

ORDER SHEET
CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR(MP)

CASE NO. CGIT/LC/EPFA/16-2022

M.P. Industrial Development Corporation, Indore Vs. RPFC, Indore

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
31-3-2022	<p>Taken up for hearing.</p> <p>Shri Uttam Maheshwari, Learned counsel for the Appellant. Shri J.K.Pillai, Learned counsel for the Respondent.</p> <p>Perused the report of the Registry</p> <p>The present appeal has been filed against two separate orders of the Respondent Authority passed under Section 14-B and 7Q of the Employees Provident Fund And Misc. Provisions Act, 1952, herein after referred to the word 'Act'. The impugned order was passed on 24-1-2022 whereas the appeal has been filed on 11-3-2022.</p> <p>The appellant has filed an application for condonation of delay. The learned counsel for respondent has preferred a written objection with reference to maintainability of appeal relating to order Under Section 7Q of the Act.</p> <p>The appellant has filed an application for condonation of delay. He has relied on order of Hon'ble the Apex Court dated 10-1-2022 in case of Sou Motu Writ Petition(C) No.3 of 2020 R.E in cognizance of extension of limitation: Para 5 of the Judgement is reproduced as follows:-</p> <p style="padding-left: 40px;">"Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A.No.21/2022 with the following directions:-</p> <p>1.The order dated 23-3-2020 is restored and in continuation of the subsequent orders dated 8-3-2021, 27-4-2021 and 23-9-2021, it is directed that the period from 15-3-2020 till 28-2-2022 shall stand</p>	

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excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

2. Consequently, the balance period of limitation remaining as on 3-10-2021, if any, shall become available with effect from 1-3-2022.

3. In cases where the limitation would have expired during the period between 15-3-2020 till 28-2-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022. IN the event the actual balance period of limitation remaining, with effect from 1-3-2022 is greater than 90 days, that longer period shall apply.

4. It is further clarified that the period from 15-3-2020 till 28-2-2022 shall also stand excluded in computing the period prescribed under Section 23(4) and 29(A) of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the Court or Tribunal can condone delay) and termination of proceedings.

I have also heard, Advocate Shri Uttam Maheshwari, and Shri J.K.Pillai, Advocate on application for condonation of delay and maintainability of appeal under Section 7Q of the Act.

On perusal of record, an order of Hon'ble High Court of M.P. passed in W.P.No.28933/2018 on 22-2-2022 has been perused. IN the light of said order, the delay is liable to be condoned and is condoned accordingly.

As regards, the maintainability of present appeal under Section 7Q of the Act, the main ground of learned counsel for the appellant is that since one and same notice in both the section was issued by the Respondent Authority and proceedings were also jointly conducted and hence merely because two separate orders have been passed, one under Section 14-B of the Act and the other under Section 7Q of the Act; the impugned orders will not cease to be composite order and hence, the appeal will be maintainable against the order under Section 7Q of the Act also.

Learned Counsel for the appellant has referred to a judgment of Single Bench of Hon'ble High court of Delhi passed in the case of Gaurav Enterprises Vs. Union of India & Others W.P.(c) No.8485/2021 wherein it has been laid down that when the proceedings arise out of one notice and proceedings are done in a composite manner, hence order Under Section 7Q also be deemed

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as a composite order, though passed separately and appeal shall be maintainable against such an order.

Just the opposite is the view of Single Bench of Hon'ble High Court of Madhya Pradesh passed in W.P.No.28798/2019 (M/s Sumedha Vehicles Pvt. Ltd. Vs. Central Govt. Industrial Tribunal and Ors.) referred to by learned counsel for the Respondent, wherein it has been laid down that in such a case order under Section 7Q will not be composite order. Thus there are two different view of Hon'ble the Single Bench of two Hon'ble High Court but since this Tribunal is under the territorial writ jurisdiction of Hon'ble High Court of Madhya Pradesh, hence the law laid down by Hon'ble High Court of M.P. in this respect will bind the Tribunal.

Accordingly, the order under Section 7Q of the Act is held not appealable before this Tribunal. Appeal so far as it relates to order under Section 7Q of the Act, is not entertained and it shall be only be restricted to order under Section 14B of the Act. The Appellant is at liberty to seek remedy before the appropriate forum with respect to Order under Section 7Q of the Act.

Respondents to counter within 30 days from today with documents after serving a copy thereof to learned counsel for the appellant. Rejoinder if any, within 15 days thereafter.

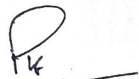
I.A. pressed by learned counsel for the appellant.

Heard learned counsel for both the sides.

Respondent has vehemently opposed the I.A.

Perused the record. After perusal of record in the light of rival arguments on I.A., the recovery of amount under Section 14B of the Act is stayed on the condition of 40% of deposit of the amount with the respondent, within 30 days from today.

List the case on 09/06 for hearing.


PRESIDING OFFICER