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1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.34570 of 2022
and WMP.No.34001 of 2022

M/s.Ace Engineers,
S.F. No.7/2, Door No.190,
Sathy Main Road,
Sarkar Samakkulam,
Coimbatore – 641 107.
Rep by its Partner Mr.S.Muthukumar

... Petitioner

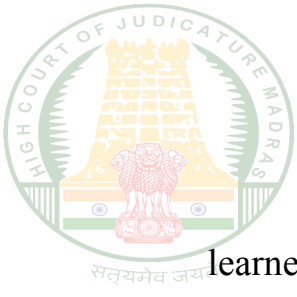
Vs

1. Assistant Provident Fund Commissioner
Employees Provident Fund Organisation,
Regional Office, P.B. No.3875,
Dr.Balasundaram Road,
Coimbatore – 641 107.

2.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court & Employees Provident
Fund Appellate Tribunal,
Shastri Bhavan, Haddows Road,
Nungambakkam, Chennai – 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records relating to the impugned order dated 31.10.2022 made in EPFA No.1 of 2021 on the file of



learned Central Government Industrial Tribunal cum Employees Provident Fund Appellate Tribunal, Chennai and to quash the same.

For Petitioner : Mr.Gummadi Ramasami for
Mr.R.Jayaprakash

For Respondent : M/s.R.Meenakshi, SC for R1
: Mr.K.Ramanamoorthy, CGSC for R2

ORDER

This writ petition has been filed challenging the order passed by the Appellate Authority under the Employees' Provident Fund and Miscellaneous Provisions Act in EPFA.No.1 of 2021 dated 31.10.2022, wherein the writ petitioner herein preferred an appeal as against the order passed under Section 7(A) of the E.P.F and M.P. Act, alleging that no notice was served to the petitioner in respect of the proceedings under Section 7(A) of the Act and that they claimed to have knowledge about the order passed by the Authority dated 07.11.2017 only on 07.12.2020, and thereafter they filed an appeal before the Appellate Authority. But the Appellate Authority, without considering the grounds raised by the petitioner that they had knowledge about the order passed only on 07.12.2020 and dismissed the petition without going into the merits of the



case on the point of limitation. Aggrieved by the said order, the present writ petition has been filed.

2. According to the writ petitioner, without serving notice to him, the impugned order under Section 7(A) of the Act has been passed and he came to know about the order only on 07.12.2020 and thereafter, within 120 days, he filed the Appeal. The Appeal time as per rules 7 (1) can be filed within 60 days from the date of the order and the proviso to Rule 7(2) stipulates that if the Tribunal is satisfied that the appellant prevented from preferring the appeal within 60 days, the Appellate Authority can condone the delay of another 60 days if the reasons stated by the petitioner is acceptable by the Tribunal. However, the limitation period accrues from the date of knowledge of the order and the order passed by the Authority passed under Section 7(A) of the Act itself referred that no notice was served to the petitioner and the postal cover returned as “refused” and thereafter, the notice was served upon the erstwhile employee of the petitioner. Therefore, the Authority himself admitted the non-serving of notice to the petitioner. However, the Appellate Authority failed to consider the same and dismissed the appeal as barred by limitation. Therefore, the order passed by the Authority is liable to be set aside.



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3. The learned counsel appearing for the respondent would submit that the petitioner belatedly filed the appeal before the Authority. During enquiry proceedings under Section 7(A) of the Act they also managed to return the notice and refused to accept the notice and thereafter, the Authorities have served the notice upon erstwhile employee. Thereafter they issued notice under Section 8(F) of the Act and after receipt of notice under Section 8(F) of the Act, they appeared before the Authority and submitted the letter dated 04.12.2020, therefore they had knowledge about the order, even according to this letter on 04.12.2020 itself. Moreover, the petitioner has already paid the entire amount of the quantum fixed by the Authority fixed under Section 7(A) of the Act. Therefore, the petitioner has now filed this writ petition alleging that they had no knowledge about the order, and thereby from the date of knowledge, the limitation period would accrues. After serving notice to the erstwhile employee of the petitioner, they came to know about the order passed by the Authority under Section 7(A) of the Act. Therefore, only for the purpose of maintaining the appeal, they have taken this plea and have not even produced the documents to substantiate their contention, and therefore, the writ petition is liable to be dismissed.



