

23.11.2023
Court No. 13
Item No. 19
pk

W. P. A. 23655 of 2023

**Baleswar Sah @ Baleswar Shaw
Versus
The State of West Bengal and others**

Mr. R. Guha Thakurta,
Ms. S. Sengupta,
Ms. Dona Ghosh,

..For the writ petitioner.

Mr. Jayanta Samanta,
Ms. Ghazala Firdaus

... For the State.

1. Despite service, the employer/the Calcutta Jute Manufacturing Co. Ltd. is not represented.
2. The petitioner is aggrieved by the action of the certificate officer in refusing to proceeding with Case No. 22/Misc/22 in execution of the certificate dated 16.12.2021 passed in Gratuity Case No. G-197/14 under Section 8 of the Payment of Gratuity Act, 1972.
3. It appears that certificate proceedings were initiated and the certificate officer had, inter alia, passed orders on 28th July, 2023 directing payment to be made. However, surprisingly the certificate debtor company had applied for rejection of the claim of the certificate holder, inter alia, on the ground that the petitioner was not in continuous service and hence not an employee within the meaning of sub-section 2 of Section 2A of the Payment of Gratuity Act, 1972.
4. It is now well settled that an executing court and/or the certificate officer cannot travel behind the

certificate. The original order determining the gratuity dated 13.05.2021 was never challenged before any forum at any point of time by the private respondent.

5. In those circumstances, this Court orders that the application of the private respondent dated 24.08.2023 is rejected. The certificate officer shall proceed to take steps to execute the certificate without entering into the merits of the adjudication already made in the order dated 13.05.2021.

6. It is expected that certificate proceedings are completed in accordance with the law within a period of six months from date.

7. The writ petition is disposed of.

8. There will be no order as to costs.

9. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)