



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4337 OF 2020

Dondaicha Education Society, Through President
Himanshu Gaganvihari Shah

VERSUS

The Union Of India Through Secretary And Another

- Mr. A. N. Nagargoje, Advocate for the Petitioner
- Mr. N. K. Chaudhari, Advocate for the Respondent No. 2

CORAM : R. M. JOSHI, J
DATE : SEPTEMBER 22, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order dated 19.07.2018 passed by the Central Government Industrial Tribunal-cum-Labour Court No. 1 in CGIT-1/EPF/294 rejecting the Appeal filed under Section 14(B) of the Employees' Provident Funds And Miscellaneous Provisions Act, 1952 (for short '**the Act**') on the ground that the Appeal is time barred under Rule 7 of the Employees' Provident Fund Appellate Tribunal (Procedure) Rules, 1997 (for short '**the Rules**'), as the same has been filed beyond the period

of 60 days from the date of issuance of the order.

3. Learned Counsel for the Petitioner submits that the Appellate Authority has failed to take into consideration the averments of the Petitioner/Appellant in the memo of the Appeal, more particularly, clause no. 5 thereof. It is his submission that the facts with regard to the receipt of the order impugned dated 30.05.2017 were specifically pleaded. It is his contention that after hearing concluded, the competent Authority had reserved the order and thereafter, there was no communication to the Petitioner with regard to any order passed by the Authority including the order impugned. It is his submission that only after the receipt of the intimation from the Bank of freezing the account, the factum of passing of the order came to the notice of the Petitioner. It is his submission that immediately on 16.01.2018 an Application was moved for obtaining certified copy of the order dated 30.05.2017, however, no such order was provided and the order was finally provided on 09.07.2018 pursuant to an application filed under the Right to Information Act, 2005 (for short '**RTI Act**'). It is his submission that

the period of Appeal ought to have been calculated from the receipt of the order and not from the date of the order.

4. At the outset, learned Counsel for contesting Respondent No. 2 submits that since the order in question has been passed in the year 2017, and since the same has been complied with by the Petitioner, practically nothing survives for the challenge in the Petition. It is his submission by referring to the affidavit-in-reply that the order copy was dispatched on the same address on which the summons was received by the Petitioner and the appearance of the Petitioner before the Authority indicates that address was correct. It is his further submission that having regard to Rule 7(2) of the Rules the period of limitation would start from the date of order and not from the date of receipt of the order.

5. There cannot be any dispute made with regard to the fact that the period of limitation of 60 days has been provided under Rule 7 of the Rules. Admittedly, after conclusion of hearing, no order was passed immediately and it was reserved. In such

circumstances, question arises herein as to whether the Petitioner has received the copy of the order passed by the Authority as claimed by the Respondent through post or not. Except for the dispatch register, there is nothing on record to indicate that the copy of the order passed by the Authority was forwarded to the Petitioner by RPAD though now it is sought to be canvassed to that effect before this Court. This becomes more relevant when there is specific plea raised by the Petitioner before Appellate Authority that no order copy was received by the Petitioner.

6. Once the party specifically pleads of the order impugned having been not received and in view of the admitted fact that the order has not been passed on the date on which the arguments were heard, it becomes imperative for the Authority to ensure that the order copy is received by the party. Herein this case, the Petitioner has made an application on 16.01.2018 i.e., the date on which the intimation was received from the Bank with regard to the implementation of the order dated 30.05.2017. The document placed on record indicates that the said application has been duly

received by the Respondent. There is nothing on record to indicate that this application was responded by them and any certified copy was provided. There cannot be assumption that any such certified copy was provided in view of the fact that the certified copy of the order was provided only after application required to be filed under RTI Act. It is only in response to the said application, order copy was received by the Petitioner. Thus, contention raised by the Petitioner in the Appeal memo ought to have been taken into consideration by the Appellate Authority. The Appellate Authority has passed order without even referring to the said averments made much less calling upon the parties to substantiate their respective case.

7. Ordinarily, this exercise ought to have been directed to be undertaken by the Appellate Authority, however from the material on record this Court is convinced of the fact that the copy of the order dated 30.05.2017 was not provided to the Petitioner till the same was made available pursuant to an Application under RTI Act. The said order has been received on 09.07.2018. Appeal is filed on 19.07.2018. In view of

the these facts, it needs to be held that the Appeal is filed within time. As such, Appeal ought to have been entertained by the Appellate Authority.

8. In view of above, Petition stands allowed. Impugned order is set aside. Learned Central Government Industrial Tribunal-cum-Labour Court No. 1 is directed to entertain the Appeal filed by the Petitioner and decide the same on its own merit.

(R. M. JOSHI, J.)