

ORDERSHEET

CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,

JABALPUR (MP)

CASE NO. CGIT/LC/EPFA/55/2024

M/s Flaminco Refractories Pvt Ltd Vs RPFC Jabalpur

Date of Order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
24.09.2024	<p>Matter taken up.</p> <p>Shri Shantanu S Ghate, Learned Counsel for the Appellant. Shri J.K. Pillai, Learned Counsel for the Respondent.</p> <p>Respondent side pressed their application dated 23.07.2024 seeking dismissal of this appeal on the ground of limitation. Heard both the side on this application. Appellant side has put oral objections.</p> <p>It has been submitted by Ld. Counsel for the Respondent that the impugned order was passed on 27.10.2023, whereas the appeal was filed on 07.06.2024, which is beyond the limitation of even the extended 60 days as provided in Rule 7(2) of the Employee Provident Fund Appellate Tribunal (Procedure) Rules, 1997 (Rules). Hence, it is barred by limitation.</p> <p>On the other hand, it has been submitted by Ld. Counsel for the Appellant that the order under appeal, though passed on 27.10.2023, was served on the Appellant via email on 25.05.2024 and by registered post on 01.06.2024. This fact has been stated on oath.</p> <p>Ld. Counsel refers to the judgment of the Hon'ble High Court of Kerala (DB) in Dr. KM Nawas Vs. RPFC WA No. 189 of 2024 in support of his argument that the date of limitation will run from the date of knowledge. It has also been submitted that there is no rebuttal to this assertion by the Respondent.</p> <p>After having gone through the record in light of the rival arguments, since the case of the Appellant with regard to the service of the impugned order is not rebutted, hence, in accordance with the law laid down by the Hon'ble High Court of Kerala (DB) in the case mentioned above, this appeal is admitted for hearing. Hence, the appeal be registered.</p> <p>Respondent to file Counter within 04 weeks from today, after serving a copy to the learned Counsel of the Appellant. Rejoinder if any, within 02 weeks thereafter.</p> <p>Ld. Counsel for the Appellant has further pressed his application under Section 7(O) for waiver of pre-deposit and IA. Heard both sides on these two applications. The Respondent side has vehemently opposed it.</p>	

Perused record.

After perusal of record in the light of rival arguments, the Appellant appears to have successfully established some arguable points in the appeal, hence he has successfully established his prima facie case at this stage, keeping in view the fact and circumstances of the case in hand, the balance of convenience is in favor of granting partial waiver under Section 7(0). Accordingly the amount under Section 7(0) is partially waived and the appellant is directed to deposit only 40% of the amount under appeal in favor of **Registrar CGIT (Payable at Jabalpur)** within 30 days from today. Any amount paid against amount under appeal shall be adjusted.

Recovery of amount under appeal shall remain stayed till final disposal of appeal subject to fulfillment of the condition.

List the case for final arguments on 06.01.2024.

Presiding Officer



