the statutory regimes.

29. It is the case of the applicants that their entitlement to an enhanced gratuity stems from OM 2007, however, the same is incorrect and can not be to the aid to the benefit of the applicants as OM 2007 is merely

advisory in nature and not on its own a concluded agreement or an award for the payment of enhanced gratuity. In fact, OM 2007 on its own can not even be implemented and in fact provides for mechanism in which the same would only be implemented as per para 17 of OM 2007.

30. Para 17 of OM 2007 clearly provides that the revision will only be after the Board of Directors of each CPSE consider the proposal of pay revision based on their respective affordability to pay and the concerned ministry shall approve the same in concurrence with the financial advisor of the concerned CPSE.

31. The **Nawab Khan Judgment** has not considered the interpretation of the OM 2007 with respect to its Clause 3 ad 17, which provides for the affordability. Further, the **Nawab Khan Judgment** does not consider that the OM is directory in nature. In fact, the **Nawab Khan Judgment** is at variance with the view taken by Hon'ble High Court of Delhi on this issue.

32. Thus, in view of the above, the representation is declined and the request made cannot be acceded to.

For CENTRAL ELECTRONICS LIMITED

(Pankaj Khanna)
General Manager (F & HRD)

The order dated 18.03.2025 holds, *inter alia,* as under:-

25 The Presidential Directive dated 15.08.2018 has never been challenged and has been implemented by the CEL by its office order dated 21.08.2018 which is also not in challenge. As such the issue has attained finality and the same cannot now be opened up to expose CEL to liability of enhanced gratuity at this stage. It is pertinent to note that the Hon'ble Delhi High Court in ***Himanshu Srivastava & ors. v. UoI and Ors. [reported in 2023:DHC: 2891]*** has applied the principals of 'affordability' whilst considering the issue of enhanced gratuity. The fact that the issue of affordability has already been considered by the Ministry and experts in the

Ministry, there is no dispute to the fact that as on the relevant date of the implementation of OM 2017, CEL did not have necessary 'affordability' to enhance Gratuity from 01.01.2017. The entitlement of the employees (including retired employees as well as the applicants/petitioners) for any monetary benefit causing financial impact upon the employer has to be decided taking into consideration the circumstances and the employer's financial condition prevailing at the time when such decision is to be taken. Any decision taken in the past, keeping in view the financial condition prevailing at that time, touching the entitlement of the employees for any monetary benefits cannot be reviewed on the ground of changes in financial position of the employer at any later stage.

26. The Nawab Khan Judgment does not in any manner further the case of the employees making the present representation. The employees claim to be applicants seeking impleadment before the Hon'ble Supreme Court in the challenge to Nawab Khan Judgment. However, the Hon'ble Supreme Court dismissed the challenge to the judgment *in liminie* without ever making the employees a party to the *lis*. The employees not being party to the *lis* cannot claim benefit of the judgment.

27. Further, the Nawab Khan Judgment is based on a challenge to the order passed by the Ld. Deputy Labour Commission by the Petitioners therein with respect to their claim of enhanced gratuity being rejected. The Nawab Khan Judgment, therefore, limited the benefit only to the Petitioners therein which is evident from the operative part of the judgment. It may be noted that similarly placed employees have not received the benefit of enhanced gratuity and the same is limited to the Petitioners therein.

28. The said Nawab Khan Judgment having not been interfered by the Hon'ble Supreme Court and there being a dismissal *in liminie*, the same does not merge with the order of the Hon'ble Supreme Court and therefore the benefit is limited to the persons therein, who were before Hon'ble High Court against the challenge to an order of the Ld. DLC.

29 Further, the Hon'ble Delhi High Court in *Himanshu Srivastava (supra)* has taken a view which protect the right of CPSEs on the issue of 'affordability' and the same applies in the present case.

30 Independent of the above, the facts in Nawab Khan Judgment are at variance in the present case. In the present case the Union of India has by an OM dated 10.07.2018 clarified that the applicability of enhanced gratuity wef 01.01.2017 is based on affordability. Further, the Union of India by its affidavit has supported the stand of CEL. These issues were not present in the case of Nawab Khan and not considered by the Hon'ble High Court. The same not being in issue, there decision in Nawab Khan Judgment cannot be made applicable to this case.

31 It is stated that the issue of affordability was to be considered for the relevant period under OM 2017 and cannot be considered post facto. Enhancing the Gratuity at this stage would effectively imply a post facto reconsideration of limits decided in 2017-2018 to the prejudice almost the entire workforce of CEL.

32 CEL highlights that it has all times acted in furtherance of and in line with the Payment of Gratuity Act, 1972 and have given benefits to all its employees including the employees making the representation for benefits of enhanced wages in lieu of increase of pay scales post implementation of OM 2017.

33 Therefore, CEL has at all times acted within four corners of the OM 2017 and the presidential directive. Further, it has complied with all requirements of the Payment of Gratuity Act, 1972. CEL has acted in compliance of all laws and in a bonafide manner. Any variation from the decision taken would be contrary to the presidential directive and prejudicial to the rights of other employees of the CEL.

34 Thus, in the above light the representation is declined and the request made cannot be acceded to.

5. Learned counsel for the petitioners submit that although speaking orders dated 11.03.2025 and 18.03.2025 have been passed by CEL, the same are not in consonance with the dicta laid down in ***Nawab Khan v. Union of India & Others***, Writ Petition (M/S) No. 891/2016 and connected matters. It also transpires that the petitioners have already taken legal recourse by assailing the aforesaid speaking orders by way of substantive writ petitions.

6. It transpires that the respondents have passed the aforesaid speaking

orders in terms of the directions contained in the judgments dated 17.09.2024 and 26.11.2024 respectively, and on a perusal of the said speaking orders, it cannot be said that there has been any wilful disobedience by the said respondents with the directions contained in the aforesaid judgments.

7. The petitioner is well within its rights to urge that the speaking orders are based on a clear misconception and misunderstanding of the law laid down in Nawab Khan (Supra). However, this is an aspect which is required to be urged by the petitioner in the writ petitions already filed.

8. In the factual conspectus, this Court is not inclined to entertain these contempt petitions. Accordingly, the present contempt petitions are disposed of.

SACHIN DATTA, J

JANUARY 14, 2026/cl