

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 31588 of 2011 (W)

PETITIONER :

**M/S. INSTITUTE OF ADVANCED STUDIES,
AYURVEDA COLLEGE JUNCTION, THIRUVANANTHAPURAM
REPRESENTED BY ITS POWER OF ATTORNEY HOLDER
MR. VIMALAN N.**

**BY ADVS.SRI.PAULSON C. VARGHESE
SRI.BABY JOSEPH (KOCHI)**

RESPONDENT(S) :

- 1. EMPLOYEES PROVIDENT FUND,
BHAVISHYANIDHI BHAVAN, PATTOM
THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS ASST. PROVIDENT FUND COMMISSIONER.**
- 2. THE APPELLATE AUTHORITY UNDER EPF ACT,
EMPLOYEES' PROVIDENT FUND APPELLATE, SCOPE MINAR
CORE II, 4TH FLOOR, VIJAYALAKSHMI NAGAR, NEW DELHI-110 092.**

**R1 & R2 BY ADVS. SRI.N.N. SUGUNAPALAN, SC
SMT.T.N.GIRIJA, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 : TRUE COPY OF THE ORDER DTD.8.8.2011 PASSED BY THE
1ST RESPONDENT.
- EXT.P2 : TRUE COPY OF THE REVIEW APPLICATION DTD.3.10.2011
SUBMITTED BY THE PETITIONER.
- EXT.P3 : TRUE COPY OF THE NOTICE DTD.21.10.2011 ISSUED BY THE 1ST
RESPONDENT.
- EXT.P4 : TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE
PETITIONER BEFORE THE APPELLATE AUTHORITY UNDER EPF ACT.

RESPONDENTS' EXHIBITS :

- EXT. R1(a) COPY OF THE STUDENTS REGISTER SHOWING DETAILS OF THE
COLLECTED, RECEIPT NUMBER, DATE ETC.
- EXT. R1(b) COPY OF THE STATEMENT SHOWING MONTH WISE EMPLOYMENT
STRENGTH FROM 6/2003 TO 12/2008 WHICH WAS DULY ATTESTED BY
THE CENTRE MANAGER, INSTITUTE OF ADVANCED STUDIES,
KOLLAM.
- EXT. R1(c) COPY OF THE SALARY STATEMENT FOR THE MONTH OF DECEMBER
2008 IN RESPECT OF INSTITUTE OF ADVANCED STUDIES, KOLLAM.
- EXT. R1(d) COPY OF THE SALARY DETAILS FOR THE PERIOD FROM 3/2004
PERTAINING TO THIRUVANANTHAPURAM UNIT.
- EXT. R1(e) COPY OF THE ATTENDANCE REGISTER.

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No.31588 of 2011

Dated this the 26th day of February, 2015

J U D G M E N T

The petitioner is aggrieved with the recovery proceedings initiated during the pendency of appeal before the the Appellate Tribunal. The petitioner faced with Ext.P1 order under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short EPF & MP Act), filed a review dated 03.10.2011, which was rejected as per order dated 21.10.2011 on the ground that the review was filed after the period of limitation prescribed under paragraph 79 A of the EPF &MP Act.

2. The petitioner then, approached the Appellate Tribunal by Ext.P4, which is seen to be filed on 21.11.2011. The appeal is also said to have been numbered as Appeal No. 1284 of 2011 (Diary No. 777(7) 2011). The learned Standing Counsel for the respondent

Organisation submits that recovery proceedings itself was initiated only after sixty days from the rejection of the review application and they are not aware of the pendency of the appeal before the Tribunal. The rejection of the review application is said to be consistent with the prescription under Paragraph 79A of the Scheme, which provides for a review to be filed within 45 days from the date of making such order. Ext.P1 order being dated 08.08.2011; the review filed on 03.10.2011 is beyond the period of limitation, is the contention.

3. The learned counsel for the petitioner would however point out that the order dated 08.08.2011 was issued only on 12.08.2011 as is evident from Ext.P1 and the same was received by the petitioner only on 20.08.2011. In any event, the appeal having been filed with a delay condonation application, within the time provided under the EPF & MP Act, on the same grounds urged in the review application, the question whether the review filed by the petitioner is barred by limitation,

would be left open.

4. The appeal filed as Ext.P4 is said to be pending consideration before the Appellate Tribunal. It is admitted by both parties that at present there is no Presiding Officer in the Tribunal. The writ petition was filed as early as on 2007 and it is admitted that recovery was stayed by interim order dated 25.11.2011 in this writ petition. In such circumstance, the stay shall continue till the appeal is disposed of. When a Presiding Officer is appointed, the respondent Organisation shall be competent to move an application for early disposal and in that event the same shall be taken up and disposed of within three months from the date of such application.

Writ petition is disposed of.

jma

Sd/-
(K. VINOD CHANDRAN, JUDGE)
//true copy//

P.A to Judge