

W.P.No.3423 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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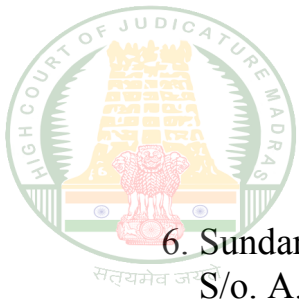
RESERVED ON : 24.04.2025
PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No. 3423 of 2021

- 1.K.Perumal,
S/o. Krishnasamy Chettiar,
LIG-45, Old ASTC Hudco,
Hosur – 635 109
- 2..D.Suresh Kumar,
S/o. E.L.Duraiswamy,
4/261 – BINGGOS Colony,
Hosur – 635 109
3. Murali M
S/o. Munusamy P
2/406 Vimal Illam,
Alasanatham Road,
Hosur – 635 109
4. T.Venkatesh,
S/o. Thimmarayappa,
4/967 Kannachanthiram Village,
Uddanapalli (P.O),
Soolagiri
5. M.Ranganathan,
S/o. Munisamy,
No.78 Alasanatham Road,
Venkatesh Nagar,
Hosur – 635 109.



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6. Sundar Kuppusamy,
S/o. A.Kuppusamy,
2/58, Nethaji Nagar,
Mookandapalli,
Hosur – 635 126.

7. G.Devaram,
S/o. D.Gopalram,
LIG – 214, Avvai Nagar,
New ASTC Hudco,
Hosur – 635 109.

8. M.Narayana Reddy,
S/o. Munisamyreddy,
No.319B, Nethaji Nagar,
Zuzuvadi,
Hosur – 635 126.

9. P.Papanna,
S/o. Pillappa,
No.1/108 N.B.Agrakaram,
Chennatur (P.O.)
Hosur – 635 109

10.C.Madhaiyan,
S/o. Chinnasamy,
No.300R Mookandapalli,
MGR – Nagar
Hosur – 635 126.

11. M.Vijendrakumar,
S/o. K.Narayanasamy,
29/1, Kumaran Nagar,
Hosur – 635 109

12. M.Devappa,
S/o. Madhappa,
No.2/60, Periya Elasagiri,
Nallu, Begapalli, Hosur – 635 109.



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13. Kannan R

S/o. S.S.Ramaswamy,
No. 32/1A, 3rd Cross
SBM Colony,
Hosur – 635 109.

14. M.Murugesan,
S/o. Muniyappa,
Plot No. 265 Royal Town,
Mathigir,
Hosur - 635 110

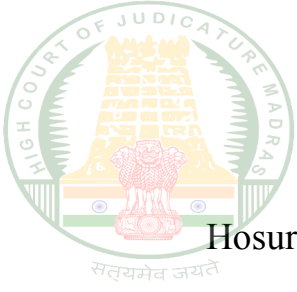
15. G.Subramaniam,
S/o. S.Gopalaiah,
No.3/520 Bharati Nagar,
Hosur – 635 126.

16. R.N.Jayaseelan,
S/o. R.N.AntonyDoss
33, Nethaji Nagar,
Mathigir
Hosur – 635 110.

17. K.Panneerselvam,
S/o. C.Kumaraiah,
2/179-3 Nethaji Nagar,
5th Street, Mookandapalli,
Hosur – 635 126.

18. V.Subramani Reddy,
S/o. A.M.Venkatasamyreddy,
No.6 1st Cross Sarjapura Road,
Attibele – 562 107.

19. M.Chikkannan,
S/o. Muniappan,
286/2, Annai Sathya Nagar,
2nd Street, Mookandapalli,

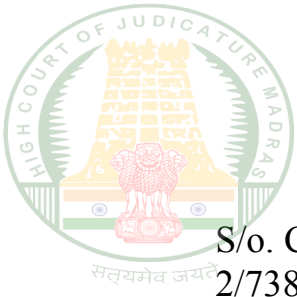


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Hosur – 635 126.

