

(2017) 03 KAR CK 0089
In the Karnataka High Court
Case No : W.P. No. 68328 of 2010(L-PF)

Sadalga Urban Souhadra Sahakari Bank	APPELLANT
Vs	
Regional Provident Fund Commissioner	RESPONDENT

Date of Decision : 16-03-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) LabLR 479

Hon'ble Judges : Mr. Vineet Kothari, J.

Bench : Single Bench

Advocate : Mr. A.S. Patii, Advocate, for the Petitioner; Mr. M.B. Kanavi, Advocate, for the Respondent No. 1; Mr. P.V. Gunjal, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

Mr. Vineet Kothari, J.—The petitioner is aggrieved by the orders passed by the respondent Employees' Provident Fund Appellate Tribunal who dismissed the appeal of the petitioner for want of prosecution on 29th December 2009 and even the recalling application was rejected by it on 31st March 2010.

2. Learned counsel for the petitioner submitted before this Court that the matter was pending before the Principal Bench of the Employees' Provident Fund Appellate Tribunal at New-Delhi and the same was notified to be heard at Bengaluru Camp, since the petitioner belonged to Bengaluru. But, the petitioner specifically informed the respondent-Tribunal vide Annexure "E" communication dated 21st December 2009 that it is not convenient for it to appear at Bengaluru on 29th Date of Order 16.3.2017 WP No. 68328/2010 The Sadalga Urban Souharda Sahakari Bank Niyamit, Sadalga v. The Regional Provident Fund Commissioner & others December 2009. Ignoring the said communication, the Appellate Tribunal dismissed the said appeal in default of appearance on 29th December 2009 vide Annexure "D" and the application for recall filed on 9th March 2010 was also dismissed as filed belatedly, by the impugned order at

Annexure "F" dated 31st March 2010.

3. Having heard the learned counsels appearing for the parties, this Court is of the opinion that the Tribunal was not justified in rejecting the appeal of the petitioner in these circumstances, and ought to have restored the appeal for the decision on merits afresh.

4. It should be the endeavour of the Appellate Tribunals constituted under the special enactments to decide the controversy on merits, rather than feel trigger happy in rejecting the appeals for technical reasons or dismiss the appeals in default of appearance as far as possible, and unless the Date of Order 16.3.2017 WP No. 68328/2010. The Sadalga Urban Souharda Sahakari Bank Niyamit, Sadalga v. The Regional Provident Fund Commissioner & others appellant has persistently failed to appear and prosecute the appeal on merits, the Tribunals cannot and should not dismiss such appeals for want of prosecution. Nothing of this sort is seen in the present case and despite specific request by the petitioner that the matter may be kept pending at the Principal Bench at Delhi, the learned Tribunal could not have dismissed the appeal for default on appearance at its Camp sitting at Bengaluru on 29th December 2009.

5. To retrieve the situation, the Tribunal did not even allow the application for recall on 31st March, 2010. The principles of natural justice have been thus apparently breached in the present case by the learned Tribunal.

6. Accordingly, this Writ Petition is allowed and setting aside both the orders Annexure "D" dated 29th December 2009 and Annexure "F" order dated 31st March 2010 and condoning the delay, if any, on the part of the petitioner, the Date of Order 16.3.2017 WP No. 68328/2010 The Sadalga Urban Souharda Sahakari Bank Niyamit, Sadalga v. The Regional Provident Fund Commissioner & others matter is remanded back to the learned Employees' Provident Fund Appellate Tribunal, New Delhi, to decide the appeal of the petitioner on merits in accordance with law, after giving opportunity of hearing to the concerned parties.

The parties, without any further notice, in the first instance, may appear before the learned Tribunal on 18th April 2017, Tuesday.

The deposits, if any, made under the interim orders of this Court, shall remain subject to the final decision by the learned Tribunal. No costs.