



W.A(MD)No.331 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2026

WEB COPY

CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.A(MD)No.331 of 2021
and
CMP (MD) No.1131 of 2021

1.The Additional Central Provident Fund
Commissioner (Pension)
EPFO
(Ministry of Labour and Employment)
Government of India
Bhavishya Nidhi Bhavan
14, Bhikaji Cama Palace
New Delhi – 110.

2.The Provident Fund Commissioner
Regional Employees Provident Fund
Commissioner Organisation
Lady Doak College Road
Madurai – 625 002.

: Appellants

Vs.

1.B.Dhanasekaran

2.The President
Q 1220, Pudupatty Primary Agricultural
Cooperative Society,
Pudupatti, Paramakudi Taluk,
Ramanathapuram District.

... Respondents

Prayer: This Writ Appeal is filed under Clause 15 of Letters Patent Act, against



W.A(MD)No.331 of 2021

the order passed by this Court in W.P.(MD)No. 7047 of 2019 dated 12.08.2020.

For Appellants : Mr.Anwar Sameem
For Respondents : Mr.G.R.Balakumar (R1)

JUDGMENT

(Judgment of the Court was made by **N.DILIP KUMAR.J.**)

This Writ Appeal has been filed challenging the order passed by the learned Single Judge of this Court in W.P.(MD)No.7047 of 2019, dated 12.08.2020.

2. The first respondent in the writ petition is the appellant before this Court. For the sake of convenience, the parties are referred to as they stood in the writ petition. The writ petitioner joined the third respondent Society as a Secretary in 1978 and he retired on 31.12.2012. After five years, on 11.12.2017, he gave a representation to the EPF authorities, with a request to consider his case for higher pension in terms of Clause 11(3) of the EPS Act, in the light of the Hon'ble Supreme Court decision delivered in ***R.C.Gupta v. Regional Provident Fund Commissioner***, reported in ***(2018) 14 SCC 809***. This request of the writ petitioner was rejected by the Regional Provident Fund Commissioner on 12.03.2019, by holding that the request of the writ petitioner for higher



W.A(MD)No.331 of 2021

pension cannot be considered since a joint declaration form for opting higher pension and paying higher contribution was not feasible, since the enabling proviso to paragraph 11(3) was then not in existence.

3. This was put to challenge in W.P.(MD) No.7047 of 2019. The said writ petition was allowed under the order impugned on 12th August 2020 and aggrieved thereagainst, the EPF Authority is before this Court in the present Writ Appeal.

4. The learned Standing Counsel for the EPF Authority produces a copy of the order passed by the Hon'ble Supreme Court of India in the case of ***Employees Provident Fund Organisation & Anr. v. Sunil Kumar B.& Ors.***, reported in ***(2023) 12 SCC 701*** and by specifically referring to paragraph 50.7, would argue that the writ petitioner, having retired on 31.12.2012 without exercising any joint option under paragraph 11(3) of the pre-amendment scheme, had already exited from the membership and therefore, those retired employees will not be entitled to the benefit of the judgment in ***R.C.Gupta*** case.

5. This laying of law by the Apex Court in ***Sunil Kumar*** case was on 4th November 2022.



W.A(MD)No.331 of 2021

6. The impugned judgment was delivered on 12th August 2020. In the light of the changed legal position and the specific conclusion by the Hon'ble Supreme Court in paragraph 50.7 in **Sunil Kumar** case, that is extracted hereunder:

“50.7. The employees who had retired prior to 1-9-2014 without exercising any option under Para 11(3) of the pre-amendment Scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment.”

7. The writ petitioner is not entitled for the benefit. He retired in 2012 and he made a request in 2017. He has not exercised the joint option beforehand and he was not a member on the date when an application was made. The case is squarely covered by the judgment of the Apex Court in **Sunil Kumar** case (cited supra).

8. Accordingly, this writ appeal is allowed. The writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

[M.D.I.,J] [N.D.K.,J]

19.08.2026

Index: Yes/No
Internet: Yes/No
PKN



W.A(MD)No.331 of 2021

To
1.The Additional Central Provident Fund
Commissioner (Pension)
EPFO
(Ministry of Labour and Employment)
Government of India
Bhavishya Nidhi Bhavan
14, Bhikaji Cama Palace
New Delhi – 110.

2.The Provident Fund Commissioner
Regional Employees Provident Fund
Commissioner Organisation
Lady Doak College Road
Madurai – 625 002.

3.The President
Q 1220, Pudupatty Primary Agricultural
Cooperative Society,
Pudupatti, Paramakudi Taluk,
Ramanathapuram District.



WEB COPY



W.A(MD)No.331 of 2021

M.DHANDAPANI, J

AND

N.DILIP KUMAR, J

PKN

W.A(MD)No.331 of 2021

19.08.2026