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- 20 B.V.Krishnamurthy,
S/o. B.V.Venkatachalapathy,
32, Titan Towship Road,
Gadipalayam, Mathigiri,
Hosur – 635 110
21. K.Krishnamurthy,
S/o. V.K.Katha,
MIG – 45, Gandhi Nagar,
New ASTC Hudco, 5th Cross,
Hosur – 635 109.
22. Murugesan Kannaiya
S/o. Kannaiya Naidu,
LIG – 77, New ASTC Hudco,
Avvai Nagar,
Hosur – 635 109.
23. M.Chandra Sekar
A.Mannan,
D.No.2/81, Kullanoor,
Pocham Palli,
Krishnagiri – 635 206
24. M.Pappaiya,
S/o. Muniappa,
366, Nethaji Nagar, Zuzuwadi,
Hosur – 635 126
25. C.Mahendran,
S/o.V.A.Chandran
2/904 – 4th Street, Gandhi Nagar,
Mookandapalli,
Hosur – 635 126.
26. Ponnuvel C.



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S/o. Chenrayagoundar R
2/738, Mookandapalli,
MM Nagar,
Hosur – 635 126.

27. J.Elanthirayan,
S/o. V.Jayavel,
A3, MIG – 2 / 183 SIPCOT
S.H Colony Mookandapalli,
Hosur – 635 126.

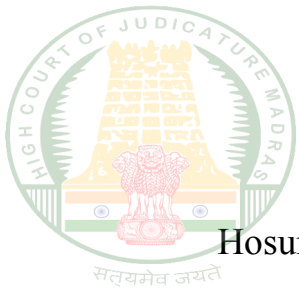
28. J.H.Sastry,
S/o. J.V.SubramanyaSastry,
2/700, Mookandapalli,
MM Nagar,
Hosur – 635 126

29. H.K. Prasannakumar,
S/o. H.K.Krishnamachar,
2/688, Mookandapalli,
MM Nagar,
Hosur – 635 126.

30. T.Sivasubramaniyan
S/o. M.Thangavelpillai,
MIG – 289 New ASTC Hudco
58th Cross
Hosur 635 109

31. R.Shankar
S/o. Ramachandiran,
LIG-443 VOC Nagar,
New ASTC Hudco
Hosur – 635 109

32. P.Pugalendi
S/o. Palanivelu,
1/448 Mookandapalli,
MGR Nagar,



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WEB 33. K.Ravi,

S/o. A.S.Kalyanaraman,
5/44, Nanjundeswara Nagar,
Royakotta Road,
Hosur – 635 109.

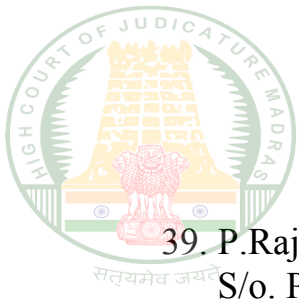
34. S.N.Sankaran,
S/o. S.K. Naganathan,
4/541, 7th Cross,
Vinayagapuram,
Hosur – 635 109.

35. R.Govindarajan,
S/o. P.Ramappan,
2/594 Mookandapalli,
MM Nagar,
Hosur – 635 126

36. V.Raju,
S/o. V.Venkataraman,
33/16, SBM Colony,
3rd Cross
Hosur – 635 109.

37. K.R.Pandi,
S/o. Karuppiah,
2/185, 15h Street
Nethaji Nagar,
Mookandapalli,
Hosur – 635 126.

38. C.Ganesan,
S/o. Chinnappagoundar,
C B11/2 Sipcot Housing Colony,
Dharga Mookandapalli,
Hosur – 635 126.



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39. P.Rajamanickam,
S/o. Palanipillai,
1/566 Mookandapalli,
MSR Nagar,
Hosur – 635 126.

40. V.Suresh,
S/o. S.Vaidesswaran,
68 / 33 Nanjundeshwara Nagar,
5th Street, R.K.Road,
Hosur – 635 109.

41. T.Thamarai Kannan,
S/o. Thatakone
No.592 Rayakotta Road,
10th Phase,
Hosur – 635 109.

42. M.Subramani,
S/o. K.Muniappa,
13-1, Muthurayan Jeebi,
Hosur – 635 109.

43. S.Ramadevan,
S/o. Suryagounder,
34, Umashankar Nagar,
Hosur – 635 109

44. K.Ramanathan,
S/o. Krishnamoorthy,
LIG – 1269, 39th Cross
New RK Hudco
Hosur – 635 109

45. S.Muthupandi,
S/o. Shanmugavel
7/339 – 26 Kurinji Nagar,
Thottagiri Road,
Hosur – 635 109



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46. Jayakumar A

S/o. T.Appavupillai,
3/448 – 26 Meenakshi Nagar,
Baglur Road,
Hosur – 635 109.

