

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C.) No. 12031/2009**  
% **Date of Decision: 25<sup>th</sup> September, 2009**  
# DELHI JAL BOARD ..... PETITIONER  
! Through: Mr. Suresh Tripathy, Advocate  
VERSUS  
\$ SHRI SITA RAM AHUJA .....RESPONDENT  
^ Through: Nemo.

**CORAM:**  
**Hon'ble MR. JUSTICE S.N. AGGARWAL**

1. Whether reporters of Local paper may be allowed to see the judgment? **No**
2. To be referred to the reporter or not? **No**
3. Whether the judgment should be reported in the Digest? **No**

**S.N.AGGARWAL, J (ORAL)**

Delhi Jal Board (the petitioner herein), in this writ petition, seeks to challenge an order dated 29.01.2008 passed by the controlling authority under the Payment of Gratuity Act, 1972 directing it to pay Rs.58,905/- with interest @ 10% per annum to the respondent on account of difference of gratuity admissible to him under the Payment of Gratuity Act.

2 Heard on admission.

3 The respondent had retired from the service of the petitioner on 31.03.2001. After his retirement, he was paid gratuity under the CCS (Pension) Rules. The respondent filed an application before the Controlling Authority under the Payment of Gratuity Act, 1972 for payment of difference of gratuity admissible to him under the Payment of Gratuity Act, 1972 and what has been paid to him under the CCS (Pension) Rules. The claim made by the respondent was contested before

the controlling authority on the ground that the petitioner is exempted from the provisions of the Payment of Gratuity Act, 1972 vide Notification dated 12.06.2003. The controlling authority did not agree with the plea of the petitioner and directed it to pay difference of gratuity admissible to the respondent under the Payment of Gratuity Act, 1972. It will be significant to mention that the respondent on the date of his retirement on 31.03.2001 was governed by the provisions of the Payment of Gratuity Act, 1972 because the petitioner was granted exemption under Section 5 of the said Act w.e.f. 12.06.2003. The petitioner cannot take advantage of the prospective exemption granted to it w.e.f. 12.06.2003. Therefore I do not find any perversity in the impugned order directing the petitioner to pay difference of gratuity to the respondent.

3 A similar challenge made by the petitioner in another writ petition being W.P.(C) No.17888/2005 and other connected matters has already been dismissed by this Court vide judgment dated 21.08.2007. The appeal against the said judgment being LPA No. 780/2008 filed by the petitioner has also been dismissed by the Division Bench of this Court vide judgment and order dated 13.01.2009.

4 In view of what has been stated above, I do not find any perversity or illegality in the impugned order that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. This writ petition therefore fails and is hereby dismissed in limine.

**SEPTEMBER 25, 2009**  
**'BSR'**

**S.N.AGGARWAL, J**