



25.07.2025
Item No.16
BR

**WPA 5548 of 2009
With
CAN 1 of 2022, CAN 2 of 2025**

**Kelvin Jute Company Ltd. & Anr.
Vs.
The Regional Provident Fund Commissioner-1 &
Ors.**

Mr. Shyamal Sarkar
Mr. Kumar Gupta
Mr. Deepak Kumar Jain
..... for the petitioner

Mr. Naba Kumar Das
Ms. Mousumi Biswas
..... for the State

Mr. Shiv Chandra Prasad
.....for the P.F. Authority

Mr. Samit Dutta
.....for the O.P.

- 1. CAN 2 of 2025** is moved praying for recalling of order dated 13th June, 2024, wherein the Court was pleased to dismiss the writ application. The prayer for recalling the order has been made on 29.01.2025 that is after more than six months. As such there is a delay of more than six months in preferring the CAN application praying for restoration of the writ application.
- 2.** Learned senior counsel Mr. Sarkar appearing for the petitioner submits that the period of limitation in such a case is governed by Article 137 of the



Limitation Act and as such the period of limitation is three years.

3. In view of the said fact, it is submitted that the application is not barred by limitation.
4. In support of his contention Mr. Sarkar has relied upon the following judgments:-

a) *Orient Paper Industries Ltd.-vs- Union of India and Ors., reported in 1983 SCC Online Cal 324, Para 8.*

b) *The Kerala State Electricity Board, Trivandrum -vs- T.P. Kunhaliumma, reported in (1976) 4 SCC 634, Para 22.*

c) *Allahabad Bank -vs-M.L.Bose & Co (Pvt.)Ltd. & Anr., reported in 2004 SCC Online Cal 677, Para 18,19 and 20.*

5. On hearing the parties and considering the judgments relied up by the learned counsel for the petitioner, it appears that the Calcutta High Court in ***Orient Paper Industries Ltd. (supra)***, has held that for the purpose of restoration of a writ petition since dismissed for default, Article 137 clearly applies and the period of limitation is three years.



6. In ***The Kerala State Electricity Board, Trivandrum (supra)***, the three Judge Bench of the Hon'ble Supreme Court has held that Article 137 of the Limitation Act will apply to any petitioner's application filed under any act before a Civil Court.
7. In ***Allahabad Bank (supra)***, the Calcutta High Court's Division Bench has held that Rule 53 of the Rules of the High Court under Article 226 of the Constitution make the Civil Procedure Code wherever possible, applicable to proceedings under Article 226 of the Constitution. Article 137 which is the residuary provision deals with an application of all kinds for which no specific provision has been made and as such has held that Article 137 is applicable to proceedings under Article 226 of the Constitution.
8. Considering the judgments relied upon and the materials on record and the grounds as made out for recalling the order of dismissal dated 13th June, 2024 and in the interest of justice, CAN 2 of 2025 stands allowed.
9. Order of dismissal dated 13th June, 2024 is hereby recalled and **WPA 5548 of 2009 is restored to its own file and number.**
10. **CAN 1 of 2022 and CAN 2 of 2025 stand disposed of.**



11. Department to note accordingly.
12. As the respondents are being represented, notice of restoration is dispensed with.
13. Let the writ application appear with **WPA 28543 of 2015 (Murlidhar Ratanlal Exports Ltd. And another –vs- Ministry of Labour & Employment and others)** and other connected matters on **19th August, 2025 for hearing.**
14. Urgent Photostat certified copy of this Order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)