

16.03.2026
Item No.9
Ct. No. 30
Aloke

WPA 6061 of 2026

**Bridge and Roof Company (India) Ltd. & Anr.
Vs
The Assistant Labour Commissioner (Central),
Kolkata & Anr.**

Mr. Soumya Majumder, Id. Sr. Adv.
Mr. Vikash Singh
Ms. Kanchan Jaju
Ms. Ditsha Dhar
Ms. Debanjana Paul
... for the petitioners

Mr. Balai Ch. Paul
Ms. Tithi Roy
... for the respondent/workman

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred challenging an order dated 17th June, 2025, passed by the respondent no. 1 in file no.48/51/2022-E3 and also to set aside the certificate dated 9th February, 2026.
3. It is the case of the petitioner herein that vide a proceeding under Sections 7(4)(C) read with Sub-Rule (4) of Rule 11 of the Payments of Gratuity (Central) Rules, 1972.
4. The Controlling Authority under the Payment of Gratuity Act (Central), Kolkata directed as follows :

“Having regard to the aforesaid, it is stated that the opposite party, i.e. M/s. Bridge & Roof Company (India) Ltd. has already paid the admitted amount of gratuity. The opposite party

management is directed to pay the applicant Sh. Dilip Kumar Bag, a balance amount of Rs. Rs.677190 (Rupees six lakh seventy seven thousand one hundred ninety only) and payable to the applicant by treating him to be in continuous service from 17/03/1980 to 28/02/2021 along with 10% simple interest per annum as specified by the Central Government in the Gazette of India Notification vide SO No.847(E) dated 01.10.1987 under sub-section (3A) of Section 7 of the PG Act, 1972 from 28/02/2021 to till the date of actual payment of gratuity of the applicant as determined and decided above.

Thus, form 'N' dated 11/01/2022 is hereby disposed of."

5. It is the case of the petitioner that the said authority held that the applicant/private respondent herein was to be treated to be in continuous service from 17.03.1980 to 28.02.2021 and granted gratuity accordingly.
6. The petitioner submits that the private respondent has been paid gratuity for the period from April 2006 to February 2021 when he was in continuous service.
7. It is the case of the petitioner that from March 1980 to March 2006, the petitioner was not in uninterrupted service and, as such, he is not entitled to gratuity for the said period on the

basis of a certificate issued by an authority not empowered to do so and having been relied upon by the Controlling Authority.

8. Learned counsel has placed a copy of the P.F. Contribution for the period from March 1995 to November 1995 as an example to show that the statement clearly shows that there is no contribution made in respect of the private respondent herein for the period from December 1995 to February 1996. In spite of the said records, the certificate has been issued stating that the said applicant/private respondent was in continuous service.
9. It is further submitted that there are documents filed which can be placed before the authority concerned to show that the petitioner is not entitled to pay the gratuity for the period from March 1980 to March 2006.
10. Documents have been annexed to substantiate the contention of the petitioner showing that the petitioner was engaged in different projects from time to time. After completion of certain payment in one project the petitioner after a gap or interruption was engaged in another project under the petitioner. It is thus submitted that the documents prima facie clearly shows that the private respondent was not in continuous service and there has

been no uninterrupted service rendered by the private respondent which entitles him for gratuity for the said period.

11. Learned counsel for the private respondent submits that the order is an appealable order but the petitioner having been preferred an appeal and it is only when the petitioner has been served with the certificate on 09.02.2026 that the petitioner has approached this Court. It is further submitted that the private respondent has been in continuous service since 1980 and that he has been put in different projects from time to time and there has been gap but it is under the same employer being the petitioner herein. As such, the private respondent has put in continuous service from March 1980 to March 2006 and is entitled to the said amount of which he is being deprived.
12. On hearing the learned counsels for the parties and on perusal of the materials on record, it appears that the petitioner has placed certain documents which prima facie shows that the petitioner has an arguable case as to the continuous service having not been put in by the private respondent from March 1980 to March 2006. As such, the order is an appealable order and the petitioner was to prefer an appeal within the statutory period of

120 days. There is a delay of three months in preferring the appeal. But considering that the issue is addressed the delay is hereby condoned in the interest of justice.

13. But considering that the issue needs to be addressed, the petitioner is granted liberty to prefer an appeal before the Appellate Authority, within 30 days from the date of this order on furnishing a bank guarantee in respect of the amount of gratuity in preferring the appeal considering that the petitioner herein being a Government Institution prays for such liberty.

14. Accordingly, the impugned order dated 17th June, 2025 and a certificate dated 09.02.2026, be stayed till disposal of the appeal to be filed before the Appellate Authority.

15. It is made clear that in case no appeal is preferred within the period granted by this Court, the order of stay stands automatically vacated and the authorities shall be at liberty to proceed in accordance with law.

16. **WPA 6061 of 2026 stands disposed of.**

17. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)