



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.06.2026

PRONOUNCED ON : 09.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

and

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

WA.(MD)Nos.3129, 3130, 3135, 3159, 3161, 3162, 3166, 3169, 3170 and 3173
of 2025

and

W.P.(MD)Nos.35800 of 2024 & 26161, 40208, 44502, 45502, 45604, 48239,
30379, 35306, 2214, 34419, 48690, 35685, 49637, 50757, 38562, 38583, 38590,
38616, 36367, 36520, 38485, 40223, 40307, 40589, 40593, 41092, 38763,
38768, 39936, 42314, 42330, 42562, 42563 and 43176 of 2025 & 4846, 6877,
13343, 13344, 13345, 13346, 14891, 1829, 768, 8638, 8664, 9081, 873, 33944,
2199 and 293 of 2026

and

Connected Miscellaneous Petitions

W.A.(MD)No.3129 of 2025:

- 1.The Central Provident Fund Commissioner, the EPFO,
Ministry of Labour and Employment,
Government of India, Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place, New Delhi -110 066.



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2.The Regional Provident Fund Commissioner,
The Employees Provident Fund Organisation,
Ministry of Labour and Employment, No.3,
Royapettah High Road, Azad Nagar,
Royapettah.

3.The Regional Provident Fund Commissioner,
The Employees Provident Fund Organisation,
Ministry of Labour and Employment,
P.B.No. 588, Sree Complex, D Block, No.18,
Madurai Road,
Trichirappalli-620 008.

...Appellants

Vs.

1.M.Tamil Nambi

2.R.Thilakraj

3.N.Sivakumar

4.Union of India,
Ministry of Labour & Employment,
Represented by Secretary,
Shram Shakti Bhawan Rafi Marg,
New Delhi-110 001.

5.Director (HR),
BHEL, BHEL House,
Siri Fort,
New Delhi-110 049.

... Respondents

PRAYER:- Writ Appeal filed under Clause 15 of the Letter Patent Act, against the order dated 02.09.2025 in W.P.(MD)No.29575 of 2024.



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For Appellant : Mr.AR.L.Sundaresan
Additional Solicitor General of India
assisted by Mr.R.Vishnu and Mr.S.Anwar Sameem
Standing Counsel for EPFO
Mr.Siddharth
Standing Counsel for EPFO

For Respondent : Mr.G.Srinivasan (R1 to R3)
Mr.C.Amilthan (R4)
Mr.Raguvaran Gopalan (R5)
Standing Counsel

COMMON JUDGMENT

[Judgment of the Court was made by **N.SATHISH KUMAR, J.**]

The writ appeals before us arise out of a common order passed by the learned Single Judge allowing the writ petitions filed challenging the orders issued by the Employees' Provident Fund Organisation (EPFO), whereby the demand notice requiring payment of provident fund contributions, along with applicable interest towards higher pension, was recalled and the order of the EPFO recalling the demand notice issued by them for payment of contribution along with applicable interest for higher pension as well as the circular issued by EPFO rejecting the permission for the establishments to amend trust rules is also challenged.



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2. The writ petitioners before us have filed the writ petitions challenging the orders passed by the EPFO rejecting the requests submitted by the employees to avail the benefit of higher pension by exercising the joint option.

3. The brief facts leading to the filing of all these cases are as follows:

(i) It is not in dispute that the establishments before us are exempted establishments under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act"), from the purview of Employees' Provident Funds Scheme, 1952 (hereinafter referred to as "the Scheme"), subject to the conditions governing such exemption.

(ii) The provident fund accounts of the employees are administered by the respective exempted Trusts constituted by the establishments. All the writ petitioners had been contributing to the provident fund in accordance with the provisions of the Scheme and subject to the statutory wage ceiling prescribed under the Act. Later the contribution was also enhanced at the actual wages in view of the introduction of paragraph 26(6) of the Scheme. After the Scheme was



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introduced, as per Section 6(A) of the Act, 8.33% of the employees' contribution would be diverted to the Pension Scheme. As per the above, the employees would be eligible for various types of pension including superannuation pension. Paragraph 11 of the Employees' Pension Scheme, 1955 (hereinafter referred to as 'Pension Scheme') dealt with determination of maximum pensionable salary.

