

05.01.2026
Aloke
ct no. 30
sl. 21

WPA 27829 of 2025

**Nand Lal Ray & Ors.
Vs.
The Union of India & Ors.**

Mr. Soumya Majumder, Sr. Adv.
Mr. S. K. Singh
Mr. Ravi Kr. Dubey
Mr. Saket Raj Singh
.....for the Petitioners

Mr. Satyendra Agarwal
Mr. Bijoy Bag
.....for the Respondent/R.P.F.C.

Ms. Rajashree Roy
Mr. Sukanta Banerjee
....for the Respondent No.1/Union of India

1. The writ application has been preferred praying for direction upon the respondent no. 3 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 petitioners along with their employer as per Employees' Pension Scheme, 1995, on setting aside/quashing the order dated 06.02.2025 passed by the respondent no. 3.
2. The petitioners have further prayed for direction upon the respondent no. 3 to issue demand letters to the EPF trust of the establishment for refund of the employer's share of EPF contributions on higher salary in respect of in-service employees as well as to the retired employees, who have withdrawn their P.F.

accumulation upon attaining age of retirement and start disbursing higher pension based on actual wages to each of the petitioners.

3. The petitioners 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 petitioners herein are similarly placed with the petitioners in WPA 15459 of 2025 and ors.
4. The petitioners' applications for higher pension have been rejected by order passed by the respondent no. 3 on **06.02.2025 (served upon the establishment on 21.05.2025)** by referring to Rule 11(b) of the Provident Fund Trust Rules of the Employer/Establishment.
5. It is submitted that the said applications have been rejected in spite of there being safeguard clause being 31A of the Provident Fund Rule of the said establishment, which the respondent authorities have ignored while rejecting the joint option form/applications submitted by the petitioners for pension on actual wages based on Rule 11(b) alone.
6. The respondent no. 4 establishment enjoys exemption under Section 17(1) of the said PF Act of 1952 from the operation of Employees' Provident Funds Scheme, 1952.
7. 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.

8. Supplementary affidavit filed by the petitioner shows that the petitioners no. 82 to 98 herein have all retired after 01.09.2014 and as such were in service on that date, a date 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.***
9. The petitioners nos. 1 to 81 are still in service.
10. Thus considering that the petitioners herein stand on the same footing as the petitioners in WPA 15459 of 2025 and ors., it is directed that the order dated **06.02.2025 (served upon the establishment on 21.05.2025)** passed by the respondent no. 3, **is hereby quashed and set aside.**
11. 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.

12. WPA 27829 of 2025 is allowed.

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

14. Interim order, if any, stands vacated.

15. 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.)