

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH**

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.12754 of 2017

DATE: 27.11.2017

Between:

M/s Kanakadurga Automobiles Ltd., represented by its Managing
Director, Sri D.S.P. Reddy S/o Sri Venkata Ramana Reddy

....petitioner

A n d

Union of India, represented by its Secretary, Labour, New Delhi and
one another

....Respondents

HON'BLE SRI JUSTICE S.V. BHATT**WRIT PETITION No.12754 of 2017****ORDER:**

The issue arises under EPF and MP Act. 1952.

2. The petitioner challenges the Order No. AP/RO/GNT/39974/7A Notice/C.I/K.I/D-1/2016/1599 dated 24.11.2016, whereunder the review petition filed by the petitioner on 29.9.2016 to review the order dated 28.3.2016 is rejected.

3. The reasons assigned by the second respondent are brief and to appreciate the infirmity therein, the operative portion is extracted hereunder:

“With reference to your letter cited under reference on the captioned subject, it is to inform that review petition needs to be submitted in prescribed Form-9 with in the stipulated period of 45 days from the date of making of such order which is required under para 79-A of the EPF Scheme. Hence, your request for review of 7A Order dated 28.3.2016 for the inquiry period from 01/2012 to 01/2014 cannot be acceded to as the case is time barred and also not as per prescribed format.”

4. Mr. C. Raghu, for petitioner contends that the second respondent claims to have passed an order No. GR/GNT/39974/COMP.I/K-1/7A Order /2016/2366 dated 28.3.2016 and that it is served within the

period. The period of limitation can be put against the petitioner in filing of review petition, if the service of order on petitioner could be proved.

5. On 11.4.2017, notice was ordered to respondents. The second respondent filed counter affidavit and Mr. B. Narasimha Sarma, from the stand taken by the second respondent is unable to convince the Court that the order dated 28.3.2016, in fact is served on petitioner so that the limitation of 45 days can be applied for rejecting the review filed by the petitioner. On the improper presentation of review, he fairly states that it is more in form but not in substance and curable. The matter can be remitted for decision afresh.

6. I have perused the record and noted the submissions of counsel appearing for the parties.

7. The second respondent since is unable to satisfy the Court that the order dated 28.3.2016, in fact was served on petitioner, the prayer for review made on 29.9.2016 ought not to have been rejected by referring to stipulated period of 45 days from the date of making of such order. Therefore, the first ground for rejection of review is liable to be set aside and accordingly set aside.

8. Coming to the applicability of para 79-A of the EPF Scheme, as rightly pointed out by Mr. Sharma, this objection is more in form but not in substance, hence the petitioner can be given liberty to conform to the requirements of para 79-A of the EPF Scheme. Hence, the Writ Petition is ordered as follows:

- (a) The Order No. AP/RO/GNT/39974/7A Notice/C.I/K.I/D-1/2016/1599 dated 24.11.2016, is set aside.
- (b) The petitioner is given liberty to represent the review petition conforming to the requirement of para 79-A of EPF Scheme, within four weeks from today.
- (c) The second respondent, on receipt of review petition is directed to consider the review in accordance with law afford opportunity to petitioner, examine the record and pass orders expeditiously.

No order as to costs. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

S.V. BHATT, J

Date: 27.11.2017
KA