

20.07.2026
Ct. No.13
Sl. No.9
akd

F. M. A. 341 of 2026
(C. A. N. 2 of 2025)
(C. A. N. 3 of 2026)

***[Regional Provident Fund Commissioner, Employees' Provident Fund
Organisation -Vs- Sri Ram Deb Chatterjee & Ors.]***

Mr. Rajib Ray

... .. for the appellant

Mr. Sambhunath De

Mr. Samrat Chakraborty

... .. for the respondent no. 1

1. The instant appeal is directed against the order and judgment dated 17.07.2025 passed by the Single Bench of this Court. By the said order, the Single Bench relied upon the scheme certificate dated 22.08.2007 issued by the Employees' Provident Fund Organization (EPFO) indicating that the respondent no.1/writ petitioner served one *M/s. Simplex Project Limited* for a period of 9 years 6 months and 5 days.
2. Against Clause 18 of the scheme certificate, a 30 days non-contributory period was also specified. This would reduce the service of the respondent no.1/writ petitioner from 9 years 6 months to 9 years 5 months and 5 days.
3. On an earlier occasion this Court asked the EPFO to file a report as regards the exact period for which there was no contribution to provident fund for 30 days by the employer. A report affirmed on 12.06.2026 has been filed today which is taken on record. The report has been filed indicating that the scheme certificate was prepared by the EPFO in 2007 after due verification of the records of the company. The said report indicates that the employer viz. *M/s. Simplex Project Limited*

does not have any record as on date of the employee i.e. the respondent no.1/writ petitioner as more than 20 years have passed since the respondent no.1/writ petitioner had left the company.

4. The Single Bench of this Court however, applying Para 9(a) of the Employees' Provident Fund Act, 1995 held that since the respondent no.1/writ petitioner had served for 9 years 6 months and 5 days, his service should be treated as ten years rounding of the period above 9 years 6 months and 5 days.

5. It however, appears that non-contributory period has not been taken into account by the Single Bench. In such case, the service of the respondent no.1/writ petitioner would be 9 years 5 months and 6 days. In that view of the matter, Para 9(a) of the Employees' Provident Fund Act, 1995 would not apply.

6. This Court is constrained to note that the respondent no.1/writ petitioner was sleeping for nearly sixteen years and did not claim any benefit under the Employees' Pension Scheme. It is now well settled that the principle of delay and laches, defeats remedy under Article 226 of the Constitution of India. This Court further notes that the Single Bench has failed to note that resignation from service results in forfeiture of entire service.

7. In view of the aforesaid discussions, the respondent no.1/writ petitioner is not entitled to any relief from the Single Bench. The impugned order and judgment dated 17.07.2025 passed by the Single Bench shall stand set aside. The writ petition being WPA 4856 of 2025 shall stand dismissed.

8. FMA 341 of 2026 is hereby allowed. The connected applications being CAN 2 of 2025 and CAN 3 of 2026 shall stand disposed of.

9. There shall be no order as to costs.
10. All parties shall act on a server copy of this order duly downloaded from the official *website* of this Court

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)