08.01.2026
Piya
ct no. 30
sl. 6

WPA 26894 of 2025

S. Balamurugan
Vs.
The Union of India & Ors.

Mr. Saikat Banerjee Sr. Adv.
Mr. Arnab Ray
Mr. Shirsho Banerjee
......for the Petitioners

Mr. Satyendra Agarwal
......for the Respondent No. 2, 3 & 4

Mr. Amit Meharia
Ms. Paramita Banerjee
Mr. Rohan Roy
Mr. Tamoghna Chattopadhyay
....for the IOCL

1. The writ application has been preferred praying for setting aside the letter of the Additional Central PF Commissioner being File No. Pension/V1/PoHW/2024-25/efile-951977/09 dated 18/01/2025 insofar as such letter says that the eligibility of the employees of exempted establishments for getting pension of higher wages should be determined on the basis of the extant trust rules of the exempted establishment and setting aside the rejection order of the Assistant Provident Fund Commissioner, Regional Office, Delhi (Central), being no. DL/CPM/PoHW/1338/E-Office No. 979462 dated 25/01/2025.

2. The petitioner further prays for a direction upon the respondent no. 4 to disburse pension on higher wages and/or accept contribution for higher wages on the basis of the exercise of joint option made by the petitioner along with his employer as per Employees' Pension Scheme, 1995, on setting aside/quashing the order dated 25.01.2025 passed by the respondent no. 4.

3. The petitioner relying upon the order passed by this Court in **WPA 15459 of 2025 and Ors.** have prayed for similar relief on the ground that the petitioner herein is similarly placed with the petitioners in WPA 15459 of 2025 and ors.

4. The petitioner's application for higher pension has been rejected by order passed by the respondent no. 4 on **25.01.2025** by referring to Rule 11(b) of the Provident Fund Trust Rules of the Employer/Establishment.

5. The respondent no. 5 establishment enjoys exemption under Section 17(1) of the said PF Act of 1952 from the operation of Employees' Provident Funds Scheme, 1952.

6. It is submitted that all employees of both exempted and unexempted establishments are considered to be the same as far as pension under EPS' 1995 is concerned and EPFO directly deals with pension matters for both classes of establishments. For the purpose of contribution to pension fund, employers only forward the requisite contribution every month to

EPFO and they have no further role as employer under the EPS, 1995.

7. The petitioner states that he is in service since/after **01.09.2014,** which is the cut off date as decided by the Supreme Court in ***The Employees Provident Fund Organisation & Anr. ETC. vs Sunil Kumar B. & Ors. ETC., in Civil Appeal Nos. ……… of 2022 (arising out of the SLP (C) Nos. 8658-8659 of 2019), decided on November 04, 2022.***

8. Thus considering that the petitioner herein stands on the same footing as the petitioners in WPA 15459 of 2025 and ors., it is directed that the order dated **25.01.2025** passed by the respondent no. 4, **is hereby quashed and set aside.**

9. It is further directed that:-

a) Any joint option application presented on or before 31.01.2025, or before any other further extension of time by the authority considered, if any shall be accepted by the respondents.

b) On remittance of the differential contribution amount to the pension scheme, to the Employees' Provident Fund Organisation, by the employees, along with applicable interest, higher pension shall be disbursed to them from the succeeding month of their remittance.

10. WPA 26894 of 2025 is allowed.

11. All connected application, if any, stands disposed of.

12. Interim order, if any, stands vacated.

13. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)