47. C.Aswatha,

S/o. Chinna Anumaya,
2/60, Karapalli Village,
Hosur – 635 109

48. K.Bianna,

S/o. Karakappa,
151A, Edaiyanallur
Mathigiri,
Hosur – 635 110

49. K.Victoran Anandaraj,

S/o. N.Kanakarathinam,
20/1, Lakshmi Layout,
Shanthi Nagar,
Hosur – 635 109.

50. M.Durai,

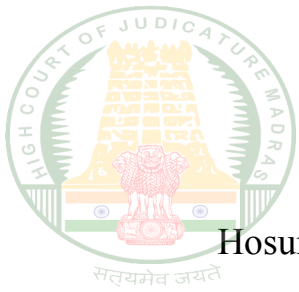
S/o. Muthu Gounder,
2/292A, AnnaiSathya Nagar,
3rd Cross, Mookandapalli,
Hosur – 635 126.

51. A.Lazar,

S.Anthony Swamy,
2/360, Thiruvalluvar Nagar,
Zuzuvadi, 1st Cross,
Hosur – 635 126.

52. T.R.Baskaran,

S/o. T.K.Ramiaha,
B-17/3, TNHB Colony,
Baglur Road,



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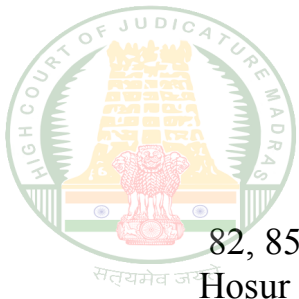
Hosur – 635 109.

.....Petitioners

Vs.

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1. Union of India
Rep. by its Secretary,
Labour and Employment Department,
New Delhi – 1
2. The Chairman,
Central Board of Trustee for Employees,
Provident Fund Organisation,
Shram Sakthi Bhavan, New Delhi – 1
3. Central Provident Fund Commissioner – I,
(Pension), Bhaisya Nidhi Bhavan,
14, Bhikaji Gama Place, New Delhi – 110 066
4. The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
46/383, Salem Steel Plant Road,
Dalavaipatti Village,
Salem – 636 302.
5. The Assistant Provident Fund Commissioner (Pension)
O/o The Regional Provident Fund Commissioner
Employees' Provident Fund Organisation
46/383, Salem Steel Plant Road,
Dalavaipatti Village,
Salem – 636 302.
6. The Assistant Provident Fund Commissioner (Pension)
O/o. The EPF Sub Divisional Office (Whitefield)
No.36 NH-4, Lakshmi Complex,
Opp. Syndicate Bank,
Old Madras Road,
K.R.Puram,
Bengaluru – 560 036.
7. The Management of TTK Prestige Ltd,



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82, 85 SIPCOT Industrial Complex,
Hosur – 635 126.

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8. The Management of Wendt India Ltd,
69/70 SIPCOT Industrial Complex,
Hosur – 635 126.
9. The Management of Tenneco Automotive
India Pvt. Ltd
122, SIPCOT Industrial Complex,
Hosur – 635 126.
10. The Management of Luk India Ltd,
Rayakotta Road,
Hosur – 635 109.
11. The Management of AV TEC Ltd,
Mathagondapalli Village,
Poonapalli Post,
Hosur – 635 114.
12. The Management of Shardlow India Ltd,
No.2, SIPCOT Industrial Complex,
Hosur – 635 126.
13. The Management of Electroalloy
Special Steel Castings Pvt. Ltd
Titan Jewelry Road,
SIPCTO Industrial Complex,
Hosur – 635 109
14. The Management of Faiveley Transport,
Haridha Post,
Post Box. 39,
Hosur 635109
15. The Management of Estee
Auto Pressings Pvt. Ltd
54, SIPCOT Industrial Complex,
Hosur – 635 126.

.... Respondents

10/21



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Prayer:

To issue appropriate writs orders or directions and in particular issue a writ in the nature of declaration, declaring that the action of the 5th Respondent refusing to revise the petitioners monthly pension with effect from the date of the petitioners superannuation / retirement based on 12 months average and informing them that further action would be taken on their request and applications only if any order and direction is issued either by the EPFO, Head Officer, New Delhi, or by this Hon'ble Court or by the Hon'ble Supreme Court, as illegal and unconstitutional, in so far as their claims and consequently direct the Respondents 1-6 to sanction and pay the petitioners monthly pension from the date of their retirement / superannuation, based on 12 months average salary and without reference to 60 months average and pro-rata calculation with arrears, together with interest, award costs.

