IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3360 OF 2024

Jyoti Fatechand Saharey,
Aged 56 years,
R/o. Plot no. 1, Moundekar
Layout, Jaripatka, Nagpur ….**PETITIONER**

...VERSUS…

1. National Insurance Company Limited,
through its Chairman/Managing Director,
Premises No. 18-0374, Plot No.
CBD-81, New Town, Kolkata,
West Bengal - 700156

2. National Insurance Company Limited,
through its Head of the Department,
Provident Fund, Department, Premises
No. 18-0374, Plot No. CBD-81,
New Town, Kolkata, West Bengal - 700156

3. National Insurance Company Limited,
through its Head of the Department,
Pension Department, Premises No. 18-0374,
Plot No. CBD-81, New Town, Kolkata,
West Bengal – 700156. …**RESPONDENTS**

Ms. Priyanka R. Arbat (Awathale), Advocate for petitioner.
Shri K.S.Chiwarkar, Advocate for respondents.

CORAM : SMT. M.S. JAWALKAR AND PRAVIN S. PATIL, JJ.

DATE : 25/08/2025

ORAL JUDGMENT (PER : SMT. M.S. JAWALKAR, J.)

Heard learned counsel for both the parties.

2. The present petition is filed by the petitioner for directing the respondents to correct her PF statement and consider her case for a Pension Scheme.

3. It is the contention of the petitioner that, she came to be appointed in the respondent no. 1 Central Government undertaking. The Government of India issued a notification which was called as the General Insurance Pension Scheme. The object of this scheme was to bring the employees of the respondent no. 1 to Pension System. It is further contention of the petitioner that, her Provident Fund Statements till the year 2021 shows that, she has opted for Pension System, however, due to some reason and vide some communications issued by the department, she was under impression that, she

had opted for Provident Fund System and may not receive monthly pension.

4. The learned counsel for the respondents brought to our notice the Clause 3 of General Insurance (Employees') Pension Scheme, 1995 (for short, "Pension Scheme of 1995"), which reads as under:-

> *"**3. Application** - This scheme shall apply to employees who -*
>
> *(1) (a) were in the service of the Corporation or a Company, as the case may be, on or after the first day of January, 1986 but had retired before the first day of November, 1993; and*
>
> *(b) exercise an option in writing within one hundred and twenty days from the notified date to become member of the Fund; and*
>
> *(c) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (b), the entire amount of the Corporation's contribution or the Company's contribution to Provident Fund including interest accrued thereon together with a further simple interest at the rate of six per cent per annum on the said amount from the date of settlement of the Provident Fund account till the date of refund of the aforesaid amount to the Corporation or a Company, as the case may be; and*
>
> *(d) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (b), the entire amount of non-refundable withdrawal if any made from Corporation's contribution or the Company's contribution to the Provident Fund account and interest accrued thereon,*

prior to the date of final settlement of the Provident Fund account, together with interest at the rate of twelve per cent per annum from the date of withdrawal till the date of settlement of the Provident Fund account together with a further simple interest on the said amount at the rate of six per cent per annum from the date of settlement of the Provident Fund account till the date of refund; or

(2) (a) have retired on or after the 1st day of November, 1993 but before the notified date; and

(b) exercise an option in writing within one hundred and twenty days from the notified date to become member of the Fund ; and

(c) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (b), the entire amount of the Corporation's contribution or the Company's contribution as the case may be, to the Provident Fund and interest accrued thereon together with a further simple interest at the rate of twelve per cent per annum on the said amount from the date of settlement of the Provident Fund account till the date of refund of the aforesaid amount to the Corporation or the Company as the case may be; and

(d) refund within sixty days after the expiry of the said period of one hundred and twenty days specified in clause (b), the entire amount of non-refundable withdrawal, if any made from the Corporation's contribution or the Company's contribution as the case may be to the Provident Fund account and interest accrued thereon, prior to the date of final settlement of the Provident Fund account, together with interest at the rate of twelve per cent per annum from the date of withdrawal till the date of settlement of Provident Fund account together with a further simple interest on the said amount at the rate of six per cent per annum from the date of settlement of the Provident Fund account till the date of refund ; or