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4. The learned counsel appearing for the respondent also relied on the following judgments by this Court in (i) **WP.No.44414 of 2016** filed by **APC Papers Vs. EPFO** (ii) **W.A.No.338 of 2017** filed **M/s.Trip Go Trip Tourism Pvt.Ltd Vs. EPFO** (iii) **W.P.No.28363 of 2013** filed by **The Managing Director, M/s. A & F Overseas Trade Ltd Vs. EPFO** by alleging that the Authority has no power to condone the delay after 120 days.

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

6. In the case on hand, there is no record to show that the petitioner had knowledge about the order passed by the Authority. It is true that the Authority has no power to condone the delay beyond 120 days. However, the date of knowledge is material, and in this case, according to the the petitioner the date of knowledge is on 07.12.2020, which is also to be decided by the Tribunal based on the records.

7. In this case, there is no dispute that the petitioner has not directly participated in the proceedings under Section 7(A) of the Act. Even, as per



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the respondent, no notice was served on the petitioner; the postal notice was returned with the endorsement “refused” and thereafter notice was served on an erstwhile employee. However, there is no material on record to show that notice was served on the petitioner. According to the petitioner, they had knowledge of the order passed by the Authority on 07.12.2020. Therefore, the period of limitation accrues from the date on which the petitioner acquired knowledge of the order. It is a well-settled principle of law that the limitation period will start on the date of knowledge of the petitioner and the same has to be decided by the Appellate Authority, after affording an opportunity to both the parties.

8. The learned counsel appearing for the petitioner also relied on the following judgments:

(i) **Equitas Small Finance Banking Limited Rep by its Vice President – Human Resources/Authorised Signatory Vs Regional Provident Fund Commissioner – II, Employees Provident Fund Organisation**, reported in **2020 SCC Online Mad 13012**.

(ii) **Collector of Central Excise, Madras Vs. M/s.M.M.Rubber and Co., Tamil Nadu**, reported in **1992 Supp(1) SCC 471**.



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On a careful perusal of the above judgment, it is clear that the party who is affected by the order or decision for seeking his remedies against the same, he should be made aware of passing of such order and for seeking remedy, the limitation starts from the date on which the order was communicated to him or the date on which it was pronounced or published under such circumstances that the parties affected by it have a reasonable opportunity of knowing of passing of the order and what it contains.

9. In the case on hand also, it is an admitted fact that no notice was served directly to the petitioner. According to the petitioner, he came to know about the order on 07.12.2020, therefore, the Authority ought to have analysed about the date of knowledge, and therefore, the above said order passed by the Authority, in view of the said judgments is liable to be set aside.

As far as the judgments relied upon the respondent are concerned, it is true that the Appellate Tribunal has no power to condone the delay beyond 120 days as per rules, but in the case on hand the dispute is when the limitation period starts, therefore the said judgments will not be applicable to the present case.



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10. In the present case, the Appellate Authority calculated the period of limitation from the date of passing of the order and failed to discuss about the date of knowledge by the petitioner. Therefore, it is appropriate to set aside the order passed by the Authority and remanded back for fresh disposal. The petitioner is at liberty to approach the Appellate Authority and produce sufficient documents to substantiate his contentions. After perusal of the such documents, the Authority may decide accordingly. On the issue of limitation, the respondent shall also be at liberty to raise all the defences including the limitation period, and thereafter the Authority shall dispose of the appeal on merits including the point of limitation.

11. The learned counsel appearing for the petitioner also brought to the notice of this Court that already the petitioner paid the entire amount and the amount was duly disbursed to the employees and therefore nothing survives for further adjudication in this case. Since the petitioner challenged the order through appeal and the same is dismissed on the sole ground of limitation, the Authority has to decide the case on merits and payment already made by the petitioner is subject to outcome of the result of the appeal.



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12. In view of the said discussions the order of Appellate Authority, the 2nd respondent dated 31.10.2022 is set aside and the matter is remanded back to the Appellate Authority for fresh consideration on merits including the point of limitation. The Appellate Authority is directed to dispose of the appeal within two months from the date of receipt of a copy of this order.

13. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

11.08.2025

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To

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Employees Provident Fund Organisation,
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Dr.Balasundaram Road,
Coimbatore – 641 107.

2. The Presiding Officer,
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11

P.DHANABAL, J.,

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