

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE
AVENUE, DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. 485(4)2015

Shakeel Ahmad

Appellant

VS.

APFC, Delhi

Respondent

ORDER DATED:-23.03.2021

Present:- Shri Saumitra Singhal, Ld. Counsel for the Appellant.
Shri J.K. Sinha, Ld. Counsel for the Respondent.

This order deals with an application filed by the petitioner/Appellant invoking the provision of Rule 15(2) of the EPF Appellate Tribunal Rules 1997, praying restoration of the appeal dismissed for default by order dated 22.01.20. On the grounds stated therein.

Matter was argued at length by the counsel for both the parties. On behalf of the appellant it has been stated that the appeal was filed in the year 2015 and the appellant was diligently conducting the matter when it was pending before the learned EPFAT. But after merger of EPFAT with the CGIT, the appellant was made to understand that fresh notice for hearing shall be sent.

The appellant came to know about the order of dismissal only on 3.2.20 when a certified copy of the same was received by post. But before that no notice sent by the Tribunal fixing the date to 22.1.20 for hearing was ever received. Soon thereafter the present petition for restoration was filed. The appellant has no malafide intention or lack of diligence in pursuing the matter. In the petition, supported by an affidavit it has been stated that the business of the establishment has been closed since long and the appeal involves valuable right of the appellant and he has a strong arguable case in the appeal. If the appeal is not restored to file serious prejudice shall be caused.

The learned counsel representing the respondent took serious objection to the restoration petition and submitted that it is hard to believe that the appellant received the certified copy of the dismissal order but did not receive the notice though both were sent in the same address as furnished by the appellant. He thus argued for rejection of the prayer for restoration.

The record does not contain any evidence to the effect that the notice sent after merger was duly served on the

appellant. Furthermore the appellant has filed affidavit stating about non receipt of the same. Considering all these aspects and keeping in mind that courts and tribunals exist to sub serve the cause of justice and not to punish the parties for the fault committed in conduct of the case, the petition for restoration is allowed subject to deposit of Rs 2000/- with the Dist Legal Services Authority, Delhi. Appellant is directed to comply the direction within one month from the date of this order, after which the appeal shall be restored to file. Call on for compliance of the direction. List the matter on 27.04.2021.

Presiding Officer