

13.02.2025
Ct. No. 30
S.L No. 12
SM

WPA 1147 of 2025
Narula Institute of Technology & Anr. .
Vs.
Union of India & Ors.

Ms. Amrita Pandey
Mr. Ghanshyam Pandey
.....for the petitioners

Mr. Uddipan Banerjee
Mr. Subhrakanti Samanta
.....for the respondent no. 4

Affidavit-of-service filed be kept with the record.

The present writ application has been preferred against an order dated 5th September, 2023 passed by the Controlling Authority under Payment of Gratuity Act in G-125/2021.

Learned counsel for the petitioners submit that the petitioners had filed an application challenging the maintainability of the gratuity case before the Controlling Authority, Barrackpore on the ground that the dispute raised is under the Central Government and not the State Government but the application was rejected without hearing.

It appears from the series of orders passed by the Controlling Authority which is as follows that in spite of being given sufficient opportunity the

petitioner herein who is the opposite party before the Controlling Authority failed to appear before the authority in spite of specific notice. The orders are reproduced here:

“As the office was closed at 2.00 p.m. on 25.05.2023 in pursuance of a Govt. Order on the occasion of ‘Jamai Sasthi’, no hearing could be taken on that date. The next date of hearing is fixed on 13.07.2023 at 2.30 p.m. Notice to both parties.”

“Both the applicant and OP are absent without intimation. The next date of hearing is fixed on 05.09.2023 at 4.00 p.m. Notice to both parties.”

“The A/R of the applicant appeared before the CA at 2.50 p.m. and is intimated of the next date of hearing on 05.09.2023 at 4.00 p.m. Notice to OP only.

“The A/R of the applicant is present. The OP is absent without intimation. The petition of the OP dated 16.12.2022 is today disposed off and necessary order in this regard is passed. The next date is fixed for cross-examination of applicant by OP. To 09.11.2023 at 4.00 p.m. send notice to OP along with a copy of the order dated 05.09.2023 of the Controlling Authority.”

S/d

*Controlling Authority under the Payment of
Gratuity Act-1972, Barrackpore, North 24
Parganas.*

On 05.09.2023 when the final order disposing of the application challenging maintainability was passed the opposite party did not appear before the authority nor was there any prayer for any adjournment.

Considering that the proceeding is under a beneficial legislation, the Controlling Authority without waiting further for the opposite party to appear, disposed of the application and fixed date for cross-examination of the applicant and by the OP, the petitioner herein.

In spite of non-appearance of the petitioner/OP the Controlling Authority directed further notice to be issued along with the copy of the order to the OP.

The Controlling Authority could have very well proceeded ex parte in the said proceedings, but keeping in mind the ends of justice directed further service of notice upon the opposite party petitioner herein.

It appears that on dates subsequent to 05.09.2023 cross-examination was conducted by the opposite party and the proceedings continued before the Controlling Authority.

In spite of proceeding with the case before the Controlling Authority, the opposite party therein being

the petitioner herein has approached the Writ Court against the said order.

On perusal of the orders passed by the Controlling Authority including the order challenged and also the subsequent orders, it appears that the Controlling Authority proceeded in accordance with law, keeping in mind the interest of justice. The conduct of the petitioner herein was negligent and there was laches on the part of the petitioner before the Controlling Authority which is evident.

Accordingly the writ application is disposed of with the direction that the order as to disposing of the application for maintainability vide order dated 05.09.2023 is hereby set aside.

The application challenging maintainability is restored to its file and number but with a cost of Rs. 5000/- be paid to the State Legal Services Authority, West Bengal.

The Controlling Authority shall dispose of the application dated 16.12.2022 challenging the maintainability of the forum, expeditiously, on hearing the parties and dispose of the same on merit in accordance with law.

It is clarified that in case there is any laches on the part of the petitioner/opposite party before the Controlling Authority, no further opportunity shall be

granted to the petitioner and the Controlling authority shall decide the petition challenging maintainability ex parte and dispose the same on merit.

The writ application is accordingly disposed of.

Applications, if any, connected thereto stand disposed of consequently.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the Trial Court at once.

Photostat certified copy of this order, if applied for, being given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]