(iii) After the introduction of Paragraph 11(3) of the Pension Scheme, the employer and the employee were conferred with an option to remit pension contributions on the employee's actual wages instead of the statutory wage ceiling as per the proviso to Paragraph 11(3). The said proviso was analogous to Paragraph 26(6) of the Employees' Provident Funds Scheme, 1952, which permitted provident fund contributions on wages exceeding the statutory wage ceiling upon a joint request made by the employer and the employee.

(iv) Subsequently, by Notification dated 22.08.2014, the Proviso to Paragraph 11(3) was omitted and Paragraph 11(4) of the Pension Scheme was inserted with effect from 01.09.2014. Paragraph 11(4) of the Pension Scheme provided that employers and employees who had been contributing on wages



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exceeding the statutory wage ceiling could jointly exercise their option to continue making pension contributions on salary exceeding the revised wage ceiling of Rs.15,000/- per month.

(v) Some of the employees, who had not exercised their option as provided under the proviso to Paragraph 11(3) of the Pension Scheme, had approached the EPFO exercising their joint option seeking higher pension based upon higher contribution and the same was rejected by the authorities concerned and the said issue was the subject matter of the case in ***R.C.Gupta Vs. Regional Provident Fund Commissioner [(2018) 14 SCC 809]***, wherein the Hon'ble Supreme Court has held that when no cut off date has been fixed under the said proviso, the authorities cannot reject the joint option applications submitted by the employees. It was further held that when the employer has already deposited 12% of the contribution on the basis of the actual wages, there cannot be any difficulty in adjustment of the accounts by diverting 8.33% from the Provident Fund to Pension Scheme.



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(vi) The notification dated 22.08.2014 was challenged before the High Courts of Kerala, Rajasthan and Delhi. The High Court of Kerala set aside the Paragraph 11(4) of the Pension Scheme and the same has been followed by the other High Courts. The said orders were challenged before the Hon'ble Supreme Court.

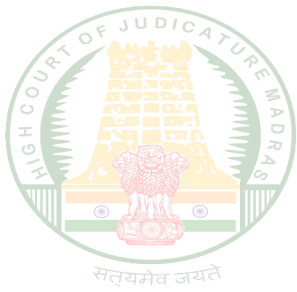
(vii) The Hon'ble Supreme Court in the case of ***Employee's Provident Fund Organisation and another vs. Sunil Kumar B and others [(2023) 12 SCC 701]***, upheld the validity of the notification dated 22.08.2014 and issued various directions and extended the time period of four months from the date of judgment to exercise the joint option by the employees, who are entitled to do so. Pursuant to the said directions, the writ petitioners before us and also lakhs and lakhs of employees have exercised their joint option. Hence, the time limit was extended by the authorities till 30.09.2023 and again it was extended upto 31.12.2023. Further, till 31.05.2024, the time was extended. Finally, it was extended upto 31.01.2025.



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(viii) It is not in dispute that the writ petitioners have applied for higher pension within the time as directed by the Hon'ble Supreme Court as well as the time granted by the authorities. However, their applications were rejected by the EPFO on the ground that the Trust Rules governing the respective exempted establishments, restrict the diversion of the employer's contribution to the Pension Fund to 8.33% of the statutory wage ceiling, and that the balance of the employer's contribution was required to be credited to the Provident Fund. Challenging such rejection, the writ petitions were filed.

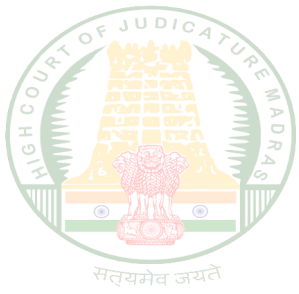
(ix) The learned Single Judge rejected the contention of EPFO and allowed the writ petitions. Challenging the same the appeals before us are filed by EPFO. Some of the writ petitions, which were not decided before the learned Single Judge, were clubbed together along with the writ appeals and listed before this Court. Since the issue in all the writ petitions and the writ appeals are similar, we dispose of the same by way of this common order.