Appearance of Parties:

For Petitioners : Mr.V.Ajay Khose, Advocate
For Respondents 2 to 6 : Mr.R.Vishnu, Advocate
For Respondent 9 : Mr.Bazeer Ahamed, Advocate
For Respondent 11 : M/s. Ramasubramaniam Associates
For Respondents 1,7,8,
10, 12 to 15 : No appearance

J U D G M E N T

Heard.

2.The petitioners—52 workers employed by various employers arrayed



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as respondents R7 to R15—have filed the present writ petition seeking a direction to respondents 1 to 6 to revise their pension based on the average of the last 12 months' pay from the date of their superannuation, and to disburse the revised pension along with arrears and applicable interest. The writ petition was admitted on 18.02.2021 and directed to be heard along with the connected cases in W.A. No. 3501 of 2019. Subsequently, when the matter was listed on 05.11.2024, it was referred to the National Lok Adalat scheduled for 14.12.2024. However, as no settlement could be reached, the matter has been returned to this Court for adjudication on merits.

3.Learned counsel for the EPFO (respondents 2 to 6) submitted that the subject matter of the present case is squarely covered by the common judgment rendered in a batch of writ petitions beginning with W.P. No. 7851 of 2020, **in M. Krishnamurthy & Others v. Union of India & Others, dated 10.03.2025.** This submission was not disputed by the counsel for the petitioners.

4.In the said common judgment, this Court issued the following directions, with the operative portion set out in paragraphs 10 to 16, which read



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as follows: –

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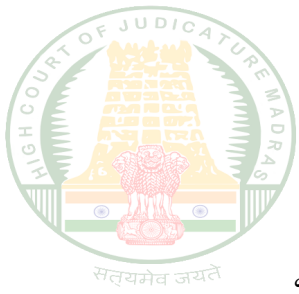
“10. When Writ Petition No. 1630 of 2021 was presented before Justice M.Govindaraj on 03.02.2021, the following order was passed:

“2. The learned Senior Counsel appearing for the Provident Fund Organisation would submit that the matter is seized of by the Hon'ble Supreme Court and is listed for hearing on 26.02.2021.

3. The learned Senior Counsel appearing for some of the Writ Petitioners would submit that the Writ Petitions are not connected to the matter pending before the Hon'ble Supreme Court. However, the learned Senior Counsel appearing for the Provident Fund Organisation would affirm that all these matters are connected to the matters pending before the Hon'ble Supreme Court as well as the Division Bench of this Court.

4. Therefore, recording the statement of the learned Senior Counsel appearing for the Provident Fund Organisation that in the event of the appeals and the petitions are allowed in favour of the pensioners, the withhold amount will be paid along with interest, this Court directs the Registry to tag all these matters with W.A.No.3501 of 2019 and batch. In cases, where the application is not processed, the respondents are directed to process the application except for disbursing the money.”

11. When several other writ petitions raising similar grounds came before different learned judges, and considering the pendency of the matter before the Supreme Court, a Division Bench took cognizance of the issue. The Division Bench, comprising the Hon'ble Chief Justice and Justice Subramonium Prasad, initially passed the following order on 10.12.2019 in Writ Appeal No. 3501 of 2019 and the batch cases:



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“It has been stated at the bar that as per the directions given by the Division Bench in the order dated 07.11.2019, as continued in the order dated 12.11.2019, the processing of the applications shall be undertaken and the employers would be under an obligation to despatch such applications to the Provident Fund Commissioner for the same being processed as per the directions hereinabove, as expeditiously as the applications are received.”

12. Subsequently, another Division Bench, by its order dated 25.04.2023 in W.P. No. 20160 of 2019 and related batch cases, issued the following interim order:

“The employees concerned in these cases and similarly placed employees whose cases are pending before this Court, are entitled to submit their option form through online and through physical mode, since it is represented that the employees are unable to access the site to submit their option form online and that the date fixed by the Supreme Court expires on 03.05.2023. If the employees file hard copies, the same shall be processed by the Employees Provident Fund Organisation.”

