

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT/EPF APPELLATE TRIBUNAL,
JABALPUR

NO. CGIT/LC/EPFA/MISC/24/2019

PRESENT: P.K.SRIVASTAVA
H.J.S.(Retd.)

M/s Pentagon Lab Ltd.
16C 16D New Industrial Area No.1
Dewas(MP)

APPELLANT

Versus

The Asst.Provident Fund Commissioner C-1
Pradhan Bhawan VIIth Floor
7 Race Course Road,
Indore(M.P.)

RESPONDENT

(J U D G M E N T)

(Passed on this 11th day of January-2021)

1. The applicant who had preferred the EPF Appeal No.CGIT/LC/EPFA/214/2017 against the respondent organization, who filed the present application for restoration of the said appeal after setting aside the order dated 13-9-2019 dismissing the said appeal in default. Application is supported with affidavit of applicant representative. Also an application for condonation of delay in filing the said restoration has been filed with affidavit.

Copies of affidavit and these two applications have been served on respondent on 8-1-2021. Arguments of learned counsel for applicant/appellant were heard on application for condonation of delay. None was present from the side of Respondent. I have gone through the record as well.

2. The said appeal was first pending before the Employees Provident Fund Appellate Tribunal in New Delhi from where it was received by transfer to this Tribunal. Notice to appellant was served by this Tribunal to his learned counsel on his email-id which was served on him on 25-2-2019 as is evident from order dated 7-6-2019 but none was present before the Tribunal from the side of the appellant, consequently on 13-9-2019 the said appeal was dismissed due to non-presence of appellant or his learned counsel. As as the record reveals, the copy of the dismissal order was sent to the appellant vide letter dated 16-9-2019 by speed post.
3. The applicant/appellant filed the said restoration application for application of delay of condonation on 14-11-2019, copy of which was served on learned standing counsel for respondent.
4. The ground taken for restoration was that notice of the said hearing on transfer of the said appeal from Delhi to this Tribunal was never served on the applicant/appellant. It was served on the counsel who

was appearing for applicant/appellant at New Delhi but he did not intimate the applicant about the case. In the application of condonation of delay, it was stated that the order dated 13-9-2019 dismissing the said appeal due to non-presence of the applicant/appellant was served by the Registry through its letter dated 6-9-2019 and it was required to contact the local Advocate and Advocate at New Delhi, thereafter the applicant came to know about the complete facts. This application is supported by affidavit reiterating the aforesaid facts.

5. Thus it is established that the Employees Provident Fund and Misc. Provisions Act 1952, herein after referred to the word "Act" and the Rules framed thereunder provide the period of limitation of 30 days in case of dismissal of appeal due to absence of appellant on the date of hearing. Since the Act and the Rules have self contained provisions regarding limitations, the natural consequence will be that provisions of Limitation Act 1963 will have no application as regards the present Act. The period of limitation is to be counted from the date of order of dismissal is also clear from a bear reading of the provisions. Even if it be counted from the date of knowledge of order of dismissal as had been argued by learned counsel for the applicant/appellant, the applicant is duty bound to state about the specific date on which it came to know about the dismissal order. The restoration application as well as application for condonation of delay are conspicuously silent on this point. Learned Counsel for applicant did not disclose the said date in his arguments also, hence

in such a circumstance leniency of counting of limitation from the date of knowledge of order cannot be extended to the present applicant in considering the application for condonation of delay.

6. In these circumstances, holding that the application for dealy of condonation is misconceived and vague, the application is held liable to be dismissed. Consequently the application for restoration is also liable to be dismissed. Both the applications are dismissed accordingly.

ORDER

Delay for condonation application is dismissed. Consequently, application for restorations of appeal stands dismissed .

No order as to costs.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

JUDGMENT SIGNED , DATED AND PRONOUNCED.

(P.K.SRIVASTAVA)

PRESIDING OFFICER

Date:11/1/2021