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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CWP-5378-2024 (O&M)
Date of Decision:12.09.2024

INDERJIT SINGH KAKNIAN AND OTHERS PETITIONERS

V/S

UNION OF INDIA AND OTHERS RESPONDENTS

2) CWP-10992-2023 (O&M)

SATYAPAL AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

3) CWP-11127-2023 (O&M)

RAKESH KUMAR GUPTA AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

4) CWP-11996-2023 (O&M)

GURCHARAN SINGH AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

5) CWP-12087-2023 (O&M)

RAJ KUMAR GOYAL AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS



6) CWP-12643-2023
PUNJAB MARKFED RETIRED EMPLOYEES
ASSOCIATION(REGD)PETITIONER

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

7) CWP-12705-2023
PRAHLAD SINGH AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

8) CWP-13141-2023 (O&M)
KARNAIL SINGH AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

9) CWP-13590-2023
SOHAN LAL GOEL AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

10) CWP-14333-2023
SURINDER SINGH AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

11) CWP-15949-2023 (O&M)
LADHU RAM AND OTHERSPETITIONERS

V/S



UNION OF INDIA AND OTHERS ...RESPONDENTS

12) CWP-17018-2023 (O&M)
JASWINDER SINGHPETITIONER

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

13) CWP-17035-2023
WAZIR SINGH KUNDU AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

14) CWP-17184-2023 (O&M)
SURINDER SINGH RATHEE AND ANOTHERPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

15) CWP-19585-2023 (O&M)
RAJ HOODA @ RAJWATI AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

16) CWP-20524-2023
RAMESH KUAMR GOYAL AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

17) CWP-21109-2023

CWP-5378-2024 (O&M)	4	2024.PHHC.120846 
MEWA SINGH AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
18)	CWP-22068-2023 (O&M)	
JITENDER KUMAR		PETITIONER
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
19)	CWP-22111-2023	
JAI PARKASH SHARMA AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		RESPONDENTS
20)	CWP-22453-2023	
DHARM PAL SINGH AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
21)	CWP-22755-2023	
JAI PARKASH GOYAL AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
22)	CWP-23771-2023	
SUDERSHAN MAINI AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS

CWP-5378-2024 (O&M)	5	2024.PHHC.120846 
23)		CWP-23889-2023 (O&M)
NIRBHAY SINGH AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
24)		CWP-24218-2023
RAJ KUMAR		PETITIONER
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
25)		CWP-24317-2023
UMED SINGH		PETITIONER
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
26)		CWP-26846-2023
OM PARKASH		PETITIONER
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
27)		CWP-26977-2023
LILA SINGH AND ANOTHER		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS
28)		CWP-6852-2023 (O&M)
VIRENDER SINGH AND OTHERS		PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		...RESPONDENTS



29)	CWP-6870-2023 (O&M)
BALWANT SINGH AND OTHERS	PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	...RESPONDENTS
30)	CWP-7441-2023 (O&M)
RAJINDER PARASD YADAV AND OTHERS	PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	...RESPONDENTS
31)	CWP-9512-2023 (O&M)
ARUN SHARMA	PETITIONER
V/S	
UNION OF INDIA AND OTHERS	...RESPONDENTS
32)	CWP-9958-2023
MOHAN LAL	PETITIONER
V/S	
UNION OF INDIA AND OTHERS	...RESPONDENTS
33)	CWP-10318-2023 (O&M)
RAM CHANDER AND ANOTHER	PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	...RESPONDENTS
34)	CWP-10325-2023 (O&M)
BHOOP SINGH AND ANOTHER	PETITIONERS
V/S	

CWP-5378-2024 (O&M)72024.PHHC.120846

UNION OF INDIA AND OTHERS...RESPONDENTS

35)CWP-10369-2023 (O&M)

SATDEV SINGH NANDAL AND OTHERS....PETITIONERS

V/S

UNION OF INDIA AND OTHERS...RESPONDENTS

36)CWP-10470-2023

RAJENDER SINGH GAHLAWAT AND OTHERS....PETITIONERS

V/S

UNION OF INDIA AND OTHERS...RESPONDENTS

37)CWP-10826-2023 (O&M)

TEK BAHADUR CHAND AND OTHERS....PETITIONERS

V/S

UNION OF INDIA AND OTHERS...RESPONDENTS

38)CWP-28314-2023 (O&M)

GURSHARAN SINGH AND OTHERS....PETITIONERS

V/S

UNION OF INDIA AND OTHERS...RESPONDENTS

39)CWP-23532-2023 (O&M)

SHAM LAL MUNJAL....PETITIONER

V/S

UNION OF INDIA AND OTHERS...RESPONDENTS

40)CWP-1196-2024

DHARAM VEER AND ANOTHER....PETITIONERS



V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

41)

CWP-29192-2023

JEEVAN BHARDWAJ

....PETITIONER

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

42)

CWP-3503-2024

LAKHWINDER KAUR AND OTHERS

....PETITIONERS

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

43)

CWP-2373-2024

PARGAT SINGH AND OTHERS

....PETITIONERS

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

44)

CWP-243-2024

ANSUYA PRASHAD CHAMOLI ALIAS A.P. CHAMOLI

....PETITIONER

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

45)

CWP-219-2024

USHA RANI

....PETITIONER

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

46)

CWP-322-2024



SURINDER KUMAR BANSALPETITIONER

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

47) CWP-25166-2023

NAHANA RAM SHARMAPETITIONER

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

48) CWP-2481-2024

ATTAR SINGHPETITIONER

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

49) CWP-22695-2023

JASBIR SINGH AND OTHERSPETITIONERS

V/S

UNION OF INDIA AND OTHERS ...RESPONDENTS

50) CWP-18319-2023

MOHINDER PAL DOGRA AND OTHERS PETITIONERS

V/S

UNION OF INDIA AND OTHERS RESPONDENTS

51) CWP-22218-2023 (O&M)

DEVINDER KUMAR SHARMA PETITIONER

V/S

UNION OF INDIA AND OTHERS RESPONDENTS



52)	CWP-7622-2024 (O&M)
TIRLOK KUMAR AND OTHERS	 PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	 RESPONDENTS
53)	CWP-6899-2024
SHAM LAL	 PETITIONER
V/S	
UNION OF INDIA AND OTHERS	 RESPONDENTS
54)	CWP-7642-2024 (O&M)
NARINDER SINGH	 PETITIONER
V/S	
UNION OF INDIA AND OTHERS	 RESPONDENTS
55)	CWP-5732-2024 (O&M)
SUCHA SINGH BUTTAR AND OTHERS	 PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	 RESPONDENTS
56)	CWP-7745-2024 (O&M)
SUMER SINGH AND OTHERS	 PETITIONERS
V/S	
UNION OF INDIA AND OTHERS	 RESPONDENTS