13. Subsequently, all the writ petitions and writ appeals were heard by a Division Bench comprising Justices S. Vaidyanathan and K. Rajasekar in Writ Appeal No. 2621 of 2023 and the batch cases. The matters were disposed of by an order dated 07.02.2024. In their ruling, the Bench considered both R.C. Gupta's case and Sunil Kumar's case and, in paragraphs 13 to 17, held as follows:

“13. The Miscellaneous Applications prayed, seeking modifications and clarifications of the paragraph 44-V as to



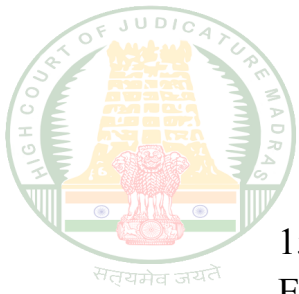
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declare to the effect that the employees, who were retired prior to 01.09.2014 without exercising any option but whose provident fund contribution was on their actual salary (above the ceiling limit under paragraph 26(6) of the EPF, 1952) covered by the Apex Court judgment of the RC Gupta vs. EPFO and they are entitled to jointly exercise the option with their employees under paragraph 11(3) of the preceding paragraph IV. Hon'ble Apex Court after considering all those batches of Miscellaneous petitions has dismissed all in limine.

14. Now, in this appeal, the Writ petitioners are seeking further direction to declare that their case falls within paragraph 44(VI). Batch of cases relating to Food Corporation of India pensioners and Handicrafts and Handlooms Exports Corporation (HHEC) pensioners, it is submitted by their counsel that they have already executed joint option and it was provisionally accepted by the EPFO for revision of pension and the EPFO has sought for certain clarifications from the employees and he has also circulated the above clarification letter. The EPFO has sought for various proof and this letter/circular shows that the EPFO is processing the application of the certain employees, who are already claimed that they had exercised their option for payment of pension as per actual salary. The Hon'ble Apex Court in Sunil Kumar case after considering the reasons given by the EPFO for issuance of their circular dated 31.05.2017 and after detailed discussion, has given the steps, to be taken by the EPFO regarding the grant of pension as per their actual salary paid by the employees as pension. Since these petitioners claims that they have already exercised their options, they have to satisfy the EPFO regarding the queries raised by them. In this appeal, they shall not seek, dispensing the answer to the queries, raised to them by the EPFO.

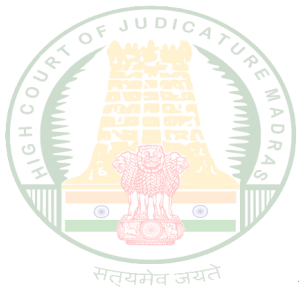


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15. The Hon'ble Apex Court has categorically directed the EPFO to extend the benefit to the employees of exempted establishment and they could not seek indulgence of this Court to exempt them from satisfying the queries of the EPFO and we are not inclined to go into the above factual aspects, and burden is on them to satisfy that they are eligible to get benefit on actual salary paid by them as per the various direction issued in the Apex Court in paragraph 44.

16. As submitted by the EPFO, since various clarifications and modifications petitions filed seeking applicability of, paragraph 44-VI to the persons, who are retired prior to 01.09.2014 based on the option exercised by them, under paragraph 26(6) of Provident Fund scheme, to get pension on the basis of actual salary paid by them has been rejected by the Apex Court, this Court need not go into very same issue again. Hon'ble Apex Court has categorically held in paragraph 44(V) and 44(VI), that the employees who are retired prior to 01.09.2014 without exercising any option under 11(3) of the Pre-amendment scheme, are not entitled to the benefit of this judgment and employees who have retired before 1 st September 2014 upon exercising option under paragraph 11(3) of 1995 scheme shall be covered by the provision of the paragraph 11(3) of the Pension scheme as stood prior to amendment - 2014, we are of the view that, this Court has no authority to clarify or modify the same. Accordingly, this Court is not inclined to pass any Orders in this regard. Though the contention of the pensioners appears to have force, unless the Larger bench of the Apex Court takes a different view, we are bound by the decision of the Apex Court in Sunil Kumar's case cited supra, in the light of the law of the precedent. We have also expressed our view at the time of hearing that it is for the Larger Bench of the Apex Court to take a different view when all the pleas have been answered.



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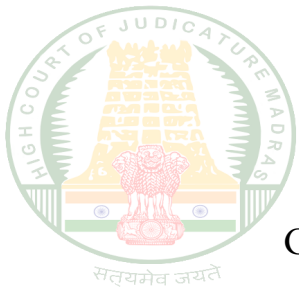
17. In view of the categorical pronouncement of the Apex Court and directions issued under paragraph 44, these batch of Writ Appeals filed herein stands disposed of in terms of the judgment of the Apex Court in The Employees Provident Fund Organisation and Ors. Vs. Sunil Kumar B. and Ors. [2002 SCC online] (SLP C.No.8658, 8659 of 2019).”

