*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 11.09.2025
Pronounced on:11.12.2025

\+ W.P.(C) 5215/2002
ARMY GOLF COURSE .....Petitioner

Through: Mr. Santosh Kumar Pandey, Adv.

versus

UOI & ORS. .....Respondents

Through: Mr. Akshay Amritanshu, Sr. Panel Counsel with Ms. B. Naaz Jain & Drishti Saraf, Advs. for R-1.
Mr. Siddharth, Standing Counsel with Mr. Prateek Goyal and Mr. Harshit Manwan, Advs. for EPFO.

CORAM:
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

RENU BHATNAGAR, J.

1. The present writ petition has been filed by the Petitioner/Army Golf Course, invoking the extraordinary jurisdiction of this Court under Article 226 read with Article 227 of the Constitution of India assailing the Order dated 16.11.2000 passed by the learned Employee Provident Fund Appellate Tribunal, New Delhi (hereinafter referred as 'Tribunal') in the appeal No. ATA 170 (4) 2000 titled ***Army Golf Course versus Regional Provident Fund Commissioner.,*** seeking the

quashing of the Order dated 16.11.2000 passed by the learned tribunal whereby the application of petitioner seeking condonation of delay in filing the appeal was dismissed, for being time barred.

2. By the Impugned Order, the learned tribunal dismissed the appeal filed by the petitioner against the Order dated 31.03.2000 under section 14B of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as, 'EPFMP Act') on account of the appeal being time barred holding that it is not within the power of the learned tribunal to condone the delay beyond 60 days as prescribed in the tribunal procedure rules, 1997.

3. The relevant facts for adjudication of the present petition as emerging from the record are that the petitioner /Army Golf Course, is a non-profit regimental institution functioning under Headquarters Delhi Area. The institution was founded by the Chief of Army Staff to provide sporting facilities to serving and retired Defence Officers. Membership and subscription charges are nominal, and the petitioner asserts that no profit-making activity is carried out.

4. The petitioner had established its own Benevolent Fund and was making regular provident fund deductions at the rate of 8% from the salaries of its regular employees, contributing an equal share as the employer. The contributions were deposited in a Syndicate Bank account at Dhaula Kuan.

5. In 1990, an Enforcement Officer from the Regional Provident Fund Commissioner (respondent no.2) visited the petitioner's

premises and enquired about the number of employees and the nature of activities. This initiated correspondence between the petitioner and the said authority. While the petitioner questioned the applicability of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPFMP Act") to its activities, the Regional Provident Fund Commissioner, by order dated 8.10.1992, ruled that the Act applied to the petitioner with effect from 1.6.1990 and directed contributions at the enhanced rate of 10%.

6. Despite this ruling, the petitioner continued to deposit contributions in its Benevolent Fund account, while contesting the applicability of the Act. Subsequently, proceedings under Section 7A of the EPFMP Act were initiated, culminating in an order dated 28.11.1997 whereby respondent no.2 assessed an amount of Rs. 4,26,337/- as payable for the period June 1990 to November 1994. The petitioner deposited the said amount on 27.3.1998, having earlier deposited Rs. 3,35,958/- in February 1995 towards dues for the period June 1990 to October 1994.

7. Thereafter, on 14.8.1998, the petitioner was issued a notice under Section 14B of the EPFMP Act proposing damages for delayed deposits. Despite the petitioner's explanation, respondent no.2, by order dated 22.4.1999, imposed damages amounting to Rs. 6,96,120/-. Following attachment proceedings, the petitioner deposited substantial amounts under protest, including Rs. 5,22,090/- by March 2000.

8. The petitioner preferred an appeal before the EPF Appellate

Tribunal on 31.3.2000 challenging the order imposing damages. However, *vide* order dated 16.11.2000, the Tribunal dismissed the appeal on the ground of limitation.

9. Aggrieved thereof, the petitioner has approached this Court by way of the present writ petition.

10. The learned counsel appearing on behalf of the petitioner has questioned the correctness of the view as expressed in the Impugned Order dated 05.02.20011, asserting that the learned Court gravely erred in dismissing the appeal of the petitioner on account of limitation. The impugned award passed by the Labour Court is perverse, arbitrary and liable to be set aside.

