



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.21216 of 2022

M/s.Ebenezer Living Word Matriculation School,
Rep. By its Correspondent,
Mr.Jaganathan Manoharan Marcus,
Chelliamman Nagar, Ayapakkam Athipet,
Chennai – 600 058.

... Petitioner

Vs

Asst. Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, R-40, A-1,
TNHB Complex, Mugappair East,
Chennai – 600 037.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order dated 22.04.2022 in EPFA 127 of 2021 passed by the CGIT, Chennai, to quash the same and directing the Appellate Tribunal to dispose the said Appeal on merit.

For Petitioner : Mr.P.Thangaraju

For Respondent : Mr.Krishna Dath for
M/s.M.S.Viswanathan

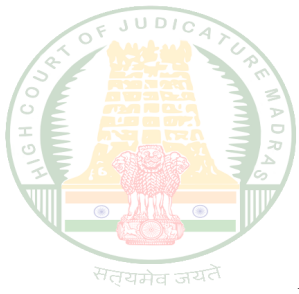


WEB COPY

ORDER

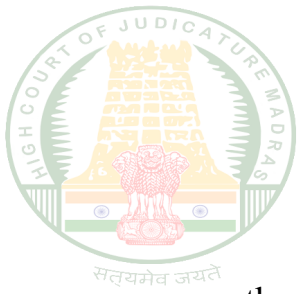
This petition has been filed by the petitioner challenging the order passed in EPFA 127 of 2021 on the file of the respondent dated 22.04.2022.

2. The learned counsel appearing for the petitioner would submit that the petitioner school is a non functioning co-educational institution, and it was convered under the Employees Provident Fund & Miscellaneous Provisions Act, 1952. Contributions have been paid to the Provident Fund Commissioner. While so, there is a delay in payment of contributions, and as a result, the respondent has determined damages under Section 14B of the EPF & MP Act. An enquiry, was already held on 17.05.2019 and there is no mens rea to delay the payment of contributions. Therefore, the order passed by the authority under Section 14B is liable to be set aside. When the order passed by the authority under Section 14B of the Act was challenged before the appellate authority and the same was not entertained due to the delay in filing the appeal. In fact, the petitioner did not issue any notice and received the impugned order only on 12.11.2020, thereby unable to file the appeal before the appellate authority within 60 days from the date of receipt of notice due to ill health. The Hon'ble Supreme Court excluded the limitation period from 15.03.2020 to 22.04.2022. However, without entertaining the



appeal, the appellate authority dismissed the appeal on the ground of limitation. Therefore, the order passed by the appellate authority is liable to be set aside.

3. The learned counsel appearing for the respondent would submit that the reasons stated by the petitioner for the delay are not acceptable. The order was passed on 07.08.2019 and the same was served to the petitioner through post. Thereafter, they stepped out of the matter and filed the present appeal with a delay. The appeal can be preferred only within the prescribed limitation period of 120 days, but the petitioner has not presented the appeal within the limitation period, therefore, the appellate authority has correctly dismissed the petition. Moreover, the petitioner sent a letter to the authority dated 16.08.2019 requesting the authority to grant a waiver for damages alone and accepted to pay interest in 60 equal installments, requesting to consider the same. Therefore, the petitioner had knowledge of the order passed by the appellate authority in spite of that they did not take any steps to prefer the appeal. Therefore, the appellate



WEB COPY

authority rightly decided to dismiss the appeal based on the period of limitation. Therefore, the present writ petition is liable to be dismissed.

4. This Court heard both sides and perused the materials available on record.

5. According to the petitioner, the order passed by the Appellate Tribunal dated 31.07.2019 was challenged before the appellate authority on 01.12.2021. As per the Employees Provident Fund & Miscellaneous Provisions Act, the appeal must be preferred within 120 days, and there is no dispute that the appeal was filed after the limitation period. According to the petitioner, he received the copy of the impugned order only on 12.11.2020 and due to illness, he was unable to file the appeal within a period of 60 days. The Hon'ble Supreme Court excluded the limitation period from 15.03.2020 to 28.02.2022, due to Covid-19. According to the petitioner, he did not receive the order immediately and to prove the same, the respondent has not produced any documents to show that the order was served to the petitioner immediately after passing the order. The learned counsel for the petitioner relied on the judgment of this Court in **Car World Vs. Employees' Provident Funds Appellate Tribunal and Ors**, in



W.P.No.12553 of 2020, wherein this Court held as follows:

WEB COPY

“It is well known that Section 27 of the General Clause Act, 1987, postulates that where a Central Act or Regulations authorized or requires any document to be served by post, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post. As already pointed out, inasmuch as no material has been shown for having actually handed over the order to the Post Office for delivering it to the petitioner, the application of that rule of deemed service cannot be invoked in this case”.

6. In view of the above said judgment and in order to give one more chance to the petitioner to prove the case before the Appellate Tribunal, it is appropriate to allow this writ petition by setting aside the order passed by the Appellate Authority. As far as the contention raised by the learned counsel appearing for the respondent that the petitioner had knowledge about the order dated 31.07.2019 and thereafter sent a letter dated 16.08.2019 requesting the authority to permit the payment of interest in 60 equal instalments is concerned, it is open to the respondent to raise the objection in respect of the limitation by producing relevant records, before the Appellate Authority.



WEB COPY

7. With the above observation, this writ petition is allowed and the order passed by the Appellate Authority in EPFA 127 of 2021 dated 22.04.2022 is set aside and the matter is remanded back to the appellate authority. The Appellate Authority is directed to take the appeal on file and pass orders on merits, including the point of limitation within a period of three months from the date of receipt of a copy of this order. No costs.

26.06.2025

drl

To

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office, R-40, A-1,
TNHB Complex, Mugappair East,
Chennai – 600 037.

P.DHANABAL, J.,

drl



WEB COPY

7



W.P.No.21216 of 2022

26.06.2025