

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 7423 of 2026

G4S Secure Solutions (India) Pvt. Ltd.
Vs
Union of India & Ors.

For the Petitioner : Mr. Soumya Majumder, ld. Sr. Adv.
Mr. Amitabh Chaturvedi, ld. Sr. Adv.
Ms. Mayuri Ghosh,
Ms. Samarpita Mukherjee.

For the Respondent No. 1 : Mr. Narendra Prasad Gupta.
/UOI

For the P.F. Authorities : Mr. Shiv Chandra Prasad.

Judgment reserved on : 31.03.2026

Judgment delivered on : 31.03.2026

Shampa Dutt (Paul), J.:

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred challenging the proceeding before the respondent/PF Authorities bearing no. R-NE/WB/33419/CC III/989 dated 16.12.2003 issued by the Regional Provident Fund Commissioner, EPFO, Regional Office, Kolkata, under Section 7A of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 to the Kolkata Establishment

of the petitioner having Establishment Code : WB/33419 for conducting an inquiry for an indefinite period i.e. from June, 1996 onwards (as per the period mentioned in the impugned summons) and the proceedings held under the impugned summons till 11.03.2025 vide Diary No.395/2017 as well as the orders passed therein, particularly the daily order dated 16/19.12.2025, and the daily order dated 20.02.2026 and the daily order dated 02.03.2026.

3. The petitioner has further prayed for an opportunity of hearing, to decide the petitioner's applications dated 14.06.2023, 07.05.2024, 14.06.2024 and 01.03.2025 (filed on 03.03.2025), *in terms of law and correctly decide the issue framed viz. 'as to whether the PF contribution are required to be made only on the 'basic wages component' of the entire wages or on the entire wages or 'whether the Establishment is legally justified in segregating/splitting entire wages into components of basic wages, house rent allowance and conveyance and other allowances for the alleged reduction of the PF contribution' in light of the binding judgment dated 17.08.2023, passed by the Supreme Court.*
4. It is the case of the petitioner herein that on receiving a daily order dated 11.03.2026, the petitioner being aggrieved with the 7A proceeding, has approached the High Court and the respondent authority in the meantime has concluded the hearing in the 7A proceeding and has reserved the case for "orders".

5. **Mr. Majumder**, learned senior counsel appearing for the petitioner submits that the maintainability of the proceedings under Section 7A of the EPF Act before the authority concerned has been challenged by the petitioner herein.
6. It appears from the said daily order dated 11.03.2026 that the authority concerned has noted in the said order, that the petitioner submitted before the authority that the issue of maintainability was to be considered first and only then the authority concerned could proceed on merit, in case the issue of maintainability was decided against the petitioner.
7. The petitioner has relied upon several documents, which includes the judgment of the Supreme Court passed in **Civil Appeal No.9284 of 2013, dated August 17, 2023, in Assistant Provident Fund Commissioner vs M/s. G4S Security Services (India) Ltd. & Anr.**, wherein the said appeal was preferred by the Assistant Provident Fund Commissioner, against an establishment of the petitioner company. The Hon'ble Court was hearing an appeal from a judgment dated 20th July, 2011 passed by the High Court of Punjab & Haryana at Chandigarh in an intra-court appeal, which was directed against an order dated 1st February, 2011 passed by the Single Judge.
8. The stand of the appellant before the Supreme Court in appeal was that for the purposes of determining its contribution towards provident fund, the respondent no. 1 was wrongly splitting the wage structure of the employees and treating the reduced wage as

the basic wage to the detriment of the employees, thereby evading its liability to contribute the correct amount towards provident fund.

9. The stand of the appellant was turned down by the appellate Tribunal, the learned Single Judge and the Division of the High Court.

10. The Supreme Court finally held as follows:-

“2.that for the purposes of determining its contribution towards provident fund, the respondent no.1 was wrongly splitting the wage structure of the employees and treating the reduced wage as the basic wage to the detriment of the employees, thereby evading its liability to contribute the correct amount towards provident fund.....

4. In our opinion, once the EPF Act contains a specific provision defining the words ‘basic wage’ (under section 2b), then there was no occasion for the appellant to expect the Court to have travelled to the Minimum Wages Act, 1948, to give it a different connotation or an expansive one, as sought to be urged. Clearly, that was not the intention of the legislature.”

11. It appears that the Hon’ble Court, while dismissing the appeal, took into consideration **an order dated 23rd May, 2002**, passed by the Assistant P.F. Commissioner under Section 7A of the EPF Act, which was duly accepted by the appellant department, as no appeal was preferred. The said order dated 23rd May, 2002 is at page 192 of the writ application. The said order is an order under

Section 7A of the EPF Act, wherein the authority concerned being the Assistant Provident Fund Commissioner came to the following findings:-

“I have carefully examined the submissions made by the employer’s representatives and observed that the employer is not contesting the P.F. liability on Basic wages as provided under Section 6 of the Act, but he is contesting any liability on the amount shown as HRA and Other allowances. If these allowances are excluded and not included under Section 6 of the Act for determining P.F. contributions, then for any laudable reason Other Allowances cannot be considered for the purpose of calculating P.F. contributions.

*As a Statutory Authority of Limited Jurisdiction, I Rakesh, Assistant P.F. Commissioner, Sub-Regional Office, Gurgaon cannot surpass the power conferred on me under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952. **It is, therefore, ordered that the employer is not liable to pay P.F. Contributions as HRA. Fixed Conveyance and Washing Allowances. Moreover, the P.F. dues for the notice period have been remitted. The proceedings are therefore closed.***

**Sd/-
RAKESH
Assistant P.F. Commissioner”**

12. Mr. Majumder, has further relied upon the judgments of other High Courts, wherein the judgment of the Supreme Court has been

followed and the authority concerned in the order dated 23rd May, 2002 has also finally accepted the provision of law including the interpretation as made by various High Courts, relying upon the Supreme Court's judgment in **M/s. G4S Security Services (India) Ltd. & Anr., (Supra)**.

13. Heard Mr. Prasad, appearing for the respondent PF authorities, who submits that the writ petition is not maintainable, as no final order has been passed in this case.

14. Keeping in mind the submissions of both sides and the conduct of the respondent authorities in view of the impugned orders, this Court is of the view that the respondent/Provident Fund Authority in the present case, cannot in any manner whatsoever, disregard the order of the **Supreme Court in Civil Appeal No. 9284 of 2013, M/s. G4S Security Services (India) Ltd. & Anr., dated August 17, 2023**. But it appears that the respondent/EPF Authorities has proceeded to hear the matter on merit, without granting an opportunity to the petitioner herein, as the petitioner refused to participate on the ground, that the issue of maintainability raised by the petitioner was to be considered first by the respondent authority.

15. In view of the discussions above, it is directed that the respondent no. 2, who has reserved the order vide his order dated 11.03.2026, in the proceeding under Section 7A of the EPF Act, against the petitioner herein, **shall first decide the issue of maintainability only and while deciding the same, is bound to follow the**

judgment of the Supreme Court in M/s. G4S Security Services (India) Ltd. & Anr., (*Supra*) and also keep in mind the order dated 23rd May, 2002, passed by the said provident fund authority, in respect of the petitioner company's case, as the said order still holds good till date.

16. Accordingly, the respondent no. 2 is directed to pass an order in respect of the maintainability of the proceeding under Section 7A of the EPF Act herein, which has been reserved for orders on 11.03.2026, in view of the observations herein above, within 30 days from the date of communication of this order.

17. Writ application stands disposed of.

18. Connected application, if any, stands disposed of.

19. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)