

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

✓ MP 2278/1993 ✓
Regn.No. OA 768/1990

Date of decision: 07.10.1993

Shri Satya Narayan

...Petitioner

Versus

Central Board of Trustees, Employees
Provident Fund and Others

...Respondents

For the Petitioner

...Shri S.S. Tiwari, Counsel

For the Respondents

...Shri K.C. Sharma, Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

Heard the learned counsel for the parties. On a perusal of the contents of the application, we are satisfied that the petitioner was prevented by sufficient cause in not being present on 05.07.93 when the case was called out for hearing.

2. The order dated 05.07.93 is recalled. The O.A. is restored to its original number. We are proceeding to hear the O.A. finally.

3. The petitioner, a daily wager, challenges the legality of the order dated 20.03.1990 passed by the Central Provident Fund Commissioner terminating his services.

4. A counter-affidavit has been filed on behalf of the respondents. Counsel for the parties have been heard.

5. The admitted facts are these:

The petitioner was appointed as a daily wager (Mali) on 08.05.1989. It was made clear to him that his appointment was purely a casual one and was liable to be terminated any time without assigning any reason.

84

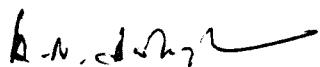
11

6. The first submission in support of this application is that the petitioner having completed 240 days of service, the impugned order could not be passed without affording ^{him} any opportunity. This contention is not sound. Section 25 F of the Industrial Disputes Act, 1947, provides, inter alia, that no workman can be retrenched from service if he has been in continuous service of not less than one year with the employer.

7. The petitioner has not been able to establish that he was in continuous service of the respondents for a period of one year. That apart, the office of the Employees Provident Fund Commissioner not being an industry, the petitioner cannot get any benefit of Section 25F. Under the relevant Office Memoranda, the petitioner was required to render service for 240 days or 206 days, as the case may be, in each two consecutive years. Since the petitioner failed to do so, therefore, the first contention has to be rejected.

8. The other submission is that the respondents regularised the services of respondent No.5, while they terminated the services of the petitioner. In the reply filed, it is asserted that the regular post of a Mali was reserved for a Scheduled Tribe candidate and respondent No.5 being a Scheduled Tribe, he was given an appointment to the said post. On these facts, we are satisfied that there is no violation of Articles 14 and 16 of the Constitution.

9. There is no substance in this application. It is dismissed but without any order as to costs.


(B.N. DHOUNDIYAL)
MEMBER (A)
07.10.1993


(S.K. DHAON)
VICE CHAIRMAN
07.10.1993

RKS
071093