

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7108 OF 2019

Pralhad Tulshiram Bhagat
aged about 66 years, Occ. Retired
employee of E.P.F.O. R/o Unnati Nagar,
Kaulkhed, Akola, Dist. Akola 444004

... Petitioner

-vs-

1. Employees Provident Fund Organization,
Ministry of Labour and Employment,
through Central Provident Fund Commissioner,
Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place,
New Delhi 110066
2. Additional Central Provident Fund Commissioner,
Maharashtra & Chhattisgarh, Bhavishya Nidhi
Bhawan, 341, Bandra (East), Mumbai 440051
3. Regional Provident Fund Commissioner,
132-A, Ridge Road, Raghuji Nagar,
Nagpur 44 0009
4. Provident Fund Commissioner,
Sub Regional Office, Raghuraj Arcade,
Civil Lines, Akola 444 001

... Respondents

Shri B. Lahiri, Advocate for petitioner.
Shri H. N. Verma, Advocate for respondents.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : January 17, 2022

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard learned
counsel for the parties.

The petitioner is aggrieved by the order passed by the Central
Administrative Tribunal, Mumbai Bench, Camp at Nagpur refusing to

restore the proceedings filed by him seeking financial relief in the matter of application of Modified Assured Career Progression Scheme - MACP scheme. The original application as filed by the petitioner came to be dismissed on 28/11/2018 for non-removal of office objections. For seeking restoration of the proceedings, the petitioner through his counsel filed a miscellaneous application. However that miscellaneous application also came to be dismissed on account of absence of the petitioner's counsel. In these facts the petitioner has filed the present writ petition.

2. The learned counsel for the petitioner submits that though the original application was filed on 11/04/2017 the office objections remained to be removed. On 28/11/2018 the original application was thus dismissed for want of prosecution. While seeking restoration of those proceedings the office objections were duly removed but when the application was placed before the Tribunal, the counsel representing the petitioner could not remain present. On this count the subsequent order dated 24/07/2019 dismissing the restoration application came to be passed. It is submitted that the petitioner being a retired employee seeking relief of financial up-gradation, he ought to be granted an opportunity to substantiate such prayer on merits. For the fault of the petitioner's counsel, the petitioner may not be

penalized. It is thus prayed that the proceedings be restored for adjudication on merits.

3. The learned counsel for the respondents has opposed the aforesaid prayer by filing reply. It is stated that since beginning the petitioner was not serious in prosecuting the original application. An opportunity was infact granted by the Tribunal on 20/06/2019 while deciding the restoration application but that opportunity was also not availed by the petitioner. Since there is delay in approaching this Court for seeking restoration of the proceedings, it is submitted that no relief be granted to the petitioner.

4. We have heard the learned counsel for the parties and we have perused the documents on record. It is seen that the petitioner approached the Tribunal on 16/04/2018 by filing the original application and sought benefit under the MACP scheme. That original application was dismissed on 28/11/2018 on account of failure to remove office objections. It is true that the petitioner moved an application for restoration but when that application was taken up, the counsel representing the petitioner was absent. In the process, the contention of the petitioner that the office objections had been removed could not be considered. We find that the petitioner being

a retired employee had approached the Tribunal seeking financial up-gradation under the MACP scheme. The prayer as made requires adjudication on merits. The proceedings have been dismissed for non-removal of office objections which cannot be solely attributed to the petitioner. In the interests of justice we are inclined to grant one opportunity to the petitioner to enable him to agitate the original application on merits.

In view of aforesaid, the order dated 24/07/2019 dismissing the miscellaneous application seeking restoration of the original application is set aside. Similarly the order dated 28/11/2018 dismissing the original application for want of prosecution is also set aside. Original Application No.2250/2018 is restored to file for its adjudication on merits. The objections in the original application, if any, be removed within a period of four weeks from today. The Tribunal shall consider the original application on its own merits and in accordance with law. All points raised in this writ petition on merits are kept open.

Rule is made absolute in aforesaid terms. No order as to costs.

(Anil L. Pansare, J.)

(A. S. Chandurkar, J.)