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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: September 23, 2015

+ **W.P.(C) 9104/2015 & C.M.Nos. 20690-91/2015**

CENTRAL BOARD OF TRUSTEES, EPF Petitioner
Through: Mr. R.C. Chawla, Mr. D.
Rajeshwar Rao & Mr. Charanjeet
Singh, Advocates
versus

EMPLOYEES PROVIDENT FUND APPELLTE TRIBUNAL &
ANR. Respondents
Through: Nemo.

+ **W.P.(C) 9112/2015 & C.M.Nos. 20706-07/2015**

CENTRAL BOARD OF TRUSTEES, EPF Petitioner
Through: Mr. R.C. Chawla, Mr. D.
Rajeshwar Rao & Mr. Charanjeet
Singh, Advocates
versus

EMPLOYEES PROVIDENT FUND APPELLTE TRIBUNAL &
ANR. Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

% **JUDGMENT**
(ORAL)

The imposition of costs for not filing counter within the stipulated time is assailed in the above captioned two petitions. Since challenge to the impugned orders of 17th August, 2015 and 13th August, 2015

(Annexure P-1 in W.P.(C) 9104/2015 & 9112/2015) is on identical grounds, therefore, both these petitions were heard together and are being disposed of by this common judgment.

At the hearing, learned counsel for petitioner contends that the learned *Employees' Provident Fund Tribunal* (henceforth referred to as the '*Tribunal*') has no authority to impose costs and so, imposition of costs for not filing counter in time is unjust and impugned order imposing costs of ₹10,000/- for not filing counter in time deserves to be set aside. Reliance was placed upon decision of a Division Bench of this Court in *Assistant Regional Provident Fund Commissioner, Merrut Vs. Employees Provident Fund Appellate Tribunal* 2005 VII AD (Delhi) 155 to submit that the Section 5 of Limitation Act does not apply to the proceedings conducted by the learned Tribunal.

Reliance was also placed upon decision of Coordinate Bench of this Court in *Modern Public School Education Socety (Regd.) & anr. Vs. Presiding Officer, E.P.F. Appellate Tribunal & ors.* 2007 LAB I.C. 1(Delhi High Court) & *Saint Soldier Modern Senior Secondary School Vs. Regional Provident Fund Commissioner* 2015 (144) FLR 109 to submit that an appeal filed beyond the period of limitation, cannot be entertained by the Tribunal, as the Tribunal has no power to condone the delay. Thus, it was submitted that the impugned orders of 17th August, 2015 and 13th August, 2015 (Annexure P-1 in W.P.(C) 9104/2015 & 9112/2015) deserve to be set aside.

Upon hearing and on perusal of the impugned orders imposing costs, material on record and decisions cited, I find that the period of limitation provided for filing the counter, as prescribed in Rule 12 of *The*

Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997 is one month. Clause (5) of the aforesaid Rule empowers the Tribunal to allow filing the reply / counter after expiry of the prescribed period. Rule 21 of the aforesaid Rules empowers the Tribunal to pass orders/directions, as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

In the face of afore-referred Rule 21 of *The Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997*, it cannot be said that the learned Tribunal has no powers to impose costs while enlarging time for filing the counter. The power of imposing the costs need not be *express* and is *implied*, as Clause (5) of Rule 12 of *The Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997* permits the Tribunal to enlarge time for filing of the counter/ replies. Therefore, decisions relied upon by learned counsel for petitioner has no application to the facts of the instant case.

In the considered opinion of this Court, learned *Employees' Provident Fund Tribunal* has the powers to impose costs in appropriate cases. It is a matter of record that petitioner had sought waiver of costs by moving an application and learned *Employees' Provident Fund Tribunal* vide order of 26th August, 2015 has dismissed the said application by observing that it is the habit of officials of E.P.F. Organisation to not to adhere to the directions of the Tribunal and the counter replies are filed only when the matter is brought to the notice of Central Provident Fund Commissioner by the Tribunal. In such a situation, imposition of costs upon petitioner is well justified.

In view of the aforesaid, finding no substance in the above

captioned petitions, they are dismissed. Applications are dismissed as infructuous.

(SUNIL GAUR)
JUDGE

September 23, 2015

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