CWP-5378-2024 (O&M)	11	2024.PHHC.120846 
57)		CWP-4063-2024 (O&M)
AZAD SINGH CHAHAL AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
58)		CWP-29484-2023 (O&M)
MURLI DHAR AHUJA		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
59)		CWP-3585-2024
KAPAL DEV SOOD AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
60)		CWP-3667-2024 (O&M)
HARI BHAGAT AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
61)		CWP-7835-2024 (O&M)
KARNAIL SINGH AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
62)		CWP-9869-2024 (O&M)

CWP-5378-2024 (O&M)122024.PHHC.120846

SMT. SHANTA DEVI.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

63)CWP-8915-2024 (O&M)

VINOD KUMAR GROVER.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

64)CWP-17515-2024

CHANDER RAI CHOPRA AND OTHERS....PETITIONERS

V/S

UNION OF INDIA AND OTHERS....RESPONDENTS

65)CWP-17287-2024

SHASHI JAIN.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

66)CWP-14195-2024 (O&M)

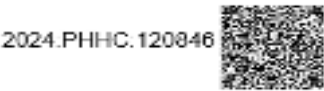
MEENA MALIK.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

67)CWP-13574-2024

CWP-5378-2024 (O&M) 13



RAJ SINGH PETITIONER
V/S

UNION OF INDIA AND OTHERS RESPONDENTS

68) CWP-12334-2024

DALBIR SINGH PETITIONER
V/S

UNION OF INDIA AND OTHERS RESPONDENTS

69) CWP-11741-2024

ALKA GUPTA AND ANOTHER PETITIONERS
V/S

UNION OF INDIA AND OTHERS RESPONDENTS

70) CWP-10776-2024

VIJAY KUMAR BISHNOI PETITIONER
V/S

UNION OF INDIA AND OTHERS RESPONDENTS

71) CWP-10770-2024

PRAVEEN VERMA PETITIONER
V/S

UNION OF INDIA AND OTHERS RESPONDENTS

72) CWP-8453-2024 (O&M)

JASJIT KAUR PETITIONER
V/S

CWP-5378-2024 (O&M)	14	2024.PHHC.120846 
UNION OF INDIA AND OTHERS		 RESPONDENTS
73)		CWP-8485-2024 (O&M)
SNEH LATA		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
74)		CWP-9347-2024 (O&M)
SUSHIL KUMAR SHARMA		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
75)		CWP-10310-2024
NAIB SINGH AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
76)		CWP-11803-2024 (O&M)
SOM SINGH		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
77)		CWP-13140-2024 (O&M)
GULSHAN RAI AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS

CWP-5378-2024 (O&M)	15	2024.PHHC.120846 
78)		CWP-18431-2023
ASHOK KUMAR AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
79)		CWP-14176-2024
AMRITPAL KAUR		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
80)		CWP-18127-2024
MANJIT KAUR		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
81)		CWP-18663-2024
BALJIT KAUR AND OTHERS		 PETITIONERS
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS
82)		CWP-21533-2024
OM PARKASH		 PETITIONER
V/S		
UNION OF INDIA AND OTHERS		 RESPONDENTS

CWP-5378-2024 (O&M)162024.PHHC.120846

OM PARKASH GUPTA.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

84)CWP-15398-2023 (O&M)

RAM DIA.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

85)CWP-16259-2024

BABAR SAHEB AND ANOTHER.... PETITIONERS

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

86)CWP-16625-2024

DES RAJ AND OTHERS.... PETITIONERS

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

87)CWP-18573-2023

RAJINDER PAL GUPTA.... PETITIONER

V/S

UNION OF INDIA AND OTHERS.... RESPONDENTS

88)CWP-24813-2023 (O&M)

VIJAY SHARMA.... PETITIONER



V/S

UNION OF INDIA AND OTHERS

.... RESPONDENTS

89)

CWP-23512-2023 (O&M)

BALBIR SINGH PANNU AND OTHERS

.... PETITIONERS

V/S

UNION OF INDIA AND OTHERS

.... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Jai Vir Yadav, Sr. Advocate with
Mr. Jivesh Malik, Advocate,
Ms. Parul, Advocate and
Mr. Tarun Yadav, Advocate
for the petitioner(s) in CWP-12705-2023,
CWP No.10992 of 2023, CWP No.11127 of 2023,
CWP No.12087 of 2023, CWP No.11996 of 2023,
CWP No.12643 of 2023 & CWP No.21109 of 2023.

Mr. Varun Aryan Sharma, Advocate
for the petitioner in CWP-14195-2024.

Mr. Jatin Verma, Advocate
for the petitioner in CWP No.24317 of 2023.

Ms. Hema Kakkar, Advocate
for the petitioner in CWP No.2481 of 2024.

Mr. B.D. Sharma, Advocate
for the petitioners in CWP No.13141 of 2023.

Mr. Ram Pal Verma, Advocate
for the petitioner in CWP No.25166 of 2023.

Mr. Arjun Kundra, Advocate and
Mr. Brajesh Kumar, Advocate
for the petitioner in CWP-6899-2024.

Mr. N.S. Jagdeva, Advocate
for the petitioner in CWP No.23532 of 2023.

Mr. Jasraj Singh, Advocate
for the petitioner in CWP No.17018 of 2023.



Mr. V.P. Malik, Advocate
for the petitioner(s) in CWP No.18663 of 2024 &
CWP No.21676 of 2024.

Mr. Rahul Deswal, Advocate
for the petitioners in CWP No.7441 of 2023.

Mr. R.S. Chahar, Advocate
for the petitioner in CWP No.29192 of 2023.

Mr. Akhil Ahuja, Advocate
for the petitioner.

Mr. Rahul Arora, Advocate
for the petitioners in CWP-10310-2024.

Mr. M.K. Singla, Advocate
for the petitioners in CWP No.13590 of 2023.

Mr. Arun Sharma, Advocate
for the petitioner(s) in CWP No.9512 of 2023,
CWP No.22068 of 2023 & CWP No.11741 of 2024.

Mr. D.R. Bansal, Advocate
for the petitioner(s) in CWP No.14333 of 2023,
CWP No.18573 of 2023, CWP No.8915 of 2024 &
CWP No.9869 of 2024.

Mr. Pranav Chamoli, Advocate
for the petitioner in CWP No.243 of 2024.

Mr. Amardeep Singh Mann, Advocate
for the petitioner in CWP No.14176 of 2024.

Mr. R.S. Sangwan, Advocate
for the petitioner in CWP No.22453 of 2023.

Mr. Dinesh Kumar Jangra, Advocate
for the petitioner(s) in CWP No.10776 of 2024 &
CWP No.10770 of 2024.

