

07.02.2025
Court No.13
Item No.17
pk

**MAT 165 of 2025
CAN 1 of 2025**

**Pioneer Co-operative Car Parking Servicing and
Construction Society Limited
Vs.
The State of West Bengal and others**

Mr. Milan Chandra Bhattacharjee,
Mr. Raja Ghosh,
Ms. Sulagna Bhattacharya
... for the appellant.

Mr. Nirmalya Biswas,
Md. Ziaur Rahaman
... for the State.

Mr. Suvadip Bhattacharjee,
Mr. Balaram Patra
... for the respondent no. 4.

1. The instant appeal is directed against judgement and order dated 30.01.2025. The judgement was passed on a writ petition filed by the employer challenging the order dated 07.01.2025 passed by the Controlling Authority under the Payment of Gratuity Act, 1972. By the said order, the Controlling Authority has conclusively decided the point of limitation in favour of the employee respondent. Admittedly, the application for payment of gratuity was made three years after the superannuation of the employee concerned.

2. Counsel for the employee submits that the delay of three years occurred due to the fact that he was on extension of service.
3. Having regard to the impugned judgement and the observations of the Single Bench, this Court is of the view that interest of justice would be served if the order of the Controlling Authority dated 07.01.2025 is treated as a tentative view.
4. The parties have been directed to adduce evidence.
5. It is now well settled that limitation and jurisdiction are mixed questions of fact and law. The issue of limitation shall, therefore, be finally decided by the Controlling Authority after receiving oral and documentary evidence from both the parties.
6. It is only after deciding the limitation issue first based on the evidence that the parties bring on record, that the Controlling Authority if at all may proceed to determine the issue on merits of the claim for gratuity.
7. In view of the aforesaid, this Court is inclined to set aside the impugned judgement of the Single Bench dated 30.01.2025. The order of payment of cost shall also consequently stand set aside.

8. It is expected that the parties and their representatives before the Controlling Authority conduct the proceeding in a cordial and conducive atmosphere.

9. It is expected that the Controlling Authority decides the matter as expeditiously as possible preferably within a period of five months from date.

10. With the aforesaid observations, the instant appeal is disposed of.

11. In view of disposal of the appeal itself, connected application being CAN 1 of 2025 is also disposed of.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)