

24.03.2025
Ct. No. 30
S.L. No. 6
SM

WPA 5689 of 2025
Rajesh Saha
Vs.
Union of India & Ors.

Mr. Dhananjay Banerjee
Mr. Agniswar Chowdhury
.....for the petitioner
Mr. Bodhisatta Biswas
.....for the respondent nos. 2 to 5

Affidavit-of-service filed be taken on record.

On hearing the learned counsels for the parties it appears that the present writ application has been preferred against a garnishee order under Section 45-G of the said respondent no. 4 vide order bearing number C-38272/15-16/RRC & Ors. (41000536430001102)/3765 dated 17-10-2024, issued upon the concerned banks, who in consequence thereof has frozen the account of the petitioner.

It appears that an order 45A of the ESI Act, 1948 was passed on 14th May, 2015. Admittedly without preferring an appeal under Section 45AA of the Act, the petitioner slept over his rights and has woken up only after recovery proceedings has been initiated by the recovery officer under 45-G of the ESI Act in the year 2021 then finally in 2024.

As the petitioner's bank account has now been freezed, the petitioner has decided to approach the writ Court.

At the time of hearing the learned counsel for the petitioner prays for leave to file an appeal under Section 45AA of the Act upon condonation of delay of almost 10 years.

It appears from the record that even the ESI did not proceed for recovery in spite of the fact that the order under 45A was passed in the year 2015.

The Recovery Officer under the ESI Act also initiated the recovery proceedings only in the year 2021.

During this period, the petitioner submits that he was compelled to make certain payments. Finally the notice under Section 45G of the Act has been issued on 17.10.2024 after almost 10 years.

Considering the said facts and the materials on record and in the interest of justice, the writ application is disposed of with the direction that the writ petitioner herein is at liberty to file an appeal under Section 45AA of the EPF Act within 30 days from the date of this order, which the appellate authority shall consider in accordance with law and by passing a reasoned order decide the same within 30 days thereafter, considering that the amount due is of the year 2015.

The period of limitation is accordingly waived in the interest of justice.

Applications, if any, connected thereto stand disposed of consequently.

Interim order, if any, stands vacated.

Photostat certified copy of this order, if applied for, being given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul). J]