IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:
THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)

WPA 16028 of 2026

Gautam Singha & Ors.
Vs.
The Union of India & Ors.

For the Petitioners	:Mr. Soumya Majumder, Sr. Adv. Mr. Dwaipayan Sengupta, Adv. Mr. Ratikanta Pal, Adv. Mr. S. Dutta, Adv.
For the Respondent No.1	: Mr. Animesh Mukherjee, Adv. Mr. Debashish Basak, Adv.
For the P.F. Commissioner	: Mr. Satyendra Agarwal, Adv. Mr. Goutam Malik, Adv.
For the Respondent Nos.7 & 8	: Mr. Dipankar Das, Adv.
Judgment reserved on	: 31.08.2026
Judgment delivered on	: 09.10.2026

SHAMPA DUTT (PAUL), J.:-

1. The present writ application has been preferred praying for direction upon the respondents/Provident Fund Authorities to refund the excess pension amount deposited with the said authorities along with interest @ 12 per cent per annum.

2. Learned Counsel, Mr. Agrawal appearing for the Provident Fund Authorities submits that they do not have the details of the documents required for the "reconciliation" of the amount which is due to the

petitioners herein, as the documents are in the custody of the respondent/ Air India.

3. Mr. Majumder, learned Senior Counsel appearing for the petitioners relies upon a judgment of this Court passed in WPA 24535 of 2025 (***Sudhamay Maiti & Ors. Vs. Central Provident Fund Commissioner & Ors.)*** dated 10.04.2026 claiming parity.

4. Admittedly, no appeal has been preferred against the said judgment in WPA 24535 of 2025 till date.

5. On perusal of the materials on record it appears that the petitioners herein have annexed the Form-7 PS, which shows the monthly statement of deposit made in respect of the writ petitioners/employees. **Admittedly, the contribution was being deposited with the authorities as the petitioner is not an exempted establishment.** In respect of employees' pension scheme, it can be presumed that the respondents who admittedly have received the said fund deposits from the employees/Establishment maintain records of such amount being deposited.

6. In WPA 24535 of 2025 (***Sudhamay Maiti & Ors. Vs. Central Provident Fund Commissioner & Ors***), the Provident Fund authorities had placed a statement showing the dues which was to be refunded to the respective petitioners therein, and the authorities have also taken steps to disburse the same.

7. Considering that the issues and the claim of the petitioners is similar to the writ petitioners in WPA 24535 of 2025, it appears that the Airport Authority of India has been depositing the pension contribution along with report for the relevant period with the respondent authorities.

8. In the said writ application (WPA 24535 of 2025) respondent No. 1 to 5 in their report in the form of Affidavit had stated as follows:-

> *a. That M/s Airport Authority of India(AAI) had approached EPFO vide their letter dated 16.01.2007 with request to extend coverage to AAI Employees w.e.f. 01.04.1995 under EPF & MP Act, 1952 and exemption under section 17 of the Act to manage the CPF. The Board of the AAI in its 98th Meeting held on 27.04.2006 and 99th Meeting held on 12.07.2006 approved to cover AAI employees under EPF & MP Act, 1952 w.e.f. 01.04.1995.*
>
> *b. The establishment M/s Airport Authority of India (AAI) was covered on 22.08.2007 (w.e.f 01/04/1995) i.e. retrospectively under section 1(3) (b) EPF and MP Act 1952 and was allotted EPF code DL/CPM/36478. The record pertains to period dating back to 1995, majority of these records are in physical format and the digitalization was not available for update information.*
>
> *c. That the establishment did not pay the statutory dues and had attracted damages and interest for the period 04/1995 till 02/2006.*
>
> *d. The establishment M/s. AAI informed that the said Interest U/s 7Q has been deposited. However, the damages amount (Rs 1,92,06,05,720/-) is yet to be 4 remitted by AAI as the stay is operating on the same granted by the High Court at Delhi.*

e. M/s Airport Authority of India has requested to refund of excess contributions in respect of 1513 cases. Whereas, it is pertinent to mention here that the reconciliation of accounts is a necessary prerequisite to move forward as it is observed that for few hundreds (265) as of now and further reconciliation of accounts is going on) of these 1513 employees the statutory dues for several months have not been remitted by the establishment. For this a Show Cause Notice dated 18.12.2025 (Annexure A) has been sent to the establishment. It is the onus for the establishment to clarify the details of members for whom the establishment paid in lump sum.

f. This situation presents a predicament wherein the excess amount with interest is required to be returned to AAI wherein the statutory interest u/s 7Q to be paid by AAI is yet to be remitted to EPFO.

g. It has been brought to the notice of the establishment that for large number of employees either the dues have not been deposited or partially deposited or deposited in lumpsum i.e. overlooking the statutory provisions of the EPF & MP Act, 1952 and schemes framed there under. For this a Show Cause Notice dated 18.12.2025 has been sent to the establishment. EPFO.

h. In light of the Hon'ble High Court directions, the computation of excess contribution is as under:-