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4. The learned Additional Solicitor General appearing for the appellants in all the writ appeals submitted that the establishments concerned are exempted establishments under Section 17 of the Act and governed by their respective Trust Rules rather than the Scheme. The Trust Rules provide that the employer's contribution to the Provident Fund shall not be made on wages, exceeding the statutory wage ceiling. Consequently, the joint options submitted by the employers and the employees seeking to remit pension contributions on actual wages are contrary to the Trust Rules governing the exempted establishments and, therefore, cannot be accepted by the EPFO. Hence, he seeks to set aside the order of the learned Single Judge.

5. The learned Standing Counsel appearing on behalf of EPFO submits that the higher contribution amount based upon the actual wages has not been received by EPFO in time. Consequently, the employees cannot, at this stage, seek the benefit of higher pension by exercising the joint option and it would result in substantial financial implications for the EPFO. He further submits that the contributions received from the employers and employees are invested by the EPFO in approved securities, and the returns generated therefrom are utilised for



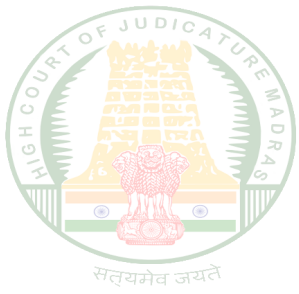
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payment of interest on provident fund accumulations and disbursement of pensionary benefits. According to the learned Standing Counsel, permitting remittance of higher contributions at this belated stage would not compensate the losses to EPFO.

6.Ms.Nagasaila, learned counsel appearing on behalf of some of the employees submitted that there is no restriction in the Trust Rules with regard to the employees, to whom she had entered appearance. Even then, the cases of the employees have been rejected citing the Trust Rules.

7.The learned Counsel appearing on behalf of the writ petitioners have submitted that both the employer and the employees have exercised their joint option as contemplated in paragraph 26(6) of the Employees' Provident Funds Scheme and they are remitting contribution to the Trust on actual wages instead of ceiling wages. Further, the joint option applications have been presented by the employees within the time limit fixed by the Hon'ble Supreme Court and the time extended by the authorities. In such circumstances, the claim of the writ petitioners cannot be rejected.

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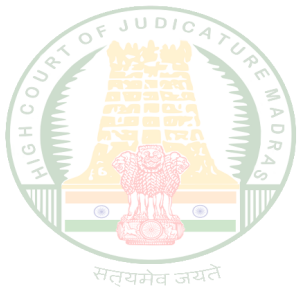
8. Heard the learned counsel appearing on either side and perused the materials placed on record.

9. In light of the above submissions, now the only point that arises for consideration in all these matters, is *as to whether the benefit extended to the employees under the Act can be denied to the employees on the basis of the Trust Rules, which has been subsequently amended?*

10. There is no dispute with regard to exercising of option within the time frame granted by the Hon'ble Supreme Court as well as the authorities concerned from time to time till 31.01.2025. The reasons cited for rejection of the claim is mainly on the ground of Trust Rules.

11. It is relevant to extract Chapter IV of the Provident Fund Rules relating to the BHEL (Thiruverumbur Unit) as under:

“Every member contributing to the Provident fund under sub-rule (a) herein may, if so desires, contribute voluntarily to the provident fund an amount exceeding 12% of his basic pay and D.A. A member desiring to



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contribute to the Provident Fund an amount exceeding 12% of his basic pay and DA per month shall submit an application in the form set out in Annexure 'E'. A member who is permitted to contribute to the provident fund an amount exceeding 12% of his total monthly basic pay and D.A. shall be allowed to change the amount of voluntary contribution on his application for such change in contribution. Such a change in the amount by way of voluntary contribution shall only be given effect to from the month of salary in which the application is received.

Explanation: The term D.A. shall include the cash value of food concession and retaining allowance, if any.