11. Learned counsel for the petitioner submits that the core grievance of the petitioner is that the learned Tribunal erred in holding that its powers to condone delay are limited, and that the provisions of the Limitation Act have no applicability to proceedings before the Tribunal. Reliance is placed on a judgment of the Gujarat High Court in ***Union of India & Ors. v. Jayesh Dhakte*** 2007 SCC OnLine Guj 185, wherein it was held otherwise stating that in absence of an express clause excluding the applicability of section 5 of the limitation act, the provision of the limitation act would apply, however peremptory or imperative language is used in the special/local statue prescribing the limitation period.

12. It is further contended that the original amount assessed by the Regional Provident Fund Commissioner under Section 7A of the EPF

Act, vide order dated 28.11.1997, was Rs. 4,26,337/-, payable by the petitioner. However, by a subsequent order dated 31.03.1999, the Regional Provident Fund Commissioner assessed damages under Section 14B of the Act at Rs. 6,96,120/-. Learned counsel submits that this assessment was made at the rate of 37%, whereas under the applicable scheme, the damages ought to have been computed at the rate of 12%.

13. It is further submitted that the damages so assessed exceed even the principal amount originally determined, which is wholly untenable. The levy of damages, it is urged, is not intended to operate as a penalty, and in any case, must be confined to a reasonable quantum. The damages imposed in the present case are exorbitant and disproportionate. Learned Counsel stresses that the petitioner is a non-profit regimental institution, with nominal earnings, and therefore the Commissioner ought to have taken this fact into account while determining damages.

14. Learned counsel for the respondents submits that the oral submissions made on behalf of the petitioner are not supported by any formal written grounds in the writ petition.

15. It is urged that it is a well-settled principle of law that where a special statute prescribes a limitation period, the general provisions of the Limitation Act cannot be invoked. The Tribunal has, therefore, rightly held that it does not have the power to condone delay beyond the period prescribed under the EPF Appellate Tribunal (Procedure)

Rules, 1997.

16. Learned counsel further submits that appeals before the Tribunal are governed by Section 7I of the EPFMP Act, which provides that every appeal shall be filed in accordance with the procedure prescribed. Under Rule 7(2) of the Tribunal Procedure Rules, 1997, the limitation period for filing an appeal is 60 days, and the Tribunal may, on sufficient cause being shown, condone a further delay of 60 days. Thus, it is the settled position that an appeal must be filed within a maximum of 120 days (60 + 60), and any delay beyond that period cannot be condoned.

17. It is further submitted that there is no perversity in the impugned order. The learned Tribunal has passed the order strictly in accordance with the statute and rules framed thereunder. The petitioner has not challenged the validity of either the Tribunal Procedure Rules or the EPFMP Act in the present proceedings. In the absence of such a challenge, the impugned order cannot be set aside.

18. Learned counsel also contends that the petitioner has failed to show any sufficient cause for condonation of delay, either before the Tribunal or in the present petition. No specific grounds to that effect have been raised.

19. With respect to the rate of damages, it is submitted that the assessment has been made strictly in accordance with the statutory rates prescribed under Section 32B of the EPF Scheme. These are inflexible rates, prescribed keeping in view the financial sustainability

of the provident fund scheme. As regards the petitioner's plea that the damages imposed exceed the original assessed amount, learned counsel submits that this aspect was already noted by the concerned officers of the respondents, and the petitioner has only to move an appropriate application to seek rectification, as was also observed in the impugned order.

20. Learned counsel lastly submitted that the Learned Tribunal rightly held that the delay beyond the total of 120 days cannot be condoned by the tribunal. He submits that the appeal moved by the appellant before the learned Tribunal was with the delay of 277 days which could not be condoned by the Tribunal, therefore, correctly dismissed the appeal of the Petitioner.

21. Heard. I have considered the submissions made by the learned counsels for the parties.

22. The main issue that requires consideration before this court is whether after the expiry of statutory period of 60 days of filing the appeal, the tribunal could have condoned the delay beyond extended period of 60 days in filing the appeal against the order under 7A or section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

23. It is necessary to note the relevant provisions. Section 7-I of the EPFMP act is reproduced herein below:

> *"7-I. Appeals to Tribunal.—(1) Any person aggrieved by a notification issued*

by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B

[except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

*(2**) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed."***

(Emphasis supplied)

24. Rule 7(2) of the Tribunal Procedure Rules reads as under:

"7. Fee, time for filing appeal, deposit of amount due on filing appeal.— (1) Every appeal filed with the Registrar shall be accompanied by a fee of Rupees five hundred to be remitted in the form of Crossed Demand Draft on a nationalized bank in favour of the Registrar of the Tribunal and payable at the main branch of that Bank at the station where the seat of the said Tribunal situate.

