

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL/EMPLOYEES PROVIDENT FUND
APPELLATE TRIBUNAL, JABALPUR**

EPF Misc. No.- 08/2022

Present - P.K. Srivastava

H.J.S. (Retd.)

**M/s. Durg Transport Company
Through Managing Director
Opp. District Court, GE Road,
Durg, Distt.- Durg (CG).**

Applicant.

Vs.

**Assistant Provident Fund Commissioner
(C-I), C/o. Regional Provident Fund Commissioner
Block-D, Scheme No. 32, Indira Gandhi Commercial
Complex, Pandri, Raipur (C.G.)-492004**

Respondent.

Shri Ashok Shrivastava : **Learned Counsel for Applicant.**

Shri J.K. Pillai : **Learned Counsel for Respondent.**

JUDGMENT

1. Applicant/Appellant Establishment has filed petition with affidavit for setting aside order dated 27.08.2021, passed by this Tribunal by which the EPF Appeal No.- 215/2017, filed by the Applicant was dismissed due to none presence of Applicant/his learned Counsel. The Respondent side has filed written objection with affidavit and to restore it for hearing.
2. **The grounds** taken in the petition are mainly that, the appeal was filed before the Tribunal in Delhi form where it was transferred to this Tribunal in Jabalpur only one notice with respect to defects in the Memo of Appeal was received by the Applicant from the Registrar which was replied with. Thereafter, no notice was served on the Applicant. He did not receive any notice of any date. More ever, the Courts were closed due the

pandemic Covid-19 in the State of Chhattisgarh from 23.03.2020 and after the Courts opened, no notice again was sent by Tribunal thereafter and the said appeal was dismissed vide order dated 27.08.2021 due to absence of Applicant. Also it is the case of the Applicant that after he came to know about dismissal of appeal, he preferred a writ petition W.P. (L) N.- 76/2021 which was disposed vide order dated 11.03.2022 with the observation that the Applicant had alternative remedy available to him to file application for restoration of the appeal under Rule 15(2) of the Rules 1997. The Hon'ble High Court further granted time of 15 days from the date of order to the Applicant to file applicant of restoration and further directed that this restoration would be considered and decided considering the grounds raised in the writ petition by the Petitioner that it was not served notice of hearing before the CGIT Jabalpur or transfer of his case to CGIT Jabalpur and further pendency of writ petition before Hon'ble High Court.

3. The Respondent side has opposed the petition that it was the Applicant who had filed the appeal. He was issued a notice regarding defects which were cured by him, after transfer of the appeal in Jabalpur, several dates were fixed but he did not appear. Also it has been stated the application is barred by limitation and that since the Employees Provident Fund and Miscellaneous Provisions Act and Rules framed therein provide specific period of limitation, hence the General Provisions of Limitation Act 1963 will not apply.
4. I have **heard arguments** of Shri Ashok Shrivastava learned Counsel for the Applicant Establishment and Shri J.K. Pillai, learned Counsel for the Respondent Authority. I have gone through the record.
5. Perusal of the record of said EPF Appeal reveals that before the Tribunal in Delhi, the Applicant was represented by his learned Counsel Shri S.K. Gupta. Notice was sent by this Tribunal in Jabalpur to the learned Counsel Shri S.K. Gupta on his Mail ID mentioned in records, which was duly served on him. Hence, the ground taken by the Applicant that notice of transfer was not given to him on transfer fails.
6. The restoration petition does not disclose as to when the Applicant came to know about the dismissal order. The Rules of 1997, framed under the Act i.e. Rule 7(2) prescribe specific period of limitation, hence general provisions of limitation as mentioned in Limitation Act 1963 will not apply in the case in hand.

7. Furthermore, vide its order dated 11.03.2022, Hon'ble High Court had given 15 days time to the Applicant from the date of order i.e., 11.03.2022 to file restoration petition and had issued certain directions, as mentioned above, to this Tribunal to consider while deciding the restoration application. The restoration application has been received in the office of this Tribunal on 04.04.2022. Hence, it is established that it was filed beyond the 15 days time limit granted by Hon'ble High Court. Since, the Applicant did not file this petition within 15 days time granted, he cannot be held to be entitled to the benefit of Hon'ble High Court order.
8. Limitation will run from the date of order as it is provided in Rule 7(2). The Applicant does not disclose the date of knowledge of the order. He does not comply with the order of Hon'ble High Court within the time frame given by Hon'ble High Court. The petition is hopelessly barred by limitation otherwise. Hence, in the light of these facts and circumstances, holding the restoration application sans merits, it is liable to be dismissed.

ORDER

Restoration application is dismissed. No order as to cost.

Date:- 10/10/2024

**P.K. Srivastava
(Presiding Officer)**

Judgment Signed, dated and pronounced.

Date:- 10/10/2024

**P.K. Srivastava
(Presiding Officer)**