5. The learned counsel for the respondents placed reliance on ***Senior Divisional Manager, Life Insurance Corporation of India and ors. V/s. Shree Lal Meena {(2019) 4 SSC 479},*** wherein the Hon'ble Apex Court observed in para 26 as under:--

> *"26. There are some observations on the principles of public sectors being model employers and provisions of pension being beneficial legislations.[15] We may, however, note that as per what we have opined aforesaid, the issue cannot be dealt with on a charity principle. When the legislature, in its wisdom, brings forth certain beneficial provisions in the form of Pension Regulations from a particular date and on particular terms and conditions, aspects which are excluded cannot be included in it by implication. The provisions will have to be read as they read unless there is some confusion or they are capable of another interpretation. We may also note that while framing such schemes, there is an important aspect of them being of a contributory nature and their financial implications. Such financial implications are both, for the contributors and for the State. Thus, it would be inadvisable to expand such beneficial schemes beyond their contours to extend them to employees for whom they were not meant for by the legislature."*

6. Similarly, the learned counsel for the respondents placed reliance on ***Uttar Pradesh Roadways Retired Officials and Officers Association V/s. State of Uttar Pradesh and anr. {(2024) 9 SCC 331},*** wherein, in para 46, the

Hon'ble Apex Court observed as under:-

> *"46. The common thread in the abovereferred judgments of this Court is that pension is a right and not a bounty. It is a constitutional right for which an employee is entitled on his superannuation. However, pension can be claimed only when it is permissible under the relevant rules or a scheme. If an employee is covered under the Provident Fund Scheme and is not holding a pensionable post, he cannot claim pension, nor the writ court can issue mandamus directing the employer to provide pension to an employee who is not covered under the rules."*

7. As per Clause 3(2) of the Pension Scheme of 1995, the employee who was retired on or after fixed date of November but before the notified date; and exercise an option in writing within 120 days from the notified date, he becomes member of the Fund. The notified date is mentioned in "Definitions Clause" i.e. Clause no. 2 of the Pension Scheme of 1995, which is the date of publication of the scheme in the Official Gazette. There is notification dated 23/04/2019 by the Ministry of Finance (Department of Financial Services) wherein Clause 3(A)(10)(b)(ii) provides that, "pay to the Corporation or the Company, as the case may be, an amount

equal to 3.7 times of their pay as on the first day of March, 2019, as a one-time contribution to the Fund." Accordingly, a letter was issued to the petitioner on 05/07/2019, informing her that, she was required to deposit the amount of Rs. 3,09,505/-. The another communication was of dated 12/07/2019 through e-mail. However, it appears that, the petitioner has not complied with the same. Moreover, the petitioner herself wrote to the Chief Regional Manager, Nagpur by her communication dated 26/11/2014 that, she has never opted for Pension Scheme. Considering all these correspondence, and the scheme & Clauses thereunder, we do not see any reason to interfere in the communication dated 02/12/2021, wherein it is informed by the respondents that,

> *"We have verified the statements sent by Pune RO certifying the employees opting for pension from DO I Nagpur in 1995 exercise and in the given data it was observed that he had not submitted the option form for Pension and similarly when the second option was given in 1997 we have checked the data of option forms for Pension from Pune RO and in the data of Nagpur DO we could not find her name in the list certified by them.*
>
> *From the verification of the record it is observed that she*

> *did not file any Pension form in both the exercises.*
>
> *During One more Option for Pension extension during 2019 also she did not deposit the requisite amount for getting pension option before the due date.*
>
> *In view of the same the employee may please be informed that until she can produce any verifiable evidence, she would be PF Optee in the records."*

8. As such, for want of exercising option, the petitioner is not entitled for benefit of Pension Scheme as she is claiming. As such, the petition stands **dismissed**.

(PRAVIN S. PATIL, J.) **(SMT. M.S. JAWALKAR, J.)**

B.T.Khapekar