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WP No. 43503 of 2025

DATED: 18-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

**WP No. 43503 of 2025
and WMP.No.48656 of 2025**

M/s.Jayasankara Hindu Mission
Hospital,
Rep. by its Chairman, Mr.J.Prakash,
Hindu Mission Hospital,
No.11, Poonthottam Street,
Villupuram.

Petitioner(s)

Vs

1. Employees Provident Fund
Organization,
Rep. by Asst. Provident Fund
Commissioner,
Sub- Regional Office,
P.B.No.588, Complex, D.Block,
Madurai Road,
Trichirapalli 620 008.

2.The Central Government Industrial
Tribunal Cum Labour Court, Chennai,
1st Floor, B- wing, Shastri Bhawan,



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26, Haddows Road,
Chennai 600 006.

Respondent(s)

PRAYER

Calling for the records on the file of the 2nd respondent and quash the order dated 04/09/2025 passed in EPF Appeal No.296 /2017 (ATA No.601 (13) / 2011 and consequently remand back the EPF Appeal No.296 /2017 [ATA No.601 (13) / 2011] to the file of 2nd respondent for disposal on merits within the time stipulated by this Court.

For Petitioner(s): Mr.K.Elangoo

For Respondent: Mr.P.K.Panneerselvam

ORDER

The Writ Petition is filed for Writ of Certiorarified Mandamus to quash the impugned order dated 04/09/2025 of the 2nd respondent in EPF Appeal No.296/2017 [ATA No.601 (13) / 2011] and a consequential remand



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to the second respondent for fresh disposal on merits within the time stipulated by this Court.

2. The petitioner is the Chairman of the Hindu Mission Hospital. The petitioner Hospital was established in the year 1998. While so, the Assistant Provident Fund Commissioner passed an order on 13.04.2010, which was challenged by the petitioner initially before the New Delhi Bench. Subsequently, the appeal was transferred to the second respondent, in EPF Appeal No.296 of 2017. The appeal came up for hearing before the second respondent for the first time on 23.02.2018, and thereafter, the appeal proceedings were mechanically adjourned on various dates i.e., on 27.04.2018, 06.07.2018, 17.08.2018, 03.12.2018, 01.03.2019 and 16.05.2019 due to non-availability of Presiding Officer. Thereafter, the appeal was adjourned to 12.06.2019 and 31.07.2019 for arguments.



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However, due to Covid-19 pandemic, the appeal was not taken up for nearly 3 years. On 18.11.2022, the appeal was taken up for hearing again and was adjourned to 07.03.2023 due to non-availability of Presiding Officer. Thereafter, the appeal was not taken up for hearing for a year and again on 09.04.2024, 09.07.2024 and 10.10.2024, it was listed under the caption for arguments. The petitioner states that even though he was ready with the arguments, the Presiding Officer was not keen on listening to the arguments, and therefore, kept on adjourning the appeal. The petitioner thereafter, filed his written arguments on 09.01.2025 and the same was taken on record by the second respondent. Again the matter was adjourned to 10.04.2025 and 09.07.2025 in a routine manner. While so, on 04.09.2025, when the appeal came up for hearing, the learned counsel for the petitioner instructed the petitioner to seek a pass-over, as he was unable to reach the Tribunal due to



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heavy traffic. The petitioner states that the appeal was called and was dismissed for default. The petitioner states that the second respondent had kept the appeal pending for 8 years and thereafter, without even considering the written arguments filed on 09.01.2025 by the petitioner, dismissed the appeal on 04.09.2025 for non-prosecution. Therefore, the petitioner left with no other remedy, filed the above Writ Petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the chronology of events would establish that the petitioner was always ready to conduct the case. However, the matter was kept pending from the year 2018, initially, due to the non-availability of Presiding Officer, and thereafter due to the Presiding Officer not evincing interest in hearing the matter on merits.

4. The learned counsel submitted that on 2 occasions i.e., on



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09.04.2024 and 10.10.2024, the matter was listed under the caption for arguments, but the Presiding Officer, did not show any interest in listening to the arguments and therefore, adjourned the matter.

5. The learned counsel submitted that by way of abundant caution, the petitioner submitted the written arguments on 09.01.2025 and thereafter, on 10.04.2025 and 09.07.2025, though the matter was listed under the caption for oral arguments, it was not taken up. Finally, on 04.09.2025, the second respondent dismissed the appeal for non-prosecution.

6. The learned counsel further submitted that as the written arguments of the petitioner was on file, the 2nd respondent instead of dismissing the appeal for non-prosecution, ought to have considered it on merits, as mandated by Rule 15 of the Tribunal [Procedure Rules, 1987]. The learned



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counsel therefore submitted that it is a fit case for remand to the 2nd respondent for fresh consideration.

7. Heard the learned counsel for both sides and perused the materials available on record.

8. The facts are undisputed. In 2011, the petitioner filed an appeal against the order of the Assistant Provident Fund Commissioner, Trichy dated 13.04.2010. The appeal was initially filed before the New Delhi Bench and later, it was transferred to the second respondent and numbered as EPF Appeal No.296 of 2017. The chronology of events would establish that right from 2018, till the date of dismissal for non-prosecution, the appeal was adjourned for various reasons stated therein. Rule 15 of the Tribunal (Procedure) Rules, 1997 reads as follows:

"15.Action on appeal for appellant's default.-- (1)Where on the date fixed for hearing of the appeal or on any other date to which such hearing may be adjourned, the appellant does



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not appear when the appeal is called for hearing, the Tribunal may, in its discretion either dismiss the appeal for default or hear and decide it on merit."

9. As per the aforesaid rules, discretion is vested with the appellate authority either to dismiss the appeal for non-prosecution or hear and decide it on merits. In the present case, the written arguments of the petitioner filed as early as on 09.01.2025, was very much available with the authority. Therefore, the second respondent, could have considered the matter on merits and passed appropriate orders. Be that as it may, when the matter was pending with the 2nd respondent for 8 long years, the 2nd respondent could have given an opportunity to the petitioner to contest the case on merits, more so, when the petitioner was ready on several occasions. The 2nd respondent has not found that the petitioner was not diligent in prosecuting the appeal. In the absence of any such finding on the lack of diligence, the



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dismissal of the appeal for non-appearance on the particular day, for non-prosecution, appears to be too harsh, more so, when major part of the delay is attributable to the Tribunal.

10. In view of the above discussions and in view of the peculiar facts and circumstances of the case, this Court is of the view that the impugned order cannot be sustained. Accordingly, the impugned order is set aside and the matter is remanded to the second respondent, for fresh consideration. The second respondent shall hear the matter on merits, after affording opportunity to the petitioner as well as the 1st respondent and thereafter, pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

11. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.



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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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