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

+ W.P.(C) 12162/2021

STATE TRADING CORPORATION OF INDIA LIMITED

..... Petitioner

Through: Mr.Tarkeshwar Nath with Mr.Lalit
Mohan, Mr.Virat Saharan, Mr.Harshit Singh,
Adv.

versus

HARISH MALHOTRA

..... Respondent

Through: Mr.Bhagwan Swarup Shukla,
Adv(Amicus Curiae).
Mr.A.K.Roy, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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09.12.2022

CM APPL. 53467/2022 -Recall of order (Petr.).

1. This is an application filed by the petitioner seeking recall of the order dated 30.11.2022. Vide the said order, this Court had directed the petitioner to pay the amount as determined under the impugned order towards arrears of gratuity to the respondent no.1 with a specific condition that in case, the petitioner were to succeed before this Court, appropriate orders for refund of this amount from the respondent no.1 or if so warranted from the respondent no.2 would be passed.
2. Today, learned counsel for the petitioner once again submits that respondent no.2 is liable to make payment of the amount under the impugned order to the respondent no.1 towards gratuity and, therefore, the petitioner ought not to be directed to make the said



payment. He further submits that even otherwise, the amount as determined under the impugned order is at variance with the amount, which according to respondent no.2 is payable to respondent no.1 towards arrears of gratuity.

3. Having considered the submission of the learned counsel for the parties, I am of the view that once this Court has already clarified that the payment of the amount under the impugned order to the respondent no.1, will remain subject to outcome of the orders as may be passed in the present petition, there is no ground made out to recall the order dated 30.11.2022. As noted in the said order, once under the impugned order the petitioner has been found liable to pay this amount to the respondent no.1, merely because according to the petitioner, the same is payable by the respondent no.2, the respondent no.1 cannot be made to suffer.
4. The application is, accordingly, dismissed.

CM APPL. 53468/2022 -Stay (order dated 30/11/2022).

5. List on 19.04.2023, the date already fixed.

DECEMBER 9, 2022

sr

REKHA PALLI, J