

01.07.2025
Item No.07
BR

WPA 14038 of 2025
M/s. Budge Budge Company Ltd.
-vs-
State of West Bengal and Ors.

Mr. Balai Chandra Paul,
Mr. S.M.Obaidullah,
Mr. Roni Chowdhury,
Ms. Tithi Roy
... for the petitioner

Mr. Rananeesh Guha Thakurata,
Ms. Dona Ghosh
.. for the respondent no. 3

Mrs. Rama Halder,
Mr. Sanjoy Mukherjee
..... for the State

Affidavit of service filed by the petitioner
be kept with the record.

On being served the respondents are
being represented.

The writ application has been preferred
challenging an order dated 8.5.2025
passed by the controlling authority under
the Payment of Gratuity Act and Assistant
Labour Commissioner, Alipore.

The order under challenge is as follows:
*“ The petition is heard today. Both the
parties appeared and heard. The point of
maintainability has been discussed. The
petition dated 20/02/2025 is disposed of
on the basis of the point that the issue*

raised by the O.P. could be discussed in the main hearing of the case. The case will proceed on its own course and the O.P. will file W/S on the next date i.e. 26/05/2025 at 2.30 p.m.

Sd/-
*Controlling Authority under the
 Payment of Gratuity Act, 1972*
 &
*Assistant Labour Commissioner,
 Alipore”.*

Learned counsel for the petitioner has relied upon a judgment of a co-ordinate Bench passed on 5.10.2016 in WP 20278(w) of 2016 with WP 20282(w) of 2016 with W.P. 20284 (w) 2016 with W.P. 20276 (W) of 2016 with W.P. 20274(W) of 2016, wherein the Court held as follows :

“Having heard the parties and considering the materials on record, this Court is satisfied that the matter be relegated to the Controlling Authority who shall decide this issue raised by the petitioner/Company first in the light of the Standing Orders of the Company (supra) and then proceed to consider the other issues.”

Learned counsel for the respondents submits that the issue of maintainability in the proceedings as considered by the co-ordinate Bench is entirely different from the issue/ grounds of maintainability raised in the present proceedings before the Controlling Authority.

It is further submitted that the controlling authority has rightly passed

the said order under challenge and the order requires no interference.

Learned counsel for the respondent has brought the notice of this Court to the application challenging the maintainability before the controlling authority. Paragraph 3 has been relied upon which states the grounds on which the petitioner herein has stated that the proceedings before the controlling authority is not maintainable.

Paragraph 3 being relevant is as follows:

“3.The Company states that from the above facts and circumstances , the instant application is not maintainable in the following amongst others :-

- i) *The instant application is barred by limitation , although on 15.01.2025 the Ld. Controlling Authority passed an order, recording that P.F. etc. were handed over to the applicant within short time after his superannuation on 31.06.2013, but the application for condonation of delay allowed mechanically, without considering the objection petition filed by the opposite party company. The opposite party company reserves its right to challenge the said order before the appropriate Authority.*

ii) *That the alleged statements made in Form 'I' dated 12.10.2023 and form 'N' without dated received by us on 12.06.2024 are fully baseless, false and fabricated.*

iii) *That the workman submitted the Form-I dated 12.10.2023, stating incorrect statements, which was duly replied by the Company vide its letter dated 26.03.2024.*

The Xerox copy of said reply is annexed herewith and marked as annexure-'B'.

iv) *The number of working years as allegedly claimed in his impugned application in aforesaid Form-I and N are fully baseless, after though and/or concocted.*

The Opposite party Company puts the application workman to strict proof thereof."

The point of limitation at (i) has already been disposed of.

On perusal of the grounds (ii to iv) challenging the maintainability, it appears that the grounds as stated in paragraph 3 of the maintainability application are all the matters of facts, including evidence, which is to be taken and adjudicated at the time of disposal of the proceedings as

they relate directly to the claim of the workman.

No case has been made out by the company/petitioner herein challenging the maintainability, which can be considered at the initial stage without going into the merits of the case.

There is nothing to show that the proceedings before the controlling authority is prima facie not in accordance with law.

The grounds made out for challenging the maintainability are clearly grounds which are required to be adjudicated while deciding the claim of the petitioner in accordance with law and are not grounds making out a case of non-maintainability of the proceedings.

As such the controlling authority has rightly held that the issues raised in the maintainability petition shall be considered during the main hearing of the case as the same requires going into the facts /merits of the claim which is to adjudicate by way of adducing evidence .

This Court finds no irregularity in the order of the controlling authority and as such the **writ petition having no merit stands dismissed.**

The Controlling Authority is directed to proceed in the case before it expeditiously.

Urgent Photostat certified copy of this order, if applied for, be given to the learned council for the parties on usual undertakings.

(Shampa Dutt (Paul), J.)