

ORDER

OD – 1

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/62/2026
IA NO: GA/1/2026, IA NO: GA/2/2026
AKANSHA AGARWAL
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SHAMPA SARKAR
The Hon'ble JUSTICE AJAY KUMAR GUPTA

Date: 13th May 2026

Appearance:

Mr. Soumava Mukherjee, Adv.
Mr. Subhajit Seth, Adv.
... for the appellant/petitioner.

Mr. Mohit Gupta, Adv.
Mr. Sudipta Maiti, Adv.
Ms. Suparna Das, Adv.
Mr. Goutam Malik, Adv.
... for the respondent no. 1.

Mr. Debrup Bhattacharjee, Adv.
Mr. Ritesh Kr. Ganguly, Adv.
Mr. Siddharth Singh, Adv.
... for the respondent no. 2.

The Court:- GA/1/2026 is an application for condonation of delay in filing the appeal. Considering the averments in paragraph 6 of the said application, we are inclined to condone the delay. Accordingly, GA/1/2026 is allowed. The appeal is regularized.

The appeal arises out of an order dated March 4, 2025 passed in WPO/1202/2023. By the order impugned, the Learned Single Judge dismissed the writ petition and the claim of the appellant for higher death gratuity which

was allegedly payable to her husband. Her husband was an employee of Balmer Lawrie, which is a company and a public sector undertaking functioning under Government of India. The appellant relied on a communication dated June 15, 2021 made by the employer of her husband that she would receive gratuity to the tune of Rs.8,55,048/-. Immediately thereafter, on June 22, 2021, it was informed that the gratuity had been wrongly calculated and the amount payable would be Rs.2,46,648/-.

According to the appellant, she was entitled to a sum of Rs.8,55,048/- towards gratuity payable to her husband as per the terms and conditions of the service of her husband.

Her Lordship accepted the contention of the company to the extent that the calculation which was made in the first communication was erroneous and the amendment of the gratuity rules had not been incorporated in the service manual, by mistake, although such amendment was introduced with effect from July 16, 2013 with the approval of Commissioner of Income Tax.

The HR manual of the company stood rectified in May, 2022 although the amended rules were in vogue from July 16, 2013.

The husband of the appellant entered into service in the year 2014 and he had signed the terms and conditions of the service of the employer accepting the rules that would be governing his service, which would include the gratuity rules.

Mr. Mukherjee, Learned Advocate for the appellant submits that the HR manual would govern the field, as the terms and conditions of the service were

contractual in nature and the HR manual contained those terms and conditions. The gratuity which was reflected in the HR manual should be paid to the appellant, because the terms of the service of the appellant's husband should be strictly in accordance with the manual and the appellant should not be deprived of the legitimate dues only because the amendment was mistakenly not incorporated in the HR manual.

We are unable to accept the contention of the appellant that, the HR manual would prevail over the rules. The gratuity rules, as amended from time to time, would be applicable to all and the company had submitted documents before the Learned Judge indicating that, the same rules were applied to all similarly situated employees. Her lordship had categorically held that the amendment of the gratuity rules did not take place in 2022 but was incorporated in the HR manual in 2022, but had been given effect from July, 2013. This factual finding has not been contradicted by the appellant. Under such circumstances, we are not inclined to interfere with the decision of the Learned Singh Judge.

The contention of the appellant is that, the Government of India had come up with a notification giving discretion to the employers i.e. different departments of the Government and public sector undertakings to grant an additional amount as gratuity to the death victims of COVID. The said notification should be applied by the company and the amount payable to the appellant should be revised.

The Learned Advocates for the respective respondents, Union of India and the company, submit that the amended gratuity rule was already in force before the joining of the appellant's husband joined his service. The office memorandum which was relied upon by the appellant was considered by the Learned Single Judge in review, and it was categorically recorded that Balmer Lawrie had never accepted such office memorandum. Accordingly, the said office memorandum could not be applied in case of the appellant.

We are unable to accept the contentions of the appellant. We have already discussed the reasons hereinabove. The Learned Single Judge had dealt with the entire matter in detail and arrived at a finding that the appellant was granted gratuity as per the rules which were applicable to all employees of Balmer Lawrie.

Under such circumstances, the appeal and the applications are disposed of without any interference with the decision of the Learned Single Judge.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)