

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 246 of 2017

Uniworth Limited 923-945 Sector - D, Urla Indsutral Area Post Sarora,
District Raipur Chhattisgarh Through Factory Manager, R. Ramesh
Kumar, Chhattisgarh

---Petitioner

Versus

Assistant Provident Fund Commissioner Regional Office Raipur
Employees Provident Fund Orgination Block _d Scheme 32, Indra
Gandhi Vyavasaik Parisar, Pandri District Raipur Chhattisgarh,
Chhattisgarh

---Respondent

For petitioner : Shri N.K.Vyas, Advocate.
For respondent : Shri Sunil Pillai, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14/03/2019

1. The present Writ Petition has been filed assailing the order Annexure-P/1 dated 26/10/2017 passed by the Assistant Provident Fund Commissioner, Regional Office, Raipur under Section 14 (B) of the Employees Provident Fund Act, 1952.
2. The Writ Petition was filed before this Court under Article 226 of the Constitution of India on the ground that, the Appellate Authority under the Act i.e. the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur was not functional on account of there being no regular presiding officer.
3. Today on mention the matter was called and the counsel for the petitioner submits that, now a fresh presiding officer has been appointed and

he has already assumed charge on 24/02/2019 and since the Appellate Tribunal has become functional, the petitioner be permitted to withdraw the Writ Petition and avail the remedy of appeal before the Appellate Authority.

4. The said prayer is not opposed by the counsel for the respondent.

5. The Writ Petition accordingly stands disposed off as withdrawn.

6. At this juncture, the counsel for the petitioner submits that, the presiding officer after assuming the office has proceeded on leave, therefore he be granted atleast 10 days time for preferring an appeal before the Tribunal and he also makes a prayer that till the petitioner files an appeal along with an application for interim relief, the respondent may not initiate any coercive steps against the petitioner.

7. There is another request made by the petitioner that, the period of limitation to the extent of the period spent before this Court in the petition under Article 226 be also condoned by the Tribunal while considering the period of limitation in filing of the appeal.

8. The counsel for the respondent however submits that, since the Writ Petition is already pending before this Court and there is no interim relief granted by this Court, the interim relief so sought for by the petitioner at this juncture may not be required to be given.

9. Having considered the request of the counsel for the petitioner what is relevant to be taken note of is that, the need for filing of Writ Petition arose on account of there being no regular presiding officer available.

10. The petitioner at that point of time if they have sought the shelter from the High Court invoking the extraordinary powers conferred upon this Court under Article 226, for all practical purposes it has to be assumed that the petitioner did avail right of appeal before this Court under Article 226 of the Constitution of India.

11. Thus, the request of the petitioner for condoning the period spent before the High Court challenging the order dated 26/10/2017 deserves to be and would have be condoned by the respondent in spite of the fact that the Appellate Authority has got power to condone the delay for a period of only 60 days. The Writ Petition before this Court was filed on 23/11/2017. Thus, the period from 23/11/2017 till the date of receipt of copy of this order would not be counted for the purpose of calculating the period of limitation and the petitioner would be entitled for the benefit under Section 14 of the Limitation Act in this regard.

12. So far as the interim protection that the petitioner has sought is concerned, since this Court has not had an occasion of hearing the interim application till now, this Court would only pass an order that till the petitioner files an appeal before the authority concerned within a period of 10 days from today along with an application for interim relief, let status-quo as it exists today be maintained by the respondent.

13. The Writ Petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
JUDGE