Mr. Jawahar Lal Goel, Advocate
for the petitioner in CWP No.22111 of 2023.

Mr. Sant Lal Barwala, Advocate
for the petitioners in CWP No.23512 of 2023.

Mr. Deepak Sonak, Advocate
for the petitioner in CWP No.13574 of 2024.

Mr. A.S. Walia, Advocate
for the petitioners in CWP No.7835 of 2024,
CWP No.3667 of 2024, CWP No.3503 of 2024,
CWP No.22218 of 2023, CWP No.22695 of 2023 &



CWP No.16625 of 2024.

Mr. Amit Sharma (Kanav), Advocate
for the petitioners in CWP No.15949 of 2023, CWP
No.17035 of 2023, CWP No.17184 of 2023, CWP No.19585
of 2023, CWP No.20524 of 2023, CWP No.22755 of 2023,
CWP No.23889 of 2023, CWP No.26846 of 2023,
CWP No.6852 of 2023, CWP No.6870 of 2023,
CWP No.9958 of 2023, CWP No.10325 of 2023,
CWP No.10369 of 2023, CWP No.10470 of 2023,
CWP No.10826 of 2023, CWP No.28314 of 2023,
CWP No.7642 of 2024, CWP No.5732 of 2024,
CWP No.3585 of 2024, CWP No.17287 of 2024,
CWP No.12334 of 2024, CWP No.8453 of 2024,
CWP No.8485 of 2024, CWP No.9347 of 2024,
CWP No.18431 of 2024, CWP No.18127 of 2024 AND
CWP No. 21533 of 2024.

Mr. Surjit Bhadu, Advocate,
Mr. Veer Singh, Advocate,
Ms. Sanya Thakur, Advocate and
Mr. Agam Bansal, Advocate
for the petitioner in CWP No.24813 of 2023.

Mr. Shiv Kumar, Advocate and
Mr. Love Dev Singh, Advocate
for the petitioner(s) in CWP No.18319 of 2023,
CWP No.2373 of 2024 & CWP No.5378 of 2024.

Mr. Parveen Gupta, Advocate and
Mr. Satbir Singh, Advocate
for the petitioner(s) in CWP No.15398 of 2023,
CWP No.219 of 2024, CWP No.23771 of 2023,
CWP No.16259 of 2024, CWP No.10992 of 2023 &
CWP No.1196 of 2024.

Mr. Kanwar Singh Khera, Advocate
for the petitioner(s) in CWP No.4063 of 2024 &
CWP No.29484 of 2023.

Mr. Rajesh Hooda, Advocate
for the respondent-EPFO.

Mr. Arihant Goyal, Senior Panel Counsel
for respondent-UOI in CWP No.18431 of 2023.

Mr. Navjit Singh, Central Govt. Counsel
for the respondent-UOI.

Mr. Amarinder Preet, Advocate
for the respondent -MARKFED in CWP No.2373 of 2024.

Mr. Ravi Sodhi, Senior Panel Counsel



for respondent No.1-UII in CWP No.26977 of 2023 &
CWP No.29484 of 2023.

Mr. Subhash Ahuja, Advocate
for the respondent-bank in CWP-7745-2024.

Mr. Sanjay Tangri, Advocate
for the respondent-EPFO in CWP No.17035 of 2023.

Mr. Birinder Pal, Advocate
for respondent No.4 in CWP No.13140 of 2024.

Mr. Samir Rathaur, Advocate
for respondents No.2 and 3 in CWP No.16259 of 2024 &
CWP No.17287 of 2024.

Mr. Viney Kumar, Advocate for
Mr. Sunish Bindlish, Advocate
for respondent No.4 in CWP No.6899 of 2024.

Mr. Pardeep Solath, Advocate
for respondent No.4 in CWP No.22111 of 2023.

Mr. Nikhil Sharma, and
Mr. Rajvir Singh Sihag, Advocate
for respondent No.4 in CWP No.10776 of 2024,
CWP No.10770 of 2024 & CWP No.14195 of 2024.

Mr. Divyansh Shukla, Advocate for
Mr. Hitesh Pandit, Advocate
for respondent No.4 in CWP No.4063 of 2024.

Mr. Piyush Bansal, Advocate
for respondent No.4 in CWP No.14333 of 2023,
CWP No.8915 of 2024, CWP No.219 of 2024,
for respondent No.5 in CWP No.10992 of 2023 &
CWP No.24218 of 2023.

Mr. Deepak Balyan, Advocate with
Mr. Vicky Chauhan, Advocate and
Mr. Sushant Sharma, Advocate
for respondents No.4 & 5 in CWP No.7642 of 2024,
CWP No.18663 of 2024 & CWP No.21676 of 2024.

Mr. Jagbir Malik, Advocate
for respondent No.4 in CWP No.18573 of 2023,
CWP No.29192 of 2023, CWP No.243 of 2024
CWP No. 9347 of 2024 & CWP No.9869 of 2024 and
for respondent No.5 in CWP No.25166 of 2023.

Mr. Rajan Bansal, Advocate
for respondent No.5 in CWP No.7622 of 2024.



Mr. B.S. Patwalia, Advocate
for respondent No.5 in CWP No.23771 of 2023.

Mr. Padam Kant Dwivedi, Advocate
for the respondent No.5 in CWP No.10992 of 2023 and
for respondent No.4 in CWP No.29484 of 2023
for respondent No.6 in CWP No.11127 of 2023, CWP
No.22755 of 2023 & CWP No.24218 of 2023.

Mr. Sumeet Singh Brar, Advocate
for respondent No.4 in CWP No.16625 of 2024 and
for respondent No.7 in CWP No.5732 of 2024.

Mr. Himmat Singh, Advocate
for respondent No.4 in CWP No.11803 of 2024,
CWP No.3503 of 2024 & CWP No.3667 of 2024.

Mr. Naman Jain, Advocate
for respondent No.5 in CWP-21109-2023 &
CWP-26846-2023.

Mr. Mahabir Singh, Advocate
for respondent No.5 in CWP No.18663 of 2024.

Mr. Navraj S. Mahal, Advocate
for respondent No.6 (Bank) in CWP No.14176 of 2024.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order, a bunch of 89 petitions is hereby disposed of since issues involved and prayer sought in the captioned petitions are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-5378-2014.

