

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

NO. CGIT/LC/EPFA/M/02/2025

Present: P.K.Srivastava

H.J.S..(Retd)

1. M/s Sulabh Seva Organization, Jabalpur
Through its Chairman,
Sudha Mishra,
W/o Shri Anil Kumar Mishra,
R/o 968, Sulabh Complex,
Gokuldas Dharamshala,
Jabalpur (M.P.)

Workman

Vs

1. Municipal Corporation Jabalpur
Through its Health Officer,
R/o Municipal Corporation,
Maharana Pratap Chowk,
Jabalpur (M.P.)
2. Assistant Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhawan,
Vijay Nagar, Jabalpur (M.P.)

Management

(JUDGMENT)

(Passed on 18th day of December, 2025)

Applicant Establishment has filed this petition with an affidavit, seeking setting aside of order dated 23.06.2025, by which the Miscellaneous Petition No. 1/2022 seeking review of judgment of this Tribunal dated 19.01.2024 in the EPFA No. 05/2019, was dismissed due to non-presence of the applicant.

Grounds taken are mainly that the said Review Petition was filed before this Tribunal. The Learned Counsel for the applicant could not

appear because he had met an accident and was recovering from the same. After he recovered, he came to know about the dismissal order. Thereafter, application for certified copy was filed and after getting the certified copy of the order, this restoration has been filed. The O.P. Municipal Corporation, Jabalpur, who were appellant in the said appeal, and were made opposite party in the Review Petition along with the authority of Provident Fund Organization have filed objection with affidavit on the application.

I have heard Learned Counsel for Applicant Mr. Santanu Seth, Mr. Mahesh Chandra, Learned Counsel for Municipal Corporation & Mr. Rahul Kumar Chaurasia, Learned Counsel for Respondent Organization/EPFO. I have gone through the record as well.

The main objection from the opposite side is that this Restoration Petition is barred by limitation and grounds do not inspire confidence. The Tribunal Procedure 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. Limitation will run from the date of order as it is provided in Rule 7(2). Record of the appeal shows that copy of the order of dismissal of the appeal due to non presence was sent to the parties on 07.10.2021.

Learned Counsel for Respondent Authority has opposed this application with an argument that the Act and Rules provide specific period of limitation for filing restoration which is 30 days from the date of order, hence provisions of Limitation Act will not apply and the petition is worth rejection.

1. *Reference of case **SES Baba Nebhraj Senior Secondary School Vs. Rajkumari Khanchandani**, reported in **(2011) 181 DLT 204 W.P. (C) No. 1605/1996**, is taken here, the relevant paragraphs of the judgment are being reproduced as follows :-*

“37. I have discussed both the different situations. In one situation negative cap is there, where delay cannot be condoned beyond the

maximum limit prescribed. In other situation, no clear cut provision provided if, the aggrieved person is prevented by the circumstances beyond control. In the instant case under [Section 11 \(6\)](#) of Delhi School Education Act, 1963 the Tribunal enjoy some power as vested in a Court of Appeal by [the Code of Civil Procedure, 1908](#) under [Delhi School Education Act, 1963](#) no such negative cap is given.

38. In my opinion, the law is very clear; there is a principle of interpretation of statute that the plain or grammatical construction which leads to injustice or absurdity is to be avoided. [Section 11](#) of the Delhi School Education Act, sub-clause 6 thereof undoubtedly confers on the tribunal appellate powers which it exercises as if it were a court of appeal upon [Code of Civil Procedure](#), therefore, to my mind would have the power to condone delay in appeal before it by recourse to [Section 5](#) of the Limitation Act. The judgments cited and relied upon by counsel for the petitioner do not foreclose the powers of a tribunal if powers of a court of appeal are bestowed upon it by statute itself.

39. Additionally, this issue has already been decided in the case of Geeta Bal Bharti Sr. Sec. School (supra) WP(C) No.1605 of 1996 Page 25 of 26 that Delhi School Education Act, 1973 the powers are bestows upon the Tribunal to dispose of appeals under the Act as if it were appellate court within the meaning of the Code of Civil Procedure, therefore, would have the power to condone delay in filing provided the Tribunal was satisfied that sufficient cause had been shown as required under Section 5 of the Limitation Act, 1963. The said Tribunal is headed by a District Judge appointed by Lt. Governor, NCT of Delhi after no objection given by the Hon'ble the Chief Justice of this Court. The presiding officer of the Tribunal is not an administrative body but a quasi-judicial armed with sub-section 6 of Section 11."

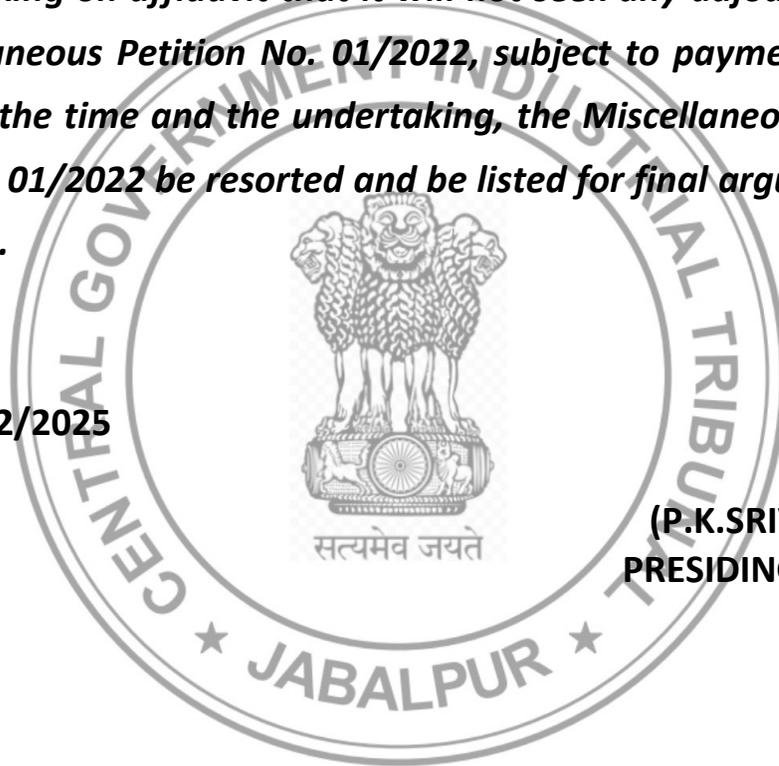
Relying on the principle laid down in the case referred to above and also keeping in view the cardinal principle of law that it is not the job of Courts to punish the parties for their faults rather the Courts exists for dispensing justice between the parties and also that so far as possible, disputes should be decided on merits, also in the light of facts and circumstances of the case in hand as mentioned above, I am

of the considered view that interest of justice in this case will be served if the application for restoration is allowed but on cost.

ORDER

The Miscellaneous Petition is allowed subject to payment of cost of Rs. 5,000/- (Five Thousand Only) to be paid by the applicant to each of the non-applicants i.e.; Municipal Corporation and Respondent Organization/EPFO, within 15 days from today on the condition of payment of cost within time, Miscellaneous Petition No. 01/2022 is restored to its original number. The applicant shall also file undertaking on affidavit that it will not seek any adjournment in the Miscellaneous Petition No. 01/2022, subject to payment of cost imposed at the time and the undertaking, the Miscellaneous Review Petition No. 01/2022 be resorted and be listed for final arguments on

DATE:- 18/12/2025



(P.K.SRIVASTAVA)
PRESIDING OFFICER