

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28898 of 2013

and

M.P.No.1 of 2013

M/s.Deccan Enterprises
R.S.No.15/17, Door No.53,
Vazhudavur Road,
Kurumbapet, Pondicherry - 605 009.

..Petitioner

vs

- 1.The Employees Provident Fund Appellate Tribunal
Scope Minar, Core-II,
4th Floor, Laxmi Nagar District Centre
New Delhi - 110 092
- 2.The Regional Provident Fund Commissioner,
Tamil Nadu & Pondicherry
No.20, Royapettah High Road,
Royapettah, Chennai - 600 014.
- 3.The Assistant Regional Provident Fund Commissioner(PDC)
Ministry of Labour, Government of India,
No.101, 100 feet Road, Sree Venni Commercial Complex,
Chollan Nagar, Olandaikerapalayam,
Puducherry - 605 004.

.. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, condoning the delay of 626 days in filing the Appeal against the Order No.PDC/PC/688/Reg1/2011 dated 24.11.2011 before the Hon'ble 1st Respondent Tribunal and consequently directing the 1st respondent to entertain the Appeal to be filed by the Petitioner within the time frame fixed by this Hon'ble Court.

For Petitioner : M/s.T.D.Selvan Babu

For Respondents : M/s.V.J.Latha

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to condone the delay of 626 days in filing the Appeal against the Order No.PDC/PC/688/Reg1/2011 dated 24.11.2011 before the 1st respondent Tribunal and consequently direct the 1st respondent to entertain the appeal to be filed by the petitioner.

2.The prayer itself shows that the writ petitioner had not filed any appeal against the order dated 24.11.2011. However, the delay was calculated based on the date of filing of the writ petition. Such a calculation of delay itself is perverse. The delay should be calculated from the date of the order i.e., 24.11.2011 and the date of filing of the appeal. However, it is admitted by the writ petitioner that no Appeal was filed even at the time of filing of the writ petition. In the absence of any appeal, the question of considering the delay in filing the appeal would not arise at all.

3.The fact remains that the order dated 24.11.2011 issued by the 1st respondent remains unchallenged and even as of now, the writ petitioner has not preferred any appeal against the said order. Contrarily, the present writ petition is filed to condone the delay of 626 days, calculating the delay from the date of issuance of the order till the date of filing of the writ petition. Such a calculation of delay is certainly erroneous and impermissible in law. In the absence of filing of any statutory appeal under the provisions of the Act, the question of filing the petition to condone the delay would not arise at all.

4.This being the factum of the case, the writ petition is totally misconceived and the relief as such sought for in this writ petition to condone the delay of 626 days would not arise at all.

5.Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Employees Provident Fund Appellate Tribunal
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Chollan Nagar, Olandaikerapalayam,
Puducherry - 605 004.

+1cc to M/s.T.D.Selvan Babu, Advocate, S.R.No.24570
+1cc to M/s.V.J.Latha, Advocate, S.R.No.24525

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NRL(CO)
CS/25/04/18



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