12. According to the learned Senior Counsel for EPFO and the Additional Solicitor General, once there is a cap fixed under the Rule, merely because excess amount has been collected in the Provident Fund on the actual salary, the same cannot be diverted towards the Pension Fund for the purpose of availing higher pension.

13. Section 6A of the Act empowers the Central Government to frame the Employees' Pension Scheme for providing superannuation pension, retiring pension and permanent total disablement pension to the employees of

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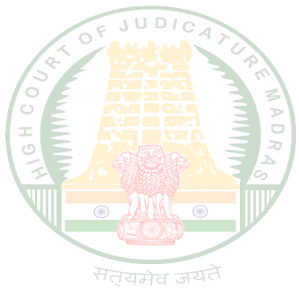
establishments or classes of establishments to which the Act applies. The Scheme also provides for payment of widow's or widower's pension, children's pension and orphan pension to the eligible beneficiaries of such employees.

14. For proper appreciation of the statutory framework, Section 6A(2) and 6A(2)(a) of the Act is extracted hereunder:

“(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme.

(a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;”

15. The above provision makes it clear that the employees contribution will not exceed 8.33% of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees as may be specified in the Pension Scheme. Therefore, the nature of contribution always depends upon the Scheme.



WEB COPY 16. It is also relevant to re-produce Paragraph 27(A) of the Scheme as follows:

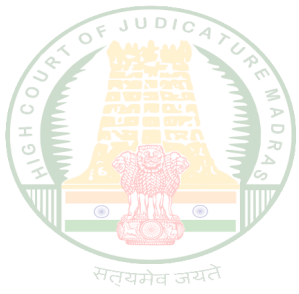
27A. [Exemption of a class of employees (1) [The appropriate Government] may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:

Provided that such class of employees is entitled to benefits in the nature of provident fund, gratuity or old age pension according to the rules of the [factory or other establishment] [Inserted by S.R.O. 2035, dated 28.10.1953.][and such benefits separately or jointly or on the whole not less favourable than the benefit provided under the Act and this Scheme.

(2) Where any class of employees is exempted as aforesaid, the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

[Provided that above mentioned returns shall be submitted by the employer in electronic format also, in such form and manner as may be specified by the Commissioner.]

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class desires to join the Fund and thereupon such class of employees shall become members of the Fund.



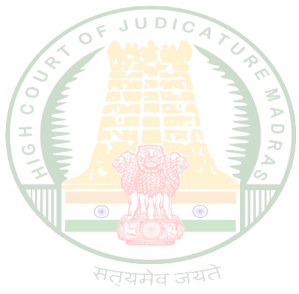
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(4) No class of employees shall be granted exemption or permitted to apply out of exemption more than once on each account.

(5) The provisions of this paragraph shall be deemed to have come into force with effect from the 14th October, 1953.]

17. The above Rule makes it clear that the Rules framed under the Provident Fund Scheme must ensure that the benefits extended to the employees are not less favourable than those provided under the Act and the Scheme. Though the Trust Rules may regulate the payment of such benefits, such benefits will not be less favourable than the benefit provided under the Act and Scheme. Accordingly, in the event of any inconsistency, the provisions of the Act and the Scheme shall prevail over the Trust Rules framed by the concerned establishments.

18. There is no dispute that the Trust Rules framed by an exempted establishment have statutory force, as held by the Hon'ble Full Bench of the Patna High Court in the case of ***Tata Iron and Steel Company Ltd., and Bir Singh and another***. However, reliance placed on that decision by the appellants is misplaced. The Full Bench was concerned only with the issue of attachment of

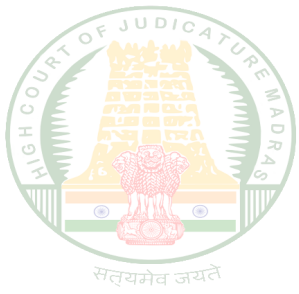


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Provident Fund amounts and held that the Trust Rules framed under the Act have statutory force. Hence, the said decision does not support the contention raised by the appellants that they can deny the benefits to the employees' conferred under the Scheme.