(2) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the

notification/order, prefer an appeal to the Tribunal.

Provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days.

Provided further that no appeal by the employer shall be entertained by the Tribunal unless he has deposited with the Tribunal a Demand Draft payable in the Fund and bearing 75% of the amount due from him as determined under Section 7-A.

Provided also that the Tribunal may for reasons to be recorded in writing, waive or reduce the amount to be deposited under Section 7-O."

(Emphasis supplied)

25. The Division bench of this Court had an occasion to deal with the similar issue in the case titled as '***Assistant Regional Provident Fund Commissioner v. Employees' Provident Appellate Tribunal & Ors.'***, 2005 SCC OnLine Del 799, wherein it is held that in view of the specific mandate under Rule 7(2), the Tribunal has no power to condone delay beyond 120 days. The relevant portion is reproduced herein under-

"15. With a view to see that the proceedings are disposed of as early as possible, it was left by the Legislature to

fix "such time" for preferring an appeal. Section 21(2)(b) refers to the time within which an appeal shall be filed and in view of this it was submitted that in absence of any power, it was not open to prescribe a specific period for condonation of delay in Sub-Rule (2) of Rule 7 of the Act in exercise of the powers conferred under Sub-sec. (1) of S. 21 of the Act.

16. The Legislature left it open to the rule making authority to prescribe time for preferring an appeal. However, at the same time the rule making authority while prescribing the period of limitation for preferring an appeal also provided a period during which if there is a delay, the same can be condoned if the Tribunal is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period. However, the limitation was placed that that can be done if there is a delay of a further period of 60 days.

17. In our opinion, it cannot be said that the rule making authority has exceeded its limit while prescribing the period of limitation. Like the provisions in other statutes for condoning the delay, the rule making authority thought it fit to provide some period if there is a sufficient cause and the Tribunal is satisfied that the applicant was prevented from preferring the appeal on such cause to extend the period of limitation. This provision is an enabling provision. It does not take away the right of a person of preferring an appeal but on the contrary it enables a

party who could not prefer an appeal within the prescribed period for sufficient reasons. However, at the same time, keeping in mind that provision is made for a weaker section, disputes must be resolved at the earliest, therefore, restricted the period, i.e., that if the delay is of 60 days then to that extent delay can be condoned. Therefore, in our opinion, the provision cannot be said to be ultra vires of the provisions of the Act as the provision for condonation of delay is made to help the litigant who might be facing genuine difficulties. It is difficult to say that the proviso to Sub-Rule (2) of Rule 7 is bad. If that is declared as bad or ultra vires S. 7-I or S. 21(1)(b) of the Act, it can be said that the period of limitation prescribed is bad for want of not providing extended period in case of difficulty."

26. The division bench further dealt with the submissions regarding the applicability of the limitation act to condone the delay beyond 60 days and observed as under-

"23. In the instant case, a separate period of limitation is provided, as also the period for which delay can be condoned. The Legislature was aware about, the provisions contained in S. 5 of the Limitation Act, yet with an intention to curb the delay in labour matters, Legislature left it to the Rule making authority to make a provision for limitation. Rulemaking authority under the statute has specifically provided that after

the statutory period, if there is delay of 60 days, on showing sufficient grounds for delay of 60 days, that can be condoned. Thus applicability, of S. 5 of the Limitation Act is specifically excluded.

24. The expression "expressly excluded" in Sub-sec. (2) of S. 29 of the Limitation Act means an exclusion by express words, i.e., by express reference and not exclusion as a result of logical process of reasoning. In the instant case there is no question of implied exclusion but, it specifically provides a different period of limitation, as also the period during which, if delay has occurred, it could be condoned.

