



W.P(MD)No.22965 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22965 of 2019

and

W.M.P(MD)No.19707 of 2019

M/s.Solamalai College of Engineering,
Formerly, M/s.Raja College of Engineering
and Technology,
Run by Arun Ramkumar Educational Trust,
Represented by its Managing Trustee,
Plot No.11, 80 Feet Road,
Ambiga Theatre Complex, Anna Nagar,
Madurai-625 020.

... Petitioner

Vs.

1.The Assistant Provident Fund Commissioner,
The Employees Provident Fund Organization,
Regional Office,
No.1, LDC Road,
Chinnachockikulam,
Madurai-625 002.

2.The Recovery Officer,
The Employees Provident Fund Organization,
Regional Office,
No.1, LDC Road,
Chinnachockikulam,
Madurai-625 002.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent vide No.TN/RO/MDU/41568/RO/Circle 4/PDC/LD/2015, dated 23.04.2015 and the order passed by the Presiding Officer of the Appellate Tribunal, Chennai vide EPFA 410/2018 (A/TN-105/2017) (2016), dated 14.08.2019 and the consequential show cause notice issued by the first respondent vide No.MD/MDU/41568/M-04/RECY/CP-25/2019, dated 14.10.2019 and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.P.Karthick

ORDER

The present writ petition has been filed challenging the order passed by the Employees Provident Fund Appellate Tribunal, Chennai, wherein, the appeal filed by the writ petitioner Trust has been dismissed on the ground of limitation.

2. The petitioner herein has suffered an order at the hands of the first respondent, dated 23.04.2015. According to the petitioner, this order copy was not served upon them. It is the further contention of the writ petitioner that only



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when recovery orders were effected on 06.08.2015, they came to know about the order passed by the first respondent. It is further contended that the petitioner Trust has addressed a communication on 15.02.2016 and again on 18.02.2016 seeking a copy of the order passed by the first respondent dated 23.04.2015. Pursuant to the said request, they received the order copy on 04.03.2016. Thereafter, they preferred the appeal on 20.03.2016. Hence, according to the petitioner Trust, the appeal was preferred in time.

3. The Appellate Tribunal had proceeded to dismiss the appeal on the ground that the petitioner has not produced any record to show that the Trust has received the order copy only on 04.03.2016. Challenging the same, the present writ petition is filed.

4. According to the learned Counsel appearing for the petitioner, the limitation was pleaded in the grounds of appeal, wherein, it was pointed out that they have received the order copy only on 04.03.2016 pursuant to their request made on 18.02.2016. However, the said fact was not disputed in the counter filed by the EPF Organisation. In such circumstances, the Appellate Tribunal ought not to have dismissed the appeal on the ground that the



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petitioner has not produced any record to show that they have received the order copy only on 04.03.2016.

5. Per contra, the learned Counsel appearing for the respondent Organisation had contended that the order was passed by the original authority on 23.04.2015. The said order was served upon the petitioner Management on 06.05.2015 itself and it has also been acknowledged by the Management. Though such a defence was not taken in the counter, at the time of argument it was pointed out and the Appellate Tribunal was pleased to consider the said argument and has proceeded to dismiss the appeal on the ground of limitation.

6. Heard both sides and perused the materials available on record.

7. It is the contention of the petitioner that they have not received the order copy, dated 23.04.2015 passed by the first respondent. They received the same only on 04.03.2016 after making a request on 18.02.2016. However, the petitioner has not chosen to file any record to establish the fact that they have received the order copy only on 04.03.2016. The EPF Organisation has also not filed any records to establish the fact that they have served the order copy on



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06.05.2015. In such circumstances, this Court is of the considered opinion that the order impugned in the writ petition may be set aside and the matter may be remitted back to the Appellate Tribunal, so that, both the parties could file their respective documents to establish the fact that the order copy was served or not.

8. In view of the above said deliberations, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the EPF Appellate Tribunal. Both the parties would be at liberty to file their respective documents to establish the date on which the order copy, dated 23.04.2015 of the first respondent was served upon the petitioner.

9. With the above said observations, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

02.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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R.VIJAYAKUMAR, J.

BTR

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