19.It is relevant to note that the Employees' Pension Scheme was introduced in the year 1995. Proviso to Paragraph 11(3) of the Scheme provides that 8.33% of the employee's pay shall be diverted towards the Employees' Pension Fund. While the said provision prescribes a wage ceiling for pensionable salary, it also enables both the employer and the employee, by exercising the prescribed option, to continue making contributions on the actual salary exceeding the statutory wage ceiling. In view of the above statutory provision, the Trust Rules framed by an exempted establishment under the Act in our view cannot be pressed into service to deny the pension as per the Scheme or under the parent Act.

20.The very object of the parent Act is to provide social security to employees, including pensionary benefits upon retirement. The Act also provides for making contribution beyond the ceiling limit prior to the amendment.

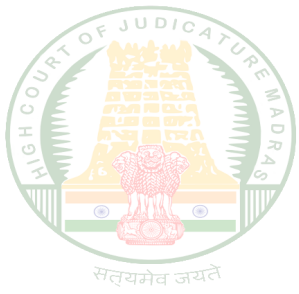


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Admittedly, in the present case, both the employers and the employees had, prior to the amendment, contributed on wages exceeding the ceiling limit. Now the benefit under the said Scheme, cannot be taken away after their retirement on the ground that the Trust Rules restricted contributions in a particular manner.

21.Any Trust Rules framed under the Provident Fund Scheme must necessarily yield to the provisions of the Employees' Pension Scheme, which was introduced subsequently under the authority of the parent Act. The entitlement to pension and the manner of computation of pension are governed exclusively by the provisions of the Act and the Pension Scheme and cannot be curtailed or overridden by the Trust Rules of an exempted establishment.

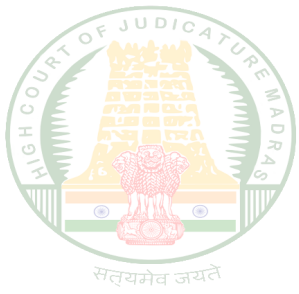
22.The mere fact that the Trust Rules were framed under the Provident Fund Scheme or that the Central Board consists of representatives of the employers, employees and the Central Government, does not lead to the conclusion that the parties neither exercised nor intended to exercise the option contemplated under the subsequently introduced Employees' Pension Scheme, which was brought in the year 1996.



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23. Some of the Trust Rules were framed prior to the introduction of the Pension Scheme. Therefore, we are of the view that any Rules, which is less favourable to the employees than the Scheme and Act cannot be given much importance and the appellants cannot take advantage of the same.

24. It is also brought to our notice that for the employees of the same company, different yardstick has been applied. For instance, the claim of the respondents in the writ appeals, who are the employees of BHEL were rejected, whereas the employees of BHEL, Delhi were considered. It has also been admitted by the learned Counsel for EPFO on record. However, he tried to distinguish that the Trust relating to Delhi and Hyderabad do not contain any restriction on the ceiling limit on the contribution and they were favourably considered. However, in the present case, there is a ceiling limit. This Court is of the view that there cannot be any discrimination between the employees of the same company in different States.

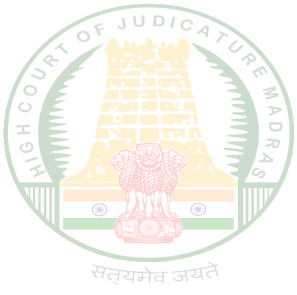


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25. Similarly, it is also brought to the notice of this Court that the employees of Salem Steel Plant Company have been denied the benefit, whereas the claim of the employees of Steel Authority of India company has been considered favourably. Therefore, this action of EPFO, in our view is nothing but a clear discrimination and it violates the equality clause.

26. Though much emphasise has been made with regard to other aspects, we are of the view that all other aspects have been argued before the Hon'ble Supreme Court in the case of *Sunil Kumar* (referred above). Hence we are not inclined to go into those aspects of the matter.

