IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6692 OF 2025
(INDUSTRIAL SECURITY SERVICES, NAGPUR & OTH....VS..RASHTRASANT TUKDOJI MAHARAJ UNIVERSITY & OTH.)
WITH
WRIT PETITION NO. 6670 OF 2025
(M/S. NATIONAL PROTECTIVE SECURITY SERVICES, NAGPUR...VS.THE STATE OF MAHARASHTRA, DEPT OF HIGHER & TECHNICAL EDUCATION & OTH.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri B.G.Kulkarni, Advocate for Petitioner in WP No.6692/2025.
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Shri R.D.Bhuibhar, Advocate for Respondent No.1.
Shri S.S.Thakur, Advocate for Respondent Nos. 3 and 4.
Shri S.M.Ukey, Addl. G.P. for Respondent/State.

CORAM : ANIL S. KILOR AND
RAJNISH R. VYAS, JJ.

DATED : DECEMBER 23, 2025.

1. Heard.

2. The petitioners, who are engaged in the business of supply of Security Guards, Armed Guards, Supervisors and other skilled and un-skilled workers, participated in the tender issued by the Respondent No.1-University. However, their technical bid came to be rejected on the ground that while quoting 13% amount of the Employees Provident Fund (EPF), they quoted an amount of Rs.15,000/- and not the total amount of basic rate and special allowances, which comes to Rs.15,246/-. Admittedly, in the column provided for stating such amount i.e. EPF amount, it was made clear by the Tendering Authority i.e. the respondent No.1 that such amount shall be 13% of the total amount of basic rate

and special allowances, despite the same the petitioners quoted such amount calculating 13% of Rs.15,000/-, which is the cap provided in the proviso to sub-para (2) of para 26A of the Employees Provident Fund Scheme, 1952 (hereinafter referred to as "the Scheme of 1952"). Thus, at this stage, it would be appropriate and relevant to refer to the proviso to sub-para (2) of para 26A, which reads thus :

> "***26-A. Retention of membership.*** -
> *(1) …*
> *(2) Every member employed as an employee other than an excluded employee, in a factory or other establishment to which this Scheme applies shall contribute to the fund, and the contribution shall be payable to the fund in respect of him by the employer Such contribution shall be in accordance with the rate specified in paragraph 29:*
>
> *Provided that subject to the provisions contained in sub-paragraph (6) of paragraph 26 and in sub-paragraph (1) of paragraph 27, or sub-paragraph (1) paragraph 27-A, where the monthly pay of such a member exceeds fifteen thousand rupees the contribution payable by him, and in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of fifteen thousand rupees) including dearness allowance, retaining allowance (if any) and cash value of food concession."*

3. The above referred proviso is subject to the provisions of sub-para (6) of para 26. Therefore, it is necessary to refer to sub-para (6) of para 26, which reads thus :

> "*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 fifteen thousand 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."*

4. It is evident from the language of sub-para (6) of para 26 that a joint request can be made by the employer and employee to pay more contribution than Rs.15,000/- 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.

5. It is thus, evident that cap of Rs.15,000/- is applicable only where there is no joint request by employer and employee to pay more as contribution to the Fund.

6. In the present matter, such joint request and permission under para 26(6) of the Scheme of 1952 was accepted by the Employees Fund Organisation vide letter dated 30th January 2024. Therefore, the petitioners ought to have quoted 13% amount of EPF on the amount of Rs.15,246/- i.e. total amount of basic rate and special allowances, as prescribed under the tender condition.

7. In view of the clear deviation from the aforesaid condition, the rejection of the petitioners' tender cannot be faulted.

8. As far as argument of the learned counsel for the petitioners that in earlier tender the amount of EPF @13% was quoted on Rs.15,000/-, even if is accepted, the tender conditions show that during the last tender process it was the condition to quote the EPF amount @13% of Rs.15,000/-, whereas in view of the Joint Agreement, in terms of para 26(6) of the Scheme of 1952 in the present tender, the amount was to be quoted on the total amount of the basic pay and special allowances.

9. In that view of the matter, both the petitions are **dismissed**. No order as to costs.

(RAJNISH R. VYAS, J) (ANIL S.KILOR,J)

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