EPS NO	MEMBER NAME	Amount in Exc
DLCPM/36478/02788	SUDHAMAY MAITI	793017
DLCPM/36478/00053	AJAY KUMAR KAPUR	788498
DLCPM/36478/10578	UTPAL KUMAR BHATTACHARYA	514734
DLCPM/36478/11	ARINDAM	393448

143	CHAKRABORTY	
DLCPM/36478/00 2054	ANOOP KUMAR GUPTA	574453
DLCPM/36478/00 302	JYOTI TEHLAN	328721
DLCPM/36478/16 215	PARSHURAM NORESHWAR THAKUR	315884
DLCPM/36478/02 803	SUNIL KUMAR MISHRA	520949
DLCPM/36478/16 274	PRAMOD KUMAR	606764
DLCPM/36478/08 290	SHOBHY K K	755049
DLCPM/36478/72 98	SHARDA VIJA SAWANT	341580
DLCPM/36478/90 23	VNKATESHWAR L	628866
DLCPM/36478/67 00	NALINI NARHARI PHULWAKAR	355140

9. On the basis of the said computation submitted by the respondent authorities which clearly showed the amount in excess in respect of the said writ petitioners therein, this Court directed as follows:-

> *"The (specified) excess amount (contribution) which has been deposited in excess with the respondent authorities, is not disputed and is lying with the respondent authorities.*
>
> *Any outstanding claim by way of dues, damages or penal interest, against an establishment, cannot be adjusted and or realized from the dues of its employees. Such act is not only against the principle of natural justice but gross abuse of the process of law.*
>
> *The respondent authority cannot retain the excess amount of the petitioners herein on the ground that there*

are outstanding dues of the petitioner's establishment as the amount to be refunded (deposited from wages) are the dues/entitlement of the petitioners herein in their personal capacity and is not in any way connected to the establishment."

10. In course of hearing Mr. Agarwal, learned Counsel for the Provident Fund Authorities has placed documents related to the claim of the petitioner herein, wherein it appears that certain statements have been made by the Provident Fund Authorities, and data has been prepared in the form of an excel sheet, with the data as gathered from their Finance Department, and has been consolidated & included in the said excel sheet.

11. It is further stated that the revised year-wise returns in the format of 7PS was already submitted to EPFO, Regional Office, Delhi (Central) in the form of 72 binded books vide their office letter dated 18.04.2018. Further correspondences were also made in this regard with the EPFO vide Finance Dept. letters dated 24.09.2018, 24.12.2018, 03.04.2019 and 26.11.2019.

12. It is stated in the report that:-

"In MoL&E Gazette Notification No. 609 (E) dated 22.08.2014 and subsequent EPFO Letter dated 29.08.2014, the contributions to the Pension Fund made over the wage ceiling in respect of the members whose Pension Options are changed from Actual Pay to Ceiling Pay shall be diverted to the Provident Fund account of the member along with interest as declared under the Employees' provident Fund Scheme from time to time. It is in accordance with these provisions defined in the said Notification/ Circular that

1513 employees (some of which are included in the list of Petitioners who have submitted the aforementioned Writ Petition) submitted their Fresh Option Forms for Ceiling Pay. The same were submitted and forwarded to O/o EPFO, Delhi (N) vide this office letters dated 25.02.2015, 27.02.2015, 31.03.2015, 13.05.2015 and 04.06.2015."

13. **It is further stated that the Airport Authority of India is already assisting the EPFO Authorities to clear the dues of the petitioners herein.** In the interim period, Mr. Agarwal has also placed before the Court in a contempt proceeding in WPA 24535 of 2025, that EPFO has transmitted the dues of the petitioner in the said writ application to the Airport Authority of India for disbursement and the same is under process.

14. Thus in view of the said fact, that the petitioners in WPA 24535 of 2025 have had their claim prima facie addressed by the EPFO authorities, the present writ applicants who stand on the same footing as the writ applicants in WPA 24535 of 2025, **are also entitled for refund of the excess amount deposited along with statutory interest.** The respondent authority cannot retain the excess amount of the petitioners herein on the ground that there are outstanding dues of the petitioner's establishment, as the amount to be refunded (deducted from wages) are the dues/entitlement of the petitioners herein in their personal capacity and is not in any way connected to the establishment.

15. Admittedly, as the excess amount in respect of the petitioners herein was deposited by the establishment with the respondent authorities, the

excess amount could be assessed by the authorities. The excess contribution has been made from 16.11.1995 to 31.03.2015 and the said contribution on actual wages was duly accepted by the respondent authorities and not refunded in spite of rejecting the petitioners prayer for higher pension and repeated prayers for refund of the excess amount by the petitioner on accepting the order of rejection was ignored.

16. Thus the writ application is disposed of with the direction that the respondent authorities shall refund the excess amount to each of the petitioners herein as computed by them within 60 days from the date of this order along with interest at the statutory rate from the date of deposits, considering that the said deposits have also accrued interest while being retained illegally by the respondent authorities.

17. **WPA 16028 of 2026 is allowed.**

18. Applications, if any, connected thereto stand disposed of consequently.

19. Photostat certified copy of this Judgment, if applied for, be given to the parties on priority basis upon compliance of all formalities.

(Shampa Dutt (Paul), J.)