27. It is also relevant to note that investment of provident fund and Pension Fund will be done in the same manner as provided under the Provident Fund Scheme. Therefore, it cannot be stated that merely because there are Trust Rules and the said Rules are in force from the year 1969, they cannot be put against the employees, who are entitled to pension as per the Scheme brought under the Act. When the Scheme provides for exercising an option and the Hon'ble Supreme Court has granted a window period to exercise those option and when both the

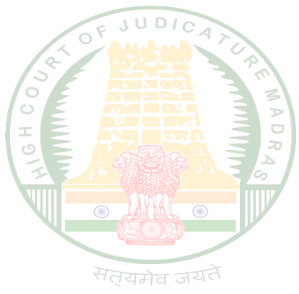


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employer and employees have exercised the said option, the authorities cannot deny the same simply citing the reason that there are Trust Rules in force.

28. Therefore, we are of the considered view that, once the Act and the Scheme comprehensively regulate the Provident Fund and Pension Fund, and it is not in dispute that both the employer and the employees had contributed on the employees' actual wages, exceeding the statutory wage ceiling as was permissible under the law prevailing prior to the amendment of 2014, the rights that accrued by virtue of such contributions cannot be denied citing the Trust Rules framed under the Provident Fund Scheme.

29. Therefore, when the benefit is already conferred by the statute, which provides an option enabling the employer and the employee to contribute to the Pension Fund on actual wages exceeding the statutory ceiling, those rights cannot subsequently be taken away or diluted by invoking the Trust Rules.



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30. The Hon'ble Supreme Court granted a period of four months from the date of its judgment to enable all eligible members of the Pension Fund to exercise the joint option contemplated under Paragraph 11(4) of the Employees' Pension Scheme. The directions issued by the Hon'ble Supreme Court make it clear that only those employees who had retired prior to 01.09.2014 without exercising any option under Paragraph 11(3) of the pre-amendment Scheme and had consequently exited from the membership of the Pension Fund would not be entitled to the benefit of the judgment. The four-month window period was granted only to enable eligible members of the Pension Fund to exercise the joint option in terms of the directions issued by the Hon'ble Supreme Court.

31. The directions issued by the Hon'ble Supreme Court in *Sunil Kumar's* case, are extracted hereunder:-

“42. We shall now address the question as to whether the members from an exempted establishment under the 1952 Act would be entitled to the benefits of enrolling in the scheme beyond the ceiling limit. We would point out here that before us no argument has been advanced as regards members of the pension scheme of exempted establishments in terms of paragraph 39 of the said scheme. Thus, in this judgment, we are not addressing the cases of that category of



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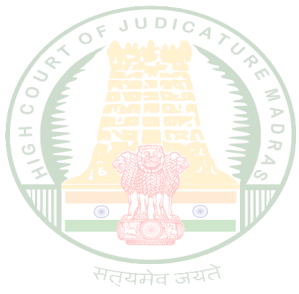
members. We find from Section 17 (A) of the Act that the investment of the provident fund for the trust fund are also to be as per the directions of the Central Government. In quashing the circular dated 31st May 2017, the Delhi High Court has held that the employees of unexempted establishments and exempted establishments form a homogenous group. Section 6A of the Act also envisages coverage of employees of exempted establishments under Section 17(6) of the Act within the pension scheme.

....

44. Further, Clause 11(3) of the pension scheme contemplates keeping within its fold the establishments to which the 1952 Act applies. These establishments would include exempted establishments as well. The employees of exempted establishments are integrated into the pension scheme and we are of the opinion that the employees of an exempted establishment should not be deprived of the benefit of getting option to remain in the pension scheme while drawing salary beyond the ceiling limit, in situations where similarly situated employees of unexempted establishments can exercise such option. In the event the scheme is construed in a way which would exclude them, that would lead to artificial classification of otherwise same categories of employees. Thus, the pension scheme ought to apply to the employees of the exempted establishments in the same manner as this scheme applies to the employees of unexempted or regular establishments.

....

