

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE**

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPO 648 of 2025

**BOARD OF TRUSTEES, DURGAPUR STEEL PLANT
Vs
UNION