



**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.V.Vijaya Kumar, B.Sc., LL.M., Presiding Officer.

(Friday the 19<sup>th</sup> day of March, 2021)

**IA No.310/2020**

**in**

**Appeal No.281/2018**

(Old no.251(7)2007)

Appellant : M/s.Handicraft Development  
Corporation of Kerala Ltd  
P.B.No.171, Puthenchantha  
Trivandrum - 695001

By Adv. Ajith S. Nair

Respondent : The Assistant PF Commissioner  
EPFO, Regional Office, Pattom  
Trivandrum – 695004

This case coming up for hearing on 19.03.2021 and the same day this  
Tribunal-cum-Labour Court passed the following:

**ORDER**

1. Heard the Counsels.
2. Present review application is filed U/s 7L(2) of the EPF & MP Act.
3. As per Sec 7L(2), “ a Tribunal may any time within five years from the date its order, with a view to rectify any mistake apparent from the record,

amend any order passed by it U/s (1) and shall make such amendment in the order if the mistake is brought to its notice to him by the parties to the appeal.

4. In the original appeal, the appellant challenged an order issued by the respondent U/s 14B of the Act. The final order was issued on 04.02.2020 partially allowing the appeal and modifying the order issued by the respondent, restricting the damages to 60%. This Tribunal while issuing the order found that no counter affidavit was seen filed by the respondent. The review petitioner is aggrieved by the above observation.

5. Notice is issued to both the parties. According to the Counsel for the review petitioner, counter was already filed when the matter was pending before the EPF Appellate Tribunal, Bangalore. He also produced Exbt.Form 1 acknowledgment issued by EPF Appellate Tribunal, Bangalore for having received the counter affidavit on 21.12.2016. He also filed Exbt.R2, item delivery note of Speed Post, to prove that the copy of the counter was delivered to the respondent on 24.11.2016.

6. All the appeal files received from EPF Appellate Tribunal, Bangalore contains an Index of “ file transfer from EPFA, Bangalore to CGIT, Kerala “. This index contains the description of each and every page in the appeal file, such as

note sheet, documents, appeal paper book, notice to parties, order of EPFAT, Vakalathnama of appellant, Vakalathnama of respondent, **counter statement of respondent**, appellant's letters, respondent's letters and any other document, under the signature of the Registrar. Against 'counter state of respondent' column, it is blank and no page numbers are furnished. Hence it is clear that the counter affidavit of the respondent was not included in the file transferred from EPFAT, Bangalore. However from the documents now produced by the respondent/review petitioner it is clear that they filed the counter before EPF Appellate Tribunal, Bangalore and a copy of the same was also delivered to the appellant. It was the mistake on the part of the EPF Appellate Tribunal, Bangalore that the counter was not enclosed along with the appeal.

7. The next question is whether the order in the appeals warrants any review as prayed by the review petitioner. It is seen that, though there was no counter, the order has taken into account all the submissions made by the learned Counsel for the respondent. Further the respondent also cannot plead that they were not in receipt of the counter as a copy of the same is already delivered to them on 24.11.2016. The observations of this Tribunal in the impugned order regarding non filing of counter is only to alert the review petitioner regarding the consequences. As already pointed out, the pleadings of the learned Counsel for the review petitioner had already been taken into

account while issuing the impugned order, and therefore this review petition will not in any way affect impugned order, and no prejudice caused to the review petition.

Considering all the facts, pleadings and evidence, I am of the considered view that the review petition is not going to improve the case of the petitioner.

Hence the review petition is dismissed.

Sd/-

(V. VIJAYA KUMAR)  
Presiding Officer