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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

ON THE 22nd OF DECEMBER, 2023

WRIT PETITION No. 24487 of 2023

BETWEEN:-

**KASTURBA GANDHI NATIONAL MEMORIAL TRUST
THROUGH ITS TRUSTEE MR. KARUNAKARAN TRIVEDI
KASTURBA GRAM, INDORE (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PRATEEK PATWARDHAN, ADVOCATE)

AND

- 1. REGIONAL PROVIDENT FUND COMMISSIONER II
EMPLOYEES PROVIDENT FUND ORGANIZATION
REGIONAL OFFICE, 7, RACE COURSE ROAD,
INDORE (MADHYA PRADESH)**
- 2. MR. DILIP NEEMA S/O SHRI RAMCHANDRA
NEEMA 175, KANYAKUBJ NAGAR, AERODROME
ROAD, INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(NONE)

.....

*This petition coming on for admission this day, the court passed the
following:*

ORDER

Heard.

2. This petition has been filed by the petitioner under Article 226 of the Constitution of India against the orders dated 21.07.2022 and 24.05.2023 passed by the respondent No.1 Regional Provident Fund Commissioner under Section 7 A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (herein after referred to as the 'Act of 1952'). Vide order dated

24.05.2023, the Provident Fund Commissioner has rejected the petitioner's application for review of the aforesaid order dated 21.07.2022. The review application has been rejected on the ground of limitation which is 45 days, from the date of the order.

3. Counsel for the petitioner has relied upon the decision rendered by the Full Bench of this Court in the case of *Mohammad Sagir Vs. Bharat Heavy Electricals and Ors.* reported as *2004 (2) J LJ 183* wherein, this Court has held that if in a Special Act, the provisions of Limitation Act have not been specifically excluded, the Limitation Act would be applicable.

4. On due consideration of submissions and on perusal of the record, it is apparent that the application of review has been rejected only on the ground of limitation as the petition for review was filed after a delay of 71 days.

5. So far as the provision of review is concerned, the same is provided under Section 7B of the Act of 1952 and under Paragraph No.79A of the Employees' Provident Funds Scheme 1952 (herein after referred to as the 'Scheme of the Act of 1952'), which reads as under:-

"7B. Review of orders passed under section 7A (1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain for a review of such order may apply for a review of that order to the officer who passed the order:

PROVIDED that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be

specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of the opinion that the application for review should be granted, he shall grant the same:

PROVIDED that,

(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

6. So far as paragraph No.79A of The Employees' Provident Funds Scheme, 1952 is concerned, the same reads as under:-

79A. Filing application for review Any person aggrieved by an order made under sub-section (1) of section 7-A and who desires to obtain a review of such order may apply for a review of that order, as provided in sub-section (1) of section 7B of the Act in Form 9 to the officer who passed such order:

Provided that no application for review of an order will be entertained by the concerned officer, unless the application for review is submitted within 45 days from the date of making such order."

(Emphasis Supplied)

7. A perusal of the aforesaid provisions clearly reveal that they are complete in themselves and prescribe the period of limitation, and leave no manner of doubt that the provisions of the Limitation Act would not be applicable. In such circumstances, the decision relied upon by the counsel for the petitioner in the case of **Mohammad Sagir (Supra)** is clearly

distinguishable and is not applicable in the facts and circumstances of the case as the Scheme of the Act of 1952 does not provide the applicability of the provisions of the Limitation Act.

8. In such circumstances, this Court finds no illegality in the impugned order and the present petition being without merits, is hereby *dismissed*.

(SUBODH ABHYANKAR)
JUDGE

Bahar