2. Mr. Rajvir Singh Sihag, Advocate has put in appearance on behalf of respondent No.4 (in CWP No.10776 of 2024, CWP No.10770 of 2024 and CWP No.14195 of 2024) and filed his power of attorney(s). Mr. Sumeet Singh Brar, Advocate has put in appearance on behalf of respondent No.7 (in CWP No.5732 of 2024) and for respondent No.4 (in CWP No.16625 of 2024) and filed his power of attorney(s). Mr. Piyush



Bansal, Advocate has put in appearance on behalf of respondent No.4 (in CWP No.219 of 2024 and CWP No.8915 of 2024) and filed his power of attorney(s). Mr. Mahabir Singh, Advocate has put in appearance on behalf of respondent No.5 (in CWP No.18663 of 2024) and filed his power of attorney. Mr. Birinder Pal, Advocate has put in appearance on behalf of respondent No.4 (in CWP No.13140 of 2024) and filed his power of attorney. The same are taken on record. Registry is directed to tag the same at an appropriate place.

3. Short reply dated 09.08.2024 by way of affidavit filed on behalf of respondent No.4 (in CWP No.6899 of 2024) is taken on record. Registry is directed to tag the same at an appropriate place.

4. The petitioner through instant petition under Articles 226/227 of the Constitution is seeking setting aside of communication dated 07.02.2023 (Annexure P-6) whereby respondent has reduced the amount of revised pension and brought down to the ceiling of Rs.6,500/-.

5. The petitioner prior to 2014 was working with Punjab State Co-operative Supply and Marketing Federation Limited (for short 'MARKFED'), a Punjab State Government Undertaking. He retired prior to 01.09.2014 on attaining the age of superannuation. It is apt to notice here that all the petitioners herein have retired prior to 01.09.2014. During their service period, they were getting salary more than Rs.6,500/- per month.

6. A two judge bench of Supreme Court in ***R.C. Gupta and others Vs. Regional Provident Fund Commissioner Employees Provident Fund Organization and others (2018) 14 SCC 809*** adverted with scope and ambit of time lag specified in proviso to paragraph 11(3)



of the Employees' Pension Scheme, 1995 (for short 'Pension Scheme'). The Court came to the conclusion that cut-off date specified in proviso to paragraph 11(3) is not sacrosanct and option can be filed at any point of time. The respondent in view of judgment of Supreme Court in ***R.C. Gupta (supra)*** invited applications for exercising option and employees as per said judgment returned contribution received from provident fund alongwith interest. They also filed option and at this stage respondent accepted option in terms of provision of paragraph 11(3). The respondent thereafter revised pension as well as released arrears to employees across the country. The respondent also accepted undertaking filed by employer in terms of paragraph 26(6) of Employees' Provident Funds Scheme, 1952.

7. The respondent in view of judgments of different courts including judgment of Supreme Court in ***Employees Provident Fund Organization Vs. Sunil Kumar B. 2022 SCC OnLine SC 1521*** changed its opinion and decided to recall revision of pension of all the employees who had retired prior to 01.09.2014 without filing option in terms of proviso to paragraph 11(3) of the Pension Scheme. This recalling of revision of pension has led to present litigation.

8. Learned counsel for the petitioners submit that as per judgment of Supreme Court in ***R.C. Gupta (supra)***, there was no cut-off date and option could be filed at any point of time. The respondent in view of judgment of Supreme Court in ***R.C. Gupta (supra)*** issued circular whereby employees were permitted to file option. They were also directed to deposit money which they had withdrawn from provident fund at the time of retirement. Employees deposited demanded amount



alongwith interest. The respondent is mis-interpreting judgment of Supreme Court in *Sunil Kumar (supra)*. The said judgment has approved earlier judgment in *R.C. Gupta (supra)*, thus, there is no question to deny benefit arising out of judgment of Supreme Court in *R.C. Gupta (supra)*.

9. Per contra, learned counsel for the respondent submits that it was mandatory to file option under proviso to paragraph 11(3) of the Pension Scheme. The petitioners concededly did not file option prior to their retirement and Supreme Court in subsequent judgment in *Sunil Kumar (supra)* has clarified that the employees who had retired prior to 01.09.2014 without filing option are not entitled to revised pension. The revision of pension has created unprecedented financial burden and pension fund is steadily depleting. The employees consciously, prior to superannuation, did not file option in terms of proviso to paragraph 11(3), thus, they cannot claim benefit of higher amount of pension just by depositing contribution which they had withdrawn from provident fund at the time of retirement. The Supreme Court has granted 4 months' time to file option to those employees who were in service after 31.08.2014. The said option is not available to the petitioners. The circular dated 23.03.2017 was issued by mistake and it was subsequently kept in abeyance.

10. On being asked, learned counsel for the respondent confirmed that circular dated 23.03.2017 was acted upon by both sides and it has been kept in abeyance after accepting option of the employees. He further concedes that circular has been kept in abeyance but till date has not been withdrawn.

Mr. Hooda submits that he has filed reply in many petitions



and reply filed in CWP 10992 of 2023 may be treated as reply in all other cases.

11. I have heard arguments of both sides and scrutinized record with their able assistance.

12. The pension scheme was conceived by way of introduction of Section 6A, 2(kA) and 2(kB) in the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short '1952 Act'). It came into force with effect from 16.11.1995. Sections 6A and 2(kA) are reproduced as below:

6A. Employees' Pension Scheme—

(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(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;



(b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17;

(c) the net assets of the Employees' Family Pension Fund as on the date of the establishment of the Pension Fund;

(d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that Scheme.

(7) A Pension Scheme, framed under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately



following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

2. Definitions.—In this Act, unless the context otherwise requires,—

(kA) “Pension Fund” means the Employees' Pension Fund established under sub -section (2) of section 6A;

(kB) “Pension Scheme” means the Employees' Pension Scheme framed under sub-section (1) of section 6A.

13. As per 1952 Act, employer contributes towards provident fund @ 12% of salary and similar contribution is made by the employee. Prior to 16.11.1995, the amount contributed by employer and employee was kept in the Provident Fund, however, w.e.f. 16.11.1995, Central Government introduced the Pension Scheme. The said Scheme was introduced in exercise of power conferred by Section 6A of 1952 Act. As per Pension Scheme, 8.33% of salary is deposited in pension fund instead of provident fund. The employer had to contribute 12% of salary to provident fund and 8.33% of salary from the said contribution is diverted towards pension fund with remaining 3.67% retained in provident fund.

14. As per original Pension Scheme, contribution towards Pension Scheme could be made within prescribed limit, however, w.e.f. 16.03.1996, a proviso came to be inserted in paragraph 11(3) of the Pension Scheme whereby an option was given to the employer and



employee to contribute beyond ceiling limit i.e. Rs. 6,500/- per month.

Paragraph 11 of the Scheme reads as:

11. Determination of Pensionable Salary. - (1) The pensionable salary shall be the average monthly pay drawn in any manner including on piece rate basis during contributory period of service in the span of 12 months preceding the date of exit from the membership of the Employees' Pension Fund. Provided that if a member was not in receipt of full pay during the period of twelve months preceding the day he ceased to be the member of the Pension Fund, the average of previous 12 months full pay drawn by him during the period for which contribution to the pension fund was recovered, shall be taken into account as pensionable salary for calculating pension.

