

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6453 of 2023

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Sushil Kumar Das, Son of Late Jageshwar, Resident of Village- Rampur, P.S.- Rampur and District- Madhubani.

... .. Petitioner/s

Versus

1. The Union of India through its Secretary, Labour Department, Government of Bihar.
2. The Commissioner-I, (Pension) Employees Provident Fund Organisation, Govt. of India, New Delhi.
3. The Regional Manager, Regional Office, Hyderabad.
4. The Senior Officer, H.R. Project Division, Jijai Electricals Ltd., Patna, Bihar.
5. The Deputy General Manager (Project), IVRCL Limited, Vijaynager Colony, Hyderabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shyam Kishor Das, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General
For the EPFO		Mr. Ashish Kumar Lal, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

17 23-07-2026 Heard the learned counsel appearing on behalf of the petitioner as well as the learned counsel appearing on behalf of the Respondent-Employees' Provident Fund Organization.

2. This writ petition has been filed for seeking the following relief(s)

“(1) To issue a writ in the nature of Mandamus commanding the respondent no. 3 to release/ fix the pension of the petitioner.

(ii) To issue a writ in the nature of Mandamus commanding the respondent no. 3 to give the pensionary benefits as per Letter No. I/L&D/17(4)2016/PT Dated 10.06.2016 (Annex- 4), issued under the



*signature Commissioner-I, (Pension)
Employee's Provident Fund Organisation,
Govt. of India. New Delhi."*

3. Learned counsel appearing on behalf of the petitioner submits that the decision of the authority, denying the benefit of provident fund to the petitioner, is without any legal basis and contrary to the provisions of the Act. Learned counsel appearing on behalf of the petitioner submits that the petitioner was initially employed with Power Grid Corporation of India Ltd., then with Vijai Electrical Limited from 01.01.2005 to 30.06.2006 and thereafter, the petitioner again joined service with IVRCL Limited and worked from 04.02.2008 till 28.02.2019. Learned counsel submits that the authority, without taking the said period into consideration, has denied the benefit of the provident fund to the petitioner on the ground that the petitioner has not completed 10 years of service as per the Provident Fund Scheme. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the authority concerned for calculating the provident fund due to the petitioner.

4. Per contra, learned counsel appearing on behalf of the Respondent-EPFO has drawn the attention of the Court to Sections 26(1) and 69(1)(a) of the Employees' Provident Funds



Scheme, 1952. Learned counsel has stated that the number of years of the service of the petitioner is not criteria but the date of joining and the number of years that the petitioner has put after the date of joining is material for getting the benefit under the scheme. Learned counsel submits that the petitioner should have completed 10 years of service by the time he attained the age of 58 years, in this particular case, the petitioner has joined the Scheme on 04.02.2008 and attained the age of 58 years on 21.02.2017. That as on the date he attained the age of 58 years, he had completed less than 10 years of service therefore, he was found ineligible. Learned counsel has also drawn the attention of the Court to the Gazette Notification G.S.R. 440(E), dated 25 April, 2016, wherein it is mentioned as under:-

“B. Application Date of Notification

2. Is eligible for pension as on 58 years of age and not already a pensioner of EPFO and members should have completed at least 10 years of service on attaining the age of 58 years.”

5. Learned counsel appearing on behalf of the Respondent-EPFO further submits that the present writ petition is not maintainable, as the petitioner does not fulfill the eligibility requirements under the Employees' Provident Funds



Scheme, 1952.

6. Admittedly, in the present case, in order to appreciate the issue involved in this case, it necessary to extract the relevant paras, more particularly, Para 6A of the Employees' Pension Scheme, 1995, which reads as under:-

6A. Retention of membership. *A member of the Employees' Pension Fund shall continue to be such member till he attains the age of 58 years or he avails the withdrawal benefit to which he is entitled under para 14 of the Scheme or dies, or the pension is vested in him in terms of para 12 of the Scheme whichever is earlier.*

Explanation.- An employee shall cease to be the member of Pension Fund from the date of attaining 58 years of age or from the date of vesting admissible benefits under the Scheme, whichever is earlier.

And also **Para 12. Monthly Member's Pension,** which reads as under:-. (1) *A member shall be entitled to: -*

(a) superannuation pension if he has rendered eligible service of 10 years or more and retires on attaining the age of 58 years;

(b) early pension, if he has rendered eligible service of 10 years or more and retires or otherwise ceases to be in the employment before attaining the age of 58 years.

7. The facts are not in dispute. The petitioner was



born on 22.02.1959 and attained the age of 58 years on 21.02.2017. It is also not denied by the petitioner that he has joined the Provident Fund Scheme on 04.02.2018. A simple calculation of the period between the date of joining of the petitioner under the scheme and the date on which he attained the age of 58 years clearly shows that he has not completed the requisite 10 years of service under the Employees' Provident Fund Scheme.

8. Having regard to the same, this Court does not find any perversity or illegality in the decision taken by the authority which requires any interference by this Hon'ble Court. Accordingly, the present writ petition stands dismissed.

(A. Abhishek Reddy , J)

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