48. The dual option, as is contemplated in paragraph 11(4) of the pension scheme (post 2014 amendment), has to be merged into one. In the event the employer and employee jointly opt for coverage beyond the salary limit of Rs. 15000/-, without giving an earlier option under the unamended Clause 11(3)



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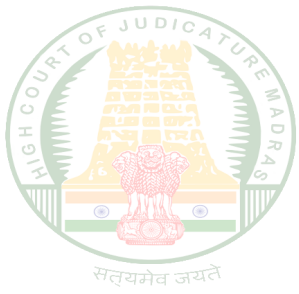
of the pension scheme, they would not be automatically excluded from their right to exercise option under paragraph 11(4) of the scheme, post amendment.

.....

50.2. Amendment to the pension scheme brought about by the notification no. G.S.R. 609(E) dated 22 nd August 2014 shall apply to the employees of the exempted establishments in the same manner as the employees of the regular establishments. Transfer of funds from the exempted establishments shall be in the manner as we have already directed.

.....

50.4. The members of the scheme, who did not exercise option, as contemplated in the proviso to paragraph 11(3) of the pension scheme (as it was before the 2014 Amendment) would be entitled to exercise option under paragraph 11(4) of the post amendment scheme. Their right to exercise option before 1st September 2014 stands crystalised in the judgment of this Court in the case of R.C. Gupta (supra). The scheme as it stood before 1st September 2014 did not provide for any cut-off date and thus those members shall be entitled to exercise option in terms of paragraph 11(4) of the scheme, as it stands at present. Their exercise of option shall be in the nature of joint options covering pre-amended paragraph 11(3) as also the amended paragraph 11(4) of the pension scheme. There was uncertainty as regards validity of the post amendment scheme, which was quashed by the aforesaid judgments of the three High Courts. Thus, all the employees who did not exercise option but were entitled to do so but could not due to the interpretation on cut-off date by the authorities, ought to be given a further chance to exercise their option. Time to exercise option under paragraph 11(4) of the scheme, under these circumstances, shall stand extended by a further

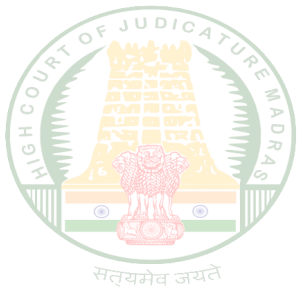


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period of four months. We are giving this direction in exercise of our jurisdiction under Article 142 of the Constitution of India.”

32. Though much emphasis was also made by the appellants on the alleged financial burden that would cast upon the Government on extending such benefits, we are of the view that such contention cannot be accepted. Financial implications cannot constitute a valid ground to deprive the rights of the employees already vested in them under the statute. It is not in dispute that the Provident Fund and Pension Fund are administered under the statutory framework of EPFO. Therefore, mere fact that implementation of the Scheme may require a greater financial outlay cannot justify the denial of benefits to the employees.

33. The issue relating to the financial impact of extending such benefits was specifically raised before the Hon'ble Supreme Court and duly considered by the Hon'ble Supreme Court in the judgment of *Sunil Kumar's* case. Having been comprehensively dealt with by the Hon'ble Supreme Court, the said contention cannot be permitted to be reagitated before this Court.

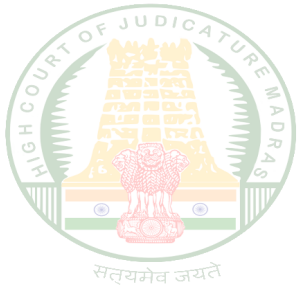


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34. For all the aforesaid reasons, the writ appeals preferred by the Employees' Provident Fund Organisation are dismissed and the writ petitions filed by the individual employees as well as the concerned establishments are allowed. EPFO is directed to consider, process and settle the claims of the retired employees, who have retired before 01.09.2014, on the date on which the amendment was made, in accordance with law and in the light of the observations made herein as well as the directions issued by the Hon'ble Supreme Court in *Sunil Kumar's* case, within a period of one month from the date of receipt of a copy of this judgment. Insofar as the employees, who are still in service, are concerned, their claim shall be processed and maintained in terms of the Act, There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K.,J.] [M.J.R.,J.]
09.07.2026

NCC : Yes
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N.SATHISH KUMAR,J.
and
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