



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.5411/2024

Nagpur Municipal Corporation, Nagpur V Regional Provident Funds Commissioner, Nagpur-I
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.N. Bhattad, Advocate for petitioner.
Mr. R.K. Maheshwari, Advocate for resp. no.1.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 20-11-2025.

Heard learned Counsel for the petitioner as well as learned counsel for respondent no.1. Nobody appears for respondent no.2 although served.

2. Petitioner Corporation has filed the instant petition challenging the order dated 23-02-2024 passed by respondent no.1, under Section 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, the said 'Act'). The petitioner has also made an alternate prayer, which is reproduced below :-

"In alternate-

d. Direct the respondent No.2 to accept the filing of statutory appeal and waiver application (Annexure-C & E) preferred by the Petitioner in the interest of justice, and further be pleased to;

e. Grant any other relief or order, which this Hon'ble Court may deem to be fit and proper in the facts and circumstances of the case."

3. The petitioner's primary contention is that, for challenging order dated 23-02-2024 passed by respondent no.1 the petitioner Corporation desired to file appeal under Section 7(I) of the said Act and accordingly the memorandum of appeal along with the necessary demand draft and application for grant of waiver was tried to be filed before respondent no.2/Registrar of Employees Provident Fund Appellate Tribunal, Nagpur. It is submitted that respondent no.2 refused to accept the filing of appeal only on the pretext of the appeal being filed beyond the limitation period prescribed by law. It is submitted that since the statutory appeal was not allowed to be filed by respondent no.2, the petitioner is constrained to approach this Court by way of instant petition and has also challenged the order dated 23-02-2024.

4. Having regard to the limited controversy involved, it has to be seen whether the action of respondent no.2 refusing to accept the filing of the statutory appeal is justified. The provisions of Section 7(i) of the Act provides for an appeal to be filed by the aggrieved party against an order awarding damages under Section 14B of the Act, to the Employees Provident Fund Appellate Tribunal. Although there is a limitation provided for filing this statutory appeal, the issue as to whether the appeal is within time or it is beyond limitation period and whether it is required to be considered on merits is the domain of the Tribunal. The primary

contention of the petitioner Corporation is that the Registrar ought to have allowed the filing of appeal so that the contentions of the appellant on merits as well as for seeking condonation of delay by pointing out any sufficient cause could have been adjudicated by the Tribunal. Restraining the petitioner from filing the appeal is depriving the petitioner from exhausting the remedy of statutory appeal.

5. Despite service of notice of the instant petition, nobody appears on behalf of respondent no.2. The contentions canvassed by the petitioner in this regard particularly in paragraph 5 and ground no.8 demonstrating the refusal of filing of appeal by respondent no.2 remained uncontroverted.

6. Considering the fact that the petitioner Corporation is deprived from filing the statutory appeal, it is clear that the petitioner's statutory appeal is itself not registered and there is no adjudication on merits by the Tribunal.

Having regard to these aspects, in the interest of justice, it is necessary to direct respondent no.2 to accept filing of statutory appeal along with applications filed by the petitioners so that the application for condonation of delay is registered and taken up by the Tribunal for adjudication.

7. In view of the aforesaid petitioner is permitted to file statutory appeal alongwith an application for condonation of delay,

if any, and fresh demand draft within a period of 15 days. If the petitioner presents the appeal with the necessary applications within a period of 15 days from the date of uploading of this order, respondent no.2 is directed to firstly register the application for condonation of delay, if any, and then the matter be directed to be listed as per the procedure.

8. It is clarified that this petition is decided only by considering the grievance about refusal of filing of statutory appeal of the petitioner Corporation and all the contentions raised by the parties on merits are kept open.

9. In view of this, writ petition is allowed and disposed of.

(Prafulla S. Khubalkar, J.)