25. With regard to the applicability of Ss. 4 to 24 of the Limitation Act (inclusive) one will have to refer to Sub-sec. (2) of S. 29 of the Limitation Act, 1963. It specifically states that these provisions shall apply only so far as and to the extent to which, they are not expressly excluded by special or local law. Reading the language of Rule 7 of the Rules and S. 5 of the Limitation Act, it is very clear that extension of time for a period 60 days only can be condoned subject to satisfaction and not beyond that. From an examination of Rule 7 of the Rules, it is very clear that S. 5 of the Limitation Act is expressly excluded as a specific provision is made in Rule 7.

27. The Division Bench has also referred to the judgement of the Apex Court in ***Commissioner of sales Tax v. Parson Tools and plant,***

35 S.T.C. 413, to support the view that the learned tribunal cannot extend the time beyond the maximum prescribed limit. The relevant portion is reproduced as under-

> *"27. In the case of Commissioner of Sales Tax v. Parson Tools and Plant, [35 S.T.C. 413], the Apex Court pointed out as under:*
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> *"Thus the principle that emerges is that if the Legislature in a special statute prescribes a certain period of limitation for filing a particular application thereunder and provides in clear terms that such period on sufficient cause being shown, may be extended, in the maximum, only up to a specified time-limit and no further, then the Tribunal concerned has no jurisdiction to treat within limitation, an application filed before it beyond such maximum time-limit specified in the statute, by excluding the time spent in prosecuting in good faith and due diligence any prior proceeding on the analogy of S. 14(2) of the Limitation Act."*

28. The Division Bench also dealt with the argument regarding the provision being *ultra vires* and observed that-

> *38. In the instant case, there is clear intention of the Legislature for asking the rule making authority to prescribe the time during which an appeal shall be filed. When the time is to be prescribed, it is open for the rule making authority to prescribe extended period also. If the extended period is provided, the*

provisions would not become bad or ultra vires the provisions contained in the Act, it is only an enabling provision.

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42. Learned counsel appearing for the Provident Fund Authorities submitted that in-view of the aforesaid decision when a special statute has provided special period of limitation as also a specified period, as extended period, it must receive a liberal and broader construction and not a rigid and a narrow one. It was submitted at the cost of repetition that the legislation being for the benefit of a working class to avoid delay at the instance of employer, the Legislature has permitted restriction in time for preferring an appeal by prescribing separate period of limitation which includes, condonation of delay. In our opinion, it requires no interference."

29. Similarly, the Patna High Court in ***Bihar State Industrial Development Corporation v. EPFO***, 2017 SCC OnLine Pat 3804, while interpreting Section 7-I of the EPF & MP Act read with Rule 7(2) of the Employees' Provident Fund Appellate Tribunal Procedure Rules, 1997, upheld the rejection of an appeal by the learned Tribunal as barred by limitation. The relevant portion is reproduced herein under-

"16. Thus, in view of the fact that the limitation is prescribed by specific Rule and condonation has also to be considered within the purview of that Rule alone and provisions of the Limitation Act cannot be

> *imported into the Act and the Rules, this Court is of the view that the Tribunal did not have powers to condone the delay beyond the period of 120 days as stipulated in Rule 7(2) of the Rules. Since this Court is of the opinion that the appeal was barred by limitation and could not have been entertained by the Tribunal and was rightly dismissed on the ground of limitation, this Court shall refrain itself from examining other grounds taken by the petitioner in the present writ application."*

30. The broader question as to whether Courts can extend limitation beyond the statutory period prescribed under special enactments was considered by the Hon'ble Supreme Court in ***Commissioner of Customs & Central Excise v. Hongo India Pvt. Ltd.***, (2009) 5 SCC 791, though in the context of Central Excise Act, 1944 wherein it was categorically held that when a statute prescribes a specific period for filing an appeal, delay beyond such period cannot be condoned by applying the provisions of the Limitation Act. The relevant portion is reproduced herein below:

> *"27. The other decision relied on by the counsel for the appellant is M. V. Elisabeth v. Harwan Investment and Trading (P) Ltd. The learned Additional Solicitor General heavily relied on the following observations :*
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> *"66. The High Courts in India are superior courts of record. They have*

original and appellate jurisdiction. They have inherent and plenary powers. Unless expressly or impliedly barred, and subject to the appellate or discretionary jurisdiction of this Court, the High Courts have unlimited jurisdiction, including the jurisdiction to determine their own powers."

