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

+ **W.P.(C) 5828/2019**

DELHI TRANSPORT CORPORATIONPetitioner

Through: Ms. Aditi Gupta, Mr. Akash Deep,
Mr. Amandeep Joshi, Ms. Anjali
Chaudhary and Ms. Lavanya
Bhardwaj, Advocates.

versus

SH. GAURI SHANKAR BANSALRespondent

Through: Ms. Rashmi Priya, Advocate with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

05.02.2026

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1. By way of present petition filed under Article 226 read with Article 227 of the Constitution of India, the petitioner seeks setting aside of the order dated 05.08.2016 passed by the Controlling Authority under the Payment of Gratuity Act as well as the order dated 30.08.2018 passed by the Appellate Authority-Deputy Labour Commissioner under the Payment of Gratuity Act.

2. Vide the aforesaid orders, the Controlling Authority, on being approached by the respondent under Section 4 of the Payment of Gratuity Act, 1972, directed the petitioner/DTC to pay a gratuity amount of Rs.3,84,383/- on the basis of the last drawn remuneration @ Rs.39,192/- per month. Thereafter, the appeal preferred by the petitioner before the Appellate Authority came to be dismissed, inter alia, on the ground that the petitioner's claim of an inadvertent error in payment of excess remuneration to the respondent was not brought to the notice of the Controlling Authority,



as well as on the ground that the appeal filed was barred by limitation.

3. Learned counsel appearing for the petitioner submits that initially, the services of the respondent, a Medical Officer, were engaged on a part-time basis @ Rs.400/- per hour for two hours on a daily basis. Subsequently, the said remuneration was revised on 13.08.2014 to a consolidated remuneration of Rs.18,400/- per month. She further submits that although before the Controlling Authority, the aforesaid factum could not be placed in the reply filed by the petitioner, however, the same was stated in the written submissions placed on record, which were overlooked by the Controlling as well as the appellate Authority. She further submits that with respect to the excess remuneration paid to the respondent, even recovery proceedings were initiated vide notice dated 09.05.2016, followed by a suit for recovery being CS 117/2017. The said suit, however, came to be rejected by the learned ADJ vide order dated 13.08.2019 upon an application filed by the respondent under Order VII Rule 11 CPC by placing reliance on the decision in 'State of Punjab & Ors. v. Rafiq Masih (White Washer)', **Civil Appeal No.11527/2014** decided on 18.12.2014, wherein it was held in paragraph 12 (ii), that recovery from retired employees, or employees who are due to retire within one year of the order of recovery would be impermissible in law as the same would amount to undue hardship. Learned counsel for the petitioner lastly contends that in case the error is not corrected, the same would result in unjust enrichment to the respondent.

4. It is noted that on an earlier occasion, the petitioner was directed to file an affidavit setting out the calculation of gratuity as per the last drawn salary @ Rs.18,400/- per month. Pursuant thereto the said affidavit has been filed, wherein it is stated that the amount of gratuity payable to the



respondent would be Rs.1,80,462/-.

5. Learned counsel for the respondent upon instructions from the respondent concedes that the undisputed principal gratuity amount as mentioned in the petitioner's affidavit be released to the respondent along with interest @ 10% per annum simple interest accrued thereon with effect from 30.06.2015, as directed by the controlling Authority.

6. At this stage, learned counsel for the petitioner points out that pursuant to the order being passed by the Controlling Authority, the entire awarded amount has been deposited with the Controlling Authority vide demand draft dated 23.12.2016 and the same is still lying deposited there.

7. In view of the above, the parties are directed to approach the Controlling Authority, who shall disburse a sum of Rs.1,80,462/- along with simple interest @ 10% per annum to the respondent. The remaining balance amount, if any, be released to the petitioner.

8. The petition is disposed of in above terms.

DASTI.

MANOJ KUMAR OHRI, J

FEBRUARY 5, 2026/rd