(2) If during the said span of 12 months there are non-contributory periods of service including cases where the member has drawn salary for a part of the month, the total wages during the 12 months span shall be divided by the actual number of days for which salary has been drawn and the amount so derived shall be multiplied by 30 to work out the average monthly pay.

(3) The maximum pensionable salary shall be limited to Rupees Six thousand five hundred per month.

Provided that if at the option of the employer and employee, contribution paid on salary exceeding Rupees six thousand and five hundred per month from the date of commencement of this Scheme or from the date salary exceeds Rupees Six thousand five hundred, whichever is later, and 8.33 per cent share of the employers thereof is remitted into the Pension Fund, pensionable salary shall be based on such higher salary.

15. The petitioners as well as their employers contributed



beyond ceiling limit i.e. Rs.6,500/- per month towards provident fund but they did not file option as required by proviso to paragraph 11(3) of Pension Scheme. The amount deposited by employer beyond the ceiling i.e. Rs.6,500/- was kept in the provident fund and 8.33% of said limit was transferred to pension fund. For example, an employee was getting salary of Rs.10,000/- and ceiling limit was Rs.6,500/-. Employer's contribution @ 12% was Rs.1,200/- and employee's contribution was also Rs.1,200/-. Employee's contribution was kept in provident fund. 8.33% of the ceiling (Rs. 6,500/-) i.e. Rs. 541/- out of employer's contribution was transferred to pension fund and remaining amount of employer's contribution i.e. Rs. 659/- (1200 minus 541) was kept in Provident Fund. The ceiling was Rs.6,500/- whereas salary was Rs.10,000/- and no option was filed by employer and employee to contribute beyond the ceiling.

16. The provident fund authorities formed an opinion that as per proviso to Para 11(3) of the Scheme, employees who want to contribute beyond ceiling were bound to exercise option within stipulated time, thus, whosoever had not filed his option within time is not eligible to contribute beyond the ceiling. A dispute erupted between the parties on the question of time limit for filing option. Journey of litigation which commenced from the Court of Single Judge of Himachal Pradesh High Court travelled to the doorsteps of Supreme Court. Matter came up for consideration before a two judge bench of Supreme Court in the case of ***R.C. Gupta (supra)***, which accepted the employees' stand. The Supreme Court formed an opinion that there is no cut-off date for filing option on the part of employees and employers, thus, they could file option at any point of time. It would be apposite to notice here that this judgment was



delivered on 04.10.2016 and in the interregnum proviso to Paragraph 11(3) of the Scheme had already taken a new shape. Meaning thereby, the proviso which was the subject matter before Supreme Court was existing in a different form. Supreme Court did not advert with substituted proviso. The relevant extracts of the judgment read as:

7. *Reading the proviso, we find that the reference to the date of commencement of the Scheme or the date on which the salary exceeds the ceiling limit are dates from which the option exercised are to be reckoned with for calculation of pensionable salary. The said dates are not cut-off dates to determine the eligibility of the employer-employee to indicate their option under the proviso to Clause 11(3) of the Pension Scheme. A somewhat similar view that has been taken by this Court in a matter coming from the Kerala High Court [Union of India v. A. Majeed Kunju, Writ Appeal No.1135 of 2012, order dated 5-3-2013 (Ker)] , wherein Special Leave Petition (C) No. 7074 of 2014 filed by the Regional Provident Fund Commissioner was rejected by this Court by order dated 31-3-2016 [Regl. Provident Fund Commr. v. A. Majeed Kunju, 2016 SCC OnLine SC 1744, wherein it was directed: “SLPs (C) Nos. 7074-76, 7107-108, 7224 of 2014 and 697 of 2016 Heard the learned counsel for the parties and perused the relevant material. We do not find any legal and valid ground for interference. The special leave petitions are dismissed. SLPs (C) Nos. 19954 and 33032-33 of 2015 List these special leave petitions on 26-4-2016. As prayed for, liberty is granted to file additional documents.” A beneficial scheme, in our considered view, ought not to be allowed to be defeated by reference to a cut-off date, particularly, in a situation*



where (as in the present case) the employer had deposited 12% of the actual salary and not 12% of the ceiling limit of Rs 5000 or Rs 6500 per month, as the case may be.

8. A further argument has been made on behalf of the Provident Fund Commissioner that the appellant employees had already exercised their option under Para 26(6) of the Employees' Provident Funds Scheme. Para 26(6) is in the following terms:

“26. Classes of employees entitled and required to join the fund.—(1)-(5)***

(6) Notwithstanding anything contained in this paragraph, an officer not below the rank of an Assistant Provident Fund Commissioner may, on the joint request in writing, of any employee of a factory or other establishment to which this Scheme applies and his employer, enroll such employee as a member or allow him to contribute more than [Substituted by Notification No. S-350/2/2/96-SS II dated 4-5-2001, for “rupees five thousand”. Earlier the words “rupees five thousand” were substituted by GSR 718(E), dated 23-9-1994, for the words “rupees three thousand and five hundred” (w.e.f. 1-10-1994).] [six thousand five hundred rupees] of his pay per month if he is already a member of the fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the fund, provided that the employer gives an undertaking in writing that he shall pay the administrative charges payable and shall comply with all statutory provisions in respect of such employee.”

9. We do not see how exercise of option under Para 26



of the Provident Fund Scheme can be construed to estop the employees from exercising a similar option under Para 11(3). If both the employer and the employee opt for deposit against the actual salary and not the ceiling amount, exercise of option under Para 26 of the Provident Scheme is inevitable. Exercise of the option under Para 26(6) is a necessary precursor to the exercise of option under Clause 11(3). Exercise of such option, therefore, would not foreclose the exercise of a further option under Clause 11(3) of the Pension Scheme unless the circumstances warranting such foreclosure are clearly indicated.

10. The above apart in a situation where the deposit of the employer's share at 12% has been on the actual salary and not the ceiling amount, we do not see how the Provident Fund Commissioner could have been aggrieved to file the LPA before the Division Bench of the High Court. All that the Provident Fund Commissioner is required to do in the case is an adjustment of accounts which in turn would have benefited some of the employees. At best what the Provident Commissioner could do and which we permit him to do under the present order is to seek a return of all such amounts that the employees concerned may have taken or withdrawn from their provident fund account before granting them the benefit of the proviso to Clause 11(3) of the Pension Scheme. Once such a return is made in whichever cases such return is due, consequential benefits in terms of this order will be granted to the said employees.

