

17.07.2025
Item No.04
BR

WPA 4856 of 2025
Ramdeb Chatterjee
-vs-
The Employees Provident Fund
Organisation and ors.

Mr. Sambhunath De,
Mr. Ranjit Ghosh
... for the petitioner

Mrs. Sangeeta Roy
..... for the EPFO

- 1.** The writ application has been preferred praying for direction upon the respondents to pay to the petitioner monthly pension under the Employees Pension Scheme (EPF), 1995 since the date of acceptance of his resignation by treating and accepting that he has completed his 10 years service as per Para 9 (a) of EPS, 1995 and supply the detailed statement of provident fund dues and accrued interest thereon already paid by them.
- 2.** The petitioner's case is that he is an ex-employee of M/S Simplex Project Limited. He is also a bonafide member of Employees Provident Fund Organisation having Provident Fund Account No. WB/PRB/00E/40. He is also a

bonafide member of Employees Pension Scheme (EPF).

3. The petitioner joined M/S Simplex Project Limited on and with effect from 8th February, 1995 and continued his service up to 21.04.2005 uninterrupted without any break or blame. The petitioner tendered his resignation from his service on 23.03.2005 due to some unavoidable circumstances with a request to release him on 23.04.2005. Accordingly, the Director of the respondent no. 5 informed him that the management has accepted his resignation on and with effect from 21.04.2005. As such he has completed more than 10 years 2 months 13 days of his service with the respondent no. 5. Therefore, he prays that he is entitled to get benefit under the Employees Pension Scheme (EPF). Accordingly, he has submitted Form 10D along with all relevant papers and documents through his employer M/S Simplex Project Limited and duly recommended by them on 03.01.2019.
4. After submitting Form 10D before the office of the respondent no. 3, he repeatedly requested the respondent no. 5 as well as knocked the door of the responsible officers of the respondent Employees Provident Fund organization to

consider and dispose of his said application by granting benefits under the Employees Pension Scheme (EPF) in his favour, but he has not got any response either from respondent no. 5 or from respondent Employees Provident Fund Organisation in respect of benefits under the Employees Pension Scheme (EPF) in his favour.

- 5.** The respondent no. 5 deducted his contribution towards Employees Provident Fund from his salary and deposited the same before the Respondent no. 3.
- 6.** The respondent no. 5 also deposited their contribution towards the petitioner before the respondent no. 3. Accordingly, the petitioner is entitled to his provident fund pension but the respondent no.3 did not start to pay his provident fund pension.
- 7.** On 15.05.2023 the petitioner submitted his representation before the respondent no. 2, 3 and 4.
- 8.** Petitioner on not receiving the said benefits as prayed for, then preferred WPA 27696 of 2024, wherein the High Court was pleased to dispose of the said writ petition by directing the regional provident fund authorities to pay his contribution amount within a period of two months from the date with accrued interest as

per statute and directed the provident fund authorities to give the petitioner a personal hearing on the point of his eligibility to receive pension for having completed 10 years service as claimed by him. After receiving the aforesaid order, the respondent no. 2 settled an amount of Rs. 36,770/- and credited the same to the bank account of the petitioner on 30.05.2024 towards his provident fund dues with statutory interest without disclosing any detailed break up.

9. The respondent no. 2 directed the petitioner to appear before him on 10.09.2024 at 4 p.m. to give him a personal hearing on the point of his eligibility to receive pension for having completed 10 years service and passed the order under challenge.

10. Vide the order under challenge the respondent held as follows:-

“I have gone through the submission of the complainant as well as the Departmental Representative. In my considered opinion I do not think that the member is eligible for monthly pension as per Para-9(a), if the scheme certificate issued on 22.8.2007 is as per the actual service rendered by the member. This scheme certificate which is issued more than 15 years back in the year 2007 and duly received by Shri Chatterjee was never contested by him before his attaining the retirement age and finding out that he is not eligible for monthly pension. If indeed

there was a case of a short remittance /incorrect records submitted by the establishment then Shri Chatterjee could have complained with proper proof and action actually taken there and then itself and issue would have been resolved in the year 2007 itself. Now, after the lapse of 20 year even getting records will be a difficult task. The appointment letter and acceptance of resignation letter are not proof enough that the employee has no period of leave/break in which no salary was payable and have no pension contribution. Therefore, I am inclined not to accept the request of Shri Chatterjee and hold him ineligible for monthly pension.

However, considering his age and repeated request an Enforcement Officer is deputed to check whether during his service, Shri Chatterjee there has been any service break or leave for which contribution to pension fund were paid or payable and has actually not been paid. The Enforcement Officer will visit the establishment to get the required documents and submit the report to the undersigned after proper verification within 10 days on receipt of the instructions from this office.

**Sd/-
REGIONAL P.F.
COMMISSIONER-II (Pension)
REGIONAL OFFICE, PARK STREET"**

11. Para 9 (a) of the E.P.F. 1995, lays down:-

"Para 9. Determination of eligible service.- The eligible service shall be determined as follows:-

(a) In the case of "New entrant" the "[contributory service]" shall be treated as eligible service. The total actual service shall be rounded off to the nearest year. The fraction of service for six months or more shall be treated as one year and the service less than six months shall be ignored.

Explanation. - In the case of employees employed seasonally in any establishment the period of "actual service" in any year, notwithstanding that such service is less than a year shall be treated as a full year."

- 12. Admittedly, the date of appointment of the petitioner is 8.2.1995 and his resignation is 21.4.2025.** There was no other document or case, which challenged the said documents filed by the petitioner.
- 13.** As such the findings of the authority to the extent *"that the appointment letter and the acceptance of resignation letter are not proof enough that employee has no period of leave/break in which no salary was payable and pension contribution"* and the said documents being not accepted by the authority, is totally against the principle of natural justice and is clearly an abuse of process of law.
- 14.** It is clear from the record that the petitioner joined the establishment on 8.2.1995 and his resignation was accepted on 21.4.2005. As such the petitioner has completed 10 years 2 months 13 days, which as per para 9(a) of the Scheme amounts to more than 10 years.
- 15.** Accordingly, the said order of the Regional Provident Fund Commissioner-II, Park Street

dated 10.9.2024 being not in accordance with law, is set aside.

- 16.** The petitioner has completed 10 years of service and is thus entitled to the benefits as per the provision of act and scheme.
- 17.** The respondent authorities are directed to act in accordance with law as directed within 30 days from the date of communication of this order in respect of the petitioner's legitimate dues.
- 18. Writ petition stands disposed of.**
- 19.** Urgent Photostat certified copy of this order, if applied for, be given to the learned counsel for the parties on usual undertakings.

(Shampa Dutt (Paul), J.)