

27.01.2025.
Item No. 22.
Court No. 13
ap

M.A.T. No. 2251 of 2024
With
I.A. No. CAN 1 of 2025

Bright Security Services
Versus
The State of West Bengal & Ors.

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh.

...For the appellant.

Re: CAN 1 of 2025 (Condonation of delay)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 89 days in filing the instant appeal.
2. Having heard the learned Advocate appearing on behalf of the appellant as also considering the statements made in the said application, this Court is satisfied with the grounds indicated therein, as sufficiently explaining delay of 89 days in preferring the appeal.
3. In view of the above, the application for condonation of delay being CAN 1 of 2025 is allowed and disposed of.
4. There will be no order as to costs.

Re: MAT 2251 of 2024

5. Despite service of notice, the respondent/workman is not represented. Affidavit-of-service filed in Court today be taken on record.

6. The appellant is aggrieved by an order dated 14th August, 2024 passed in W.P.A. No. 16441 of 2024 by a learned Single Judge of this Court whereby the appellant was directed to approach the Authority and have all issues decided in accordance with law.

7. The principal grievance of the appellant is that it is not the employer of the respondent workmen and that there is delay of five years nine months in filing application for gratuity before the Authority.

8. Having heard the learned Counsel for the appellant, this Court is of the view that the instant appeal can be disposed of by directing the Controlling Authority under the Payment of Gratuity Act to decide the two preliminary issues i.e. the maintainability of the application for gratuity after five years nine months of his cessation of service first and then as to whether there exists any employer – employee relationship between, the appellant and the respondent/workman herein.

9. It is only after the aforesaid two preliminary issues are decided that the Controlling Authority may proceed to decide the claim of the respondent/workman, if at all.

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

11. There will be no order as to costs.

12. 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.)

(Ajay Kumar Gupta, J.)