

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9069 OF 2016
WITH
CIVIL APPLICATION NO.337 OF 2017
IN
WRIT PETITION NO.9069 OF 2016

NAGAR PARISHAD DHARMABAD THROUGH ITS IN CHARGE CHIEF
OFFICER NITA ASHA ANDHARE
VERSUS
THE ASSISTANT PROVIDENT FUND COMMISSIONER AURANGABAD
AND ANOTHER

...
Advocate for Petitioners : Shri A.K.Tiwari h/f Shri Jadhav Hanumant P
Advocate for Respondents : Shri Chaudhari K.B..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 15th February, 2017

Per Court:

1 The Petitioner has directly approached this Court for challenging the order dated 22.01.2016 delivered by the competent authority under Section 7-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. Coupled with the same, the order dated 01.08.2016 rejecting the review application as it has been filed beyond the limitation period under Section 7-B, has also been challenged in this petition.

2 Shri Chaudhari, learned Advocate for the Provident Fund Department, submits that the entire amount of Rs.43,06,769/-, as assessed by the competent authority under Section 7-A, has already been recovered from the Petitioner. The proceedings as regards Section 7-C, 7-Q and 14-B have not yet been initiated and the right to do so is reserved.

3 Section 7-I of the Act entitles the aggrieved party to appeal before the National Provident Fund Appellate Tribunal at Delhi subject to depositing 75% of the assessed amount under Section 7-O of the Act. This remedy cannot be termed as being an alternate remedy since it is a statutory remedy under the Central Legislation and the writ petition is not to be entertained by permitting the litigant to by-pass a statutory remedy under Section 7-I.

4 Now that the entire amount, as assessed under Section 7-A, has been recovered, the Petitioner after preferring an appeal before the Appellate Tribunal under Section 7-I, can file an application under Section 7-O declaring that the entire amount has been recovered. The appeal, therefore, can be considered by the Appellate Tribunal on its own merits.

5 In the light of the above, this Writ Petition is disposed of with liberty to the Petitioner to prefer an appeal under Section 7-I within a

period of SIX WEEKS from today.

6 Needless to state, the time spent by the Petitioner in this Court from 09.08.2016 till the passing of this order, would be a good ground for condonation of delay, if any. The Appellate Tribunal would, thereafter, proceed to decide the appeal on its own merits.

7 The pending Civil Application does not survive and stands disposed of.

kps

(RAVINDRA V. GHUGE, J.)