Notwithstanding the ruling of the Division Bench, the counsel for the petitioners reiterated that all the petitioners fall under the category of superannuation pension cases, having rendered the requisite eligible service of 10 years or more upon attaining the age of 58 years. As per the EPS 1995, superannuation is defined as reaching the age of 58 years.

14. The learned counsel submitted an additional affidavit dated 19.02.2025, wherein the petitioners presented their case in paragraphs 4 to 6 as follows:

“4. Hence in view of the said judgments dated 24.8.2021 read in conjunction with judgement dated 4.11.2022 of the Hon’ble Supreme Court of India and further in view of the fact that the Petitioner herein along with the other Petitioners of my HHEC Corporation having continued in service with HHEC beyond 1.9.2014 we are as such passing this eligibility qualification pronounced by the Hon’ble Supreme Court of India by those Judgements and as such our Writ Petitions and prayers contained therein may graciously be granted by this Hon’ble Court.

5. This Petitioner was humbly submits that I have continued in service with the Handloom & Handicrafts Corporation Limited (HHEC), under the control of the Ministry of Textiles,



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Government of India even after 1.9.2014.

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6. The said HHEC was would up by the decision taken by the Government of India and as a result of which this Petitioner and others who served the said HHEC were all granted Voluntary Retirement as on 30.09.2021 only and by means of such VRS we got superannuated from the said HHEC after putting the Employees' Pension Fund Qualifying Service of 10 years or more, and, thereafter after 30.09.2021 attained the age of superannuation of 58 years for being eligible to received Employees' Pension.”

15. However, this Court is not inclined to examine the issues raised by the petitioners for the first time or to determine the extent to which they are covered by the Supreme Court's judgment in Sunil Kumar's case. The EPF authorities are bound to comply with the directions issued by the Supreme Court in Sunil Kumar's case. Accordingly, in line with the order passed by the Division Bench in Writ Appeal No. 2621 of 2023 and batch cases dated 07.02.2024, a similar direction will be issued in the present matter.

16. Hence, all the writ petitions are disposed of with a direction to the authorities to implement the directives set forth in Paragraph 44 of the Supreme Court's judgment in Employees Provident Fund Organisation & Anr. v. Sunil Kumar B. & Ors., reported in 2022 SCC Online SC 1521. However, there shall be no order as to costs. Consequently, all miscellaneous petitions stand dismissed.”

5.In light of the above, this writ petition is also disposed of in terms of the direction contained in paragraph 16 of the order dated 10.03.2025.



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Accordingly, the writ petition stands disposed of with a direction to the authorities to implement the directives set forth in paragraph 44 of the judgment of the Hon'ble Supreme Court in **Employees Provident Fund Organisation & Another v. Sunil Kumar B. & Others**, reported in 2022 SCC OnLine SC 1521. There shall be no order as to costs.

29.05.2025

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NCC : Yes / No

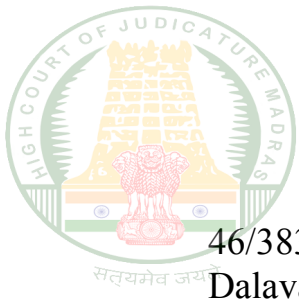
Index : Yes / No

Speaking Order / Non-speaking Order

To

1. Union of India
Rep. by its Secretary,
Labour and Employment Department,
New Delhi – 1
2. The Chairman,
Central Board of Trustee for Employees,
Provident Fund Organisation,
Shram Sakthi Bhavan, New Delhi – 1
3. Central Provident Fund Commissioner – I,
(Pension), Bhaisya Nidhi Bhavan,
14, Bhikaji Gama Place, New Delhi – 110 066
4. The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,

19/21



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46/383, Salem Steel Plant Road,
Dalavaipatti Village,
Salem – 636 302.

5. The Assistant Provident Fund Commissioner (Pension)
O/o The Regional Provident Fund Commissioner
Employees' Provident Fund Organisation
46/383, Salem Steel Plant Road,
Dalavaipatti Village,
Salem – 636 302.
6. The Assistant Provident Fund Commissioner (Pension)
O/o. The EPF Sub Divisional Office (Whitefield)
No.36 NH-4, Lakshmi Complex,
Opp. Syndicate Bank,
Old Madras Road,
K.R.Puram,
Bengaluru – 560 036.



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DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
W.P. No. 3423 of 2021

29.05.2025