Here again, there is no dispute about the above proposition. The High Courts in India are having inherent and plenary powers, and as a court of record the High Courts have unlimited jurisdiction including the jurisdiction to determine their own powers. However, the said principle has to be decided with the specific provisions in the enactment and in the light of the scheme of the Act, particularly in this case, Sections 35, 35-B, 35-EE, 35-G and 35-H of the unamended Central Excise Act; it would not be possible to hold that in spite of the abovementioned statutory provisions, the High Court is free to entertain a reference application even after expiry of the prescribed period of 180 days."

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32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended

> *the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days."*

31. Again, in ***Oil & Natural Gas Corporation Ltd. V. Gujarat Energy Transmission Corporation***, (2017) 5 SCC 42, the Supreme Court reiterated that where the Act is a special legislation within the meaning of Section 29(2) of the Limitation Act, the statutory prescription of limitation is mandatory and binding. It was observed that when the statute itself permits condonation of delay only to a limited extent (in that case, not beyond 60 days), the Court cannot travel beyond that limit by invoking Article 142 of the Constitution. The relevant portion is reproduced herein below:

> *"15. From the aforesaid decisions, it is clear as crystal that the Constitution Bench in Supreme Court Bar Assn. has ruled that there is no conflict of opinion in Antulay case or in Union Carbide Corpn case with the principle set down in prem Chand Garg v. Excise Commr. Be it noted, when there is a statutory command by the legislation as regards limitation and there is the postulate that delay can*

be condoned for a further period not exceeding sixty days, needless to say, it is based on certain underlined, fundamental, general issues of public policy as has been held in Union Carbide Corpn. Case. As the pronouncement in Chhattisgarh SEB. Lays down quite clearly that ***the policy behind the Act emphasising on the constitution of a special adjudicatory forum, is meant to expeditiously decide the grievances of a person who may be aggrieved by an order of the adjudicatory officer or by an appropriate Commission. The Act is a special legislation within the meaning of Section 29(2) of the Limitation Act and, therefore, the prescription with regard to the limitation has to be the binding effect and the same has to be followed regard being had to its mandatory nature. To put it in a different way, the prescription of limitation in a case of present nature, when the statute commands that this Court may condone the further delay not beyond 60 days, it would come within the ambit and sweep of the provisions and policy of legislation.*** *It is equivalent to Section 3 of the Limitation Act. Therefore, it is uncondonable and it cannot be condoned taking recourse to Article 142 of the Constitution."*

32. On the basis of law as propounded by this court and also the Apex court, it is observed that the delay of more than 60 days beyond the statutory period of limitation cannot be condoned by the learned tribunal. Following the judgement of this court in the Assistant regional Provident fund commissioner (Supra), it is held that the

applicability of Section 5 of the limitation Act is excluded.

33. Further, the reliance placed by learned counsel for the petitioner on the judgment of the Hon'ble Gujarat High Court in ***Jayesh Dhakte*** (supra) is misplaced and distinguishable on facts. In that case, the Hon'ble Gujarat High Court was interpreting the provisions of the Central Administrative Tribunal (Procedure) Rules, 1987, which constitute a special law. Such an interpretation cannot be imported into the context of the EPF & MP Act, particularly when the Division Bench of this Court, in ***Assistant Regional Provident Fund Commissioner*** (supra), has categorically held that the EPF Tribunal has no power to condone delay beyond the statutory period of 120 days.

34. Accordingly, the Order passed by the Learned Tribunal is upheld. As the appeal was time barred and was rightly rejected, being not maintainable by the learned tribunal, this Court has no reason to deal with factual submission of the learned counsel for the petitioner that the damages so assessed exceed even the principal amount originally determined and that the levy of damages, as per the scheme of the Act is not intended to operate as a penalty, and in any case, must be confined to a reasonable quantum and damages should be computed at the rate of 12% of interest instead of 37% or even the submission of the learned counsel for the respondent that no sufficient cause for delay is mentioned by the appellant in the application filed before the learned tribunal or before this Court.

35. Accordingly, this court finds no reason to interfere with the impugned order dated 16.11.2000 passed by the learned tribunal. The petition is, therefore, dismissed.

36. The pending application, if any, also stands disposed of.

RENU BHATNAGAR, J

DECEMBER 11, 2025/*BS/KZ*