11. Consequently and in light of the above, we allow these appeals and set aside the order of the Division Bench of the High Court.

17. The respondent, in view of judgment of Supreme Court in



R.C. Gupta (supra) read with Para 11(3) of the Pension Scheme, issued circular dated 23.03.2017. The said circular is reproduced as below:

“CIRCULAR

No.Pension-I/33/EPS Amendment/96/Vol.II

Dated: 23 MAR 2017

To

*All Regional P.F.Commissioner,
Regional Office/Sub-Regional Office.*

Subject:- Allowing members of the Employees' Pension Scheme, 1995 the benefit of the actual salary in the Pension Fund Exceeding wage limit of either Rs 5000/- or Rs 6500/- per month from the effective date respectively as per the Hon'ble Supreme Court's order in SLP No.33032-33033 of 2015-Regarding.

Sir,

The matter of determination of pensionable salary exceeding statutory wages ceiling and exercise of option under deleted proviso to Para 11(3) of the EPS,95 was examined in the light of the Hon'ble Supreme Court's Order in SLP No. 33032-33033 of 2015.

2) The Hon'ble Apex Court in SLP No. 33032-33033 of 2015 observed that the reference to the date of commencement of the Scheme or the date on which the salary exceeds the ceiling limit are dates from which the option exercised are to be reckoned with for calculation pensionable salary. The said dates are not cut-off dates to determine the eligibility of the employer-employee to indicate their option under the proviso to Clause 11(3) of the Pension Scheme. It has further been observed that a beneficial Scheme, ought not to be allowed to be defeated by reference to a cut-off date, particularly, in a situation where (as in the



present case) the employer had deposited 12% of the actual salary and not 12% of the ceiling limited of Rs 5000/- or Rs 6500/- per month, as the case may be.

In a situation where the deposit of the employer's share at 12% has been on the actual salary and not the ceiling amount, the Provident Fund Commissioner could seek a return of all such amounts that the concerned employees may have taken or withdrawn from their Provident fund Account before granting them the benefits of the proviso to Clause 11(3) of the Pension Scheme. Once such a return is made in whichever cases is due, consequential benefits in terms of this order will be granted to the said employees.

Thus a member contributing to the Provident Fund on the wages exceeding the statutory ceiling or who had contributed to the Provident Fund on wages exceeding the statutory ceiling cannot be debarred from exercising the option to contribute on such higher wages to the pension fund. (copy of the order of the Hon'ble Supreme Court enclosed).

Accordingly a proposal was sent to MOL&E to allow members of the Employees' Pension Scheme, 1995 who had contributed on higher wages exceeding the statutory wage ceiling of 6500/- in the Provident Fund to divert 8.33% of the salary exceeding Rs 6500/- to the Pension Fund with up to date interest as declared under EPF Scheme, 1952 from time to time to get the benefit of pension on higher salary on receipt of joint option of the Employer and Employee.

4) The MOL&E vide letter dated 03.2017 has conveyed its approval to allow member of the Employees' Pension Scheme, 1995 who had contributed on higher wages exceeding the statutory wage ceiling of Rs 6500/- in the Provident Fund to



divert 8.33% of the salary exceeding Rs 6500/- to the Pension Fund with up to date interest as declared under EPF Scheme, 1952 from time to time to get the benefit of pension on higher salary on receipt of joint option of the Employer and Employee. (copy enclosed for ready reference).

5) *The officers in charge of all field offices are directed to take necessary action accordingly in accordance with the order of the Hon'ble Supreme Court in SLP Nos. 33032-33033 of 2015 as approved by the Government and as per the provisions of the EPF & MP Act, 1952 and Schemes framed there under.*

(This issues with the approval of CPFC).

*Yours faithfully,
(Dr. S.K. Thakur)
Addl. Central PF Commissioner,
HQ (Pension)''*

The petitioners at the time of retirement had withdrawn fund from Provident Fund which they were supposed to return alongwith interest. The respondent calculated amount payable by petitioners and said amount included interest. The petitioners pursuant to instructions of respondent deposited amount withdrawn from provident fund. They also filed option in terms of proviso to Para 11(3) of the Pension Scheme. The respondent calculated revised pension and released it to the petitioners. The petitioners kept on receiving enhanced pension till December' 2022.

18. The respondent w.e.f. 01.09.2014 amended paragraph 11 of the Scheme. The amended paragraph made many employees ineligible for pension. Primarily, employees who had not filed their option to contribute beyond the ceiling of Rs. 6500/- or who were getting salary more than Rs.15,000/- came to be drastically affected. They preferred



petition before Kerala High Court which came to be allowed in the case of *P. Sasikumar v. Union of India (UOI) Represented by the Secretary to Govt. of India Ministry of Labour & Department of Employment, Writ Petition (C) No. 13120 of 2015* decided on 12.10.2018. The Kerala High Court set aside the Employees' Pension Amendment (Scheme), 2014 conceived in G.S.R. 609 (E). The Delhi High Court in its judgment dated 22.05.2019 in *Bhartiya Khadya Nigam Karamchari Sangh v. Union of India, Writ Petition (C) No. 5678 of 2018* followed the view expressed by the Kerala High Court and quashed circular issued by the provident fund authorities on 31st May 2017 precluding exempted establishments from the benefits of higher pension. A Division Bench of the Rajasthan High Court, in its decision dated 28th August, 2019 in the case of *Union of India v. Jale Singh, Special Appeal Writ No. 436 of 2019* followed the opinion expressed by other High Courts.

19. The aforesaid judgments of different High Courts came to be challenged before Supreme Court. 54 writ petitions under Article 32 of the Constitution of India came to be filed by employees. SLP against judgment of Kerala High Court was initially dismissed, however, Court allowed review application and all the petitions either filed by Union of India or Employees' Provident Funds Organization or employees were clubbed and disposed of by common judgment in *Sunil Kumar (supra)*. Judgment of *R.C. Gupta (supra)* was delivered by a two judge bench whereas *Sunil Kumar (supra)* by a three judge bench. Though initially SLP was dismissed but by detailed judgment dated 04.11.2022, Supreme Court set aside judgments of different High Courts and primarily upheld amended Paragraph 11 of the Pension Scheme. The operative portion of



the judgment reads as:

“46. We accordingly hold and direct:—

(i) The provisions contained in the notification no. G.S.R. 609(E) dated 22nd August 2014 are legal and valid. So far as present members of the fund are concerned, we have read down certain provisions of the scheme as applicable in their cases and we shall give our findings and directions on these provisions in the subsequent sub-paragraphs.

(ii) Amendment to the pension scheme brought about by the notification no. G.S.R. 609(E) dated 22nd 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.

(iii) The employees who had exercised option under the proviso to paragraph 11(3) of the 1995 scheme and continued to be in service as on 1st September 2014, will be guided by the amended provisions of paragraph 11(4) of the pension scheme.

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

Rest of the requirements as per the amended provision shall be complied with.

(v) The employees who had retired prior to 1st September 2014 without exercising any option under paragraph 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.

(vi) The employees who have retired before 1st September 2014 upon exercising option under paragraph 11(3) of the 1995 scheme shall be covered by the provisions of the paragraph 11(3) of the pension scheme as it stood prior to the amendment of 2014.

(vii) The requirement of the members to contribute at the rate of 1.16 per cent of their salary to the extent such salary exceeds Rs. 15000/- per month as an additional contribution under the amended scheme is held to be ultra vires the provisions of the 1952 Act. But for the reasons already explained above, we suspend operation of this part of our order for a period of six months. We do so to enable the authorities to make adjustments in the scheme so that



the additional contribution can be generated from some other legitimate source within the scope of the Act, which could include enhancing the rate of contribution of the employers. We are not speculating on what steps the authorities will take as it would be for the legislature or the framers of the scheme to make necessary amendment. For the aforesaid period of six months or till such time any amendment is made, whichever is earlier, the employees' contribution shall be as stop gap measure. The said sum shall be adjustable on the basis of alteration to the scheme that may be made.

(viii) We do not find any flaw in altering the basis for computation of pensionable salary.

(ix) We agree with the view taken by the Division Bench in the case of R.C. Gupta (supra) so far as interpretation of the proviso to paragraph 11(3) (pre-amendment) pension scheme is concerned. The fund authorities shall implement the directives contained in the said judgment within a period of eight weeks, subject to our directions contained earlier in this paragraph.

(x) The Contempt Petition (C) Nos. 1917-1918 of 2018 and Contempt Petition (C) Nos. 619-620 of 2019 in Civil Appeal Nos. 10013-10014 of 2016 are disposed of in the above terms.

20. The afore-cited judgment of Supreme Court gave impetus to respondent to withdraw benefit of higher pension granted to employees in terms of judgment in **R.C. Gupta (Supra)**. The respondent-EPFO relying upon para 46(v) & (vi) of the judgment formed an opinion that employees who had retired prior to 01.09.2014 without exercising any option under Paragraph 11(3) are not entitled to higher amount of pension. Employees who had filed option under Paragraph 11(3) would be entitled to benefit



of unamended provisions. On the basis of said opinion, the respondent gave its imprimatur to withdraw enhanced pension. Decision of EPFO to withdraw enhanced pension of employees, who had retired prior to 01.09.2014 without filing their option, has inundated different High Courts with litigation.

21. In *Suneja Towers (P) Ltd. v. Anita Merchant*, (2023) 9 SCC 194, Supreme Court has held that it is ratio decidendi of a judgment and not the final order in the judgment which forms a precedent. The relevant extracts of the judgment read as:

50. It has rightly been argued on behalf of the appellants that a judgment is an authority only in regard to its ratio which is required to be discerned; and a decision cannot be regarded as an authority in regard to its conclusion alone or even in relation to what could be deduced therefrom. In Sanjay Singh [Sanjay Singh v. U.P. Public Service Commission, (2007) 3 SCC 720 : (2007) 1 SCC (L&S) 870], a three-Judge Bench of this Court has explained these principles in clear terms as follows : (SCC p. 732, para 10)

“10. The contention of the Commission also overlooks the fundamental difference between challenge to the final order forming part of the judgment and challenge to the ratio decidendi of the judgment. Broadly speaking, every judgment of superior courts has three segments, namely, (i) the facts and the point at issue; (ii) the reasons for the decision; and (iii) the final order containing the decision. The reasons for



the decision or the ratio decidendi is not the final order containing the decision. In fact, in a judgment of this Court, though the ratio decidendi may point to a particular result, the decision (final order relating to relief) may be different and not a natural consequence of the ratio decidendi of the judgment. This may happen either on account of any subsequent event or the need to mould the relief to do complete justice in the matter. It is the ratio decidendi of a judgment and not the final order in the judgment, which forms a precedent.”

22. The petitioners, in view of judgment of Supreme Court in ***R.C. Gupta (supra)***, were released enhanced pension. The said judgment was delivered on 04.10.2016. As per said judgment, there was no cut-off date to file option by employer and employee as contemplated by proviso to Para 11(3) of the Scheme. A beneficial scheme ought not to be allowed to be defeated by reference to a cut-off date, particularly, in a situation where the employer had deposited 12% of the actual salary and not 12% of the ceiling limit i.e. Rs.6,500/-. The Provident Fund Commissioner before granting benefit of proviso to Para 11(3) may seek return of amount which employee has already withdrawn from provident fund. The respondent authorities asked employees to file their option. As employer and employee filed their option and employees deposited amount alongwith interest which was withdrawn from provident fund, the respondent sanctioned and released arrears as well as enhanced pension. The decision of respondent authority was never assailed by either side, thus, the said decision has attained finality.



23. In the case of *Sunil Kumar (supra)*, Supreme Court adverted with different facets of the Para 11 of the Pension Scheme. The Court upheld ceiling of Rs. 15,000/- as well as power of the government to amend the Pension Scheme, but declared the condition to make extra contribution @ 1.16% of salary where an employee wants to contribute beyond the threshold limit of Rs. 15,000/- invalid. The Court further held that pension scheme would apply to employees of exempted establishment in the same manner as it applies to unexempted establishment. The Court was not adverted with status of those employees who had already retired and were getting enhanced pension. The Court while adverted with question of option to be filed under amended paragraph considered its earlier judgment in the case of *R.C. Gupta. (supra)*. As per amended para 11(4), there was requirement for employer and employee to file fresh option to contribute beyond ceiling. The said option was required to be exercised within 6 months from 01.09.2014. The said option was available where employee and employer had already opted to contribute beyond ceiling which prior to 01.09.2014 was Rs. 6,500/-. Supreme Court in para 43-45 of the judgment adverted with this issue. The Apex Court approved its earlier judgment in *R.C. Gupta (supra)*. The Court went to the extent that if option prior to amendment has not been exercised, the dual option would be merged into one and it would be sufficient compliance if option is exercised within 4 months from the date of judgment i.e. 04.11.2022. The Court in para 43 held that option was required to be exercised but there was no time limit. Para 43-45 of the judgment are reproduced as below:

43. So far as the first condition is concerned, we have expressed our views earlier in this judgment as



regards legality of having such a provision. In relation to the second condition, our opinion is that the eligibility for enhancement cannot be restricted to those employees only who had exercised the option to remain in the scheme once their salary went beyond the capping of Rs. 6500/- per month. As we have already discussed, in case of R.C. Gupta (supra), it has been specifically held that there was no cut-off date in proviso to paragraph 11(3) as it stood before the 2014 amendment. In our opinion, the interpretation given to the proviso to paragraph 11(3) prior to 2014 amendment does not require any reconsideration. We agree with the reasoning of the two-judge Bench of this Court on this point, as expressed in the said judgment. As there was no cut-off date to be contemplated prior to the 2014 amendment, limiting the entitlement of enhanced pension coverage to those employees only who had already exercised an option under Clause 11(3) of the unamended scheme would be contrary to the ratio of the decision of this Court held in the case of R.C. Gupta (supra). We are not holding that no option was required to be exercised as per proviso to paragraph 11(3) of the scheme, as it stood prior to 2014 amendment. As held in the case of R.C. Gupta (supra), there was no time-limit for exercising such option.

44. 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) 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.



45. The other condition for enhanced coverage relates to the date within which such fresh option is to be exercised by a member, which is stipulated to be within a period of six months from 1st September 2014. It would be legitimate to proceed on the basis that several members did not exercise such option earlier because of the stand taken by the Provident Fund authorities that option under proviso to paragraph 11(3) of the scheme (prior to 2014 amendment) has to be exercised within a specified date, which stand was negated in the decision of R.C. Gupta (supra). We are of the view that the time limit for coverage beyond the ceiling amount should be extended by a further period of four months from today to enable all the members of the pension fund drawing more than Rs. 6500/- to exercise the joint option as contemplated in paragraph 11(4) of the pension scheme (post 2014 amendment). Once such joint option is exercised, the transfer of fund from the provident fund corpus to the pension fund shall be effected in terms of the scheme.

24. The Apex Court in ***Sunil Kumar (supra)*** granted time of four months to file option. The Court ordered to merge option to be exercised under unamended Para 11(3) of the Scheme with option to be exercised under amended Para 11(4). The Court further ordered to ignore time limit stipulated in amended Para 11(4) and fixed limit of 4 months from date of judgment. In this way, employees who were in service on 01.09.2014 became eligible to file option within 4 months from the date of judgment though they had not filed option under unamended para 11(3). The Court in Para 46(v) has held that employees who had retired prior to 01.09.2014 without exercising option under unamended paragraph 11(3) would not be entitled to the benefit of “**this judgment**”.



The court has further held that employees who had retired prior to 01.09.2014 upon exercising option under unamended paragraph 11(3) would be covered by unamended provisions.

The respondent on the basis of observations of Apex Court in para 46(v & vi) of the judgment has formed an opinion that employees who had retired prior to 01.09.2014 without exercising option under proviso to unamended para 11(3) are not entitled to enhanced pension. The opinion formed by respondent is mis-conceived and contrary to mandate as well ratio decidendi of afore-cited judgment of Apex Court. The Court has approved opinion of two judge bench judgment in ***R.C. Gupta (supra)***. In ***R.C. Gupta's (supra)*** case it was clearly held that there is no cut-off date to file option. In ***Sunil Kumar's (supra)*** case, a three judge bench not only approved the opinion that there is no cut-off date to file option under unamended para 11(3) but also held that employees who were in service on 01.09.2014 and had not filed option under unamended para 11(3), can file option within 4 months from the date of judgment. The Court has held that there is need to file option but there is no cut-off date. In para 46(v), the Court has ordered to deny benefit of this judgment to all those who retired prior to 01.09.2014 without exercising option, meaning thereby, they cannot file option within 4 months from the date of judgment as was permitted to employees who were in service on 01.09.2014. Permission to file option, within 4 months from the date of ***Sunil Kumar's (supra)*** judgment, cannot be confused with option already exercised by employees as per judgment of ***R.C. Gupta (supra)***. Supreme Court has not doubted or disturbed findings of ***R.C. Gupta (supra)*** rather approved it in so many words in different paragraphs.



25. In the backdrop, following facts & circumstances and reasons, this Court deems it appropriate to hold that all the employees who without filing option under proviso to Para 11(3) of the Pension Scheme had retired prior to 01.09.2014 but have filed option after judgment of Supreme Court in ***R.C. Gupta (supra)***, which stands accepted and acted upon by respondent, are entitled to enhanced pension:

(i) There was no particular cut-off date in the unamended proviso to Paragraph 11(3) of the Pension Scheme and Supreme Court in ***R.C. Gupta (supra)*** has candidly held that there was no cut-off date to exercise option;

(ii) Judgment in ***R.C. Gupta (supra)*** was delivered in 2016 and thereafter employers and employees filed their option. The option was filed as per aforesaid judgment. The respondent authorities not only invited options from employees but also accepted their option and acted upon;

(iii) The employees deposited amount alongwith with interest which was withdrawn from Provident Fund. The said amount was calculated by respondent and on being deposited by employees was duly accepted;

(iv) Employees are getting enhanced pension for last 5 years and substantial reduction at this stage cannot be countenanced;

(v) Supreme Court in its subsequent judgment in ***Sunil Kumar (supra)*** was adverting with challenge to amended paragraph 11 of the Pension Scheme and



petitioners have retired prior to amendment came into force.

(vi) Supreme Court has not doubted or disturbed findings of *R.C. Gupta (supra)* rather approved it in so many words in different paragraphs.

(vii) The Supreme Court has denied benefit enuring from *Sunil Kumar's (supra)* judgment to employees who had retired prior to 01.09.2014 without exercising option. The Court had denied benefit arising out of judgment of *Sunil Kumar (supra)* to certain employees but did not disturb right created by *R.C. Gupta's (supra)* judgment.

(viii) The Court merged option to be exercised under unamended para 11(3) with option to be exercised under amended para 11(4). The parties were permitted to file option within 4 months from the date of judgment though as per amended para 11(4) option could be exercised within 6 months from 01.09.2014. As per respondent, an employee who was in service on 01.09.2014 and had not exercised option either under amended or unamended para 11, can exercise option within 4 months from the date of judgment in *Sunil Kumar (supra)* but a person who has already exercised option prior to aforesaid judgment though after pronouncement of judgment in *R.C. Gupta* is not entitled to benefit of enhanced pension. Opinion of respondent seems to be not only contrary to beneficial scheme but also to both judgments of Apex Court.

(ix) The respondent ignoring settled law is relying



upon one sub-para of conclusion of the judgment and ignoring the ratio decidendi. The ratio decidendi of the said judgment is clear and lucid that there was no cut-off date under unamended para 11(3) and option could be exercised even after retirement subject to deposit of amount alongwith interest which was withdrawn from the provident fund.

26. In the wake of above discussion and findings, the instant petitions are allowed and impugned letters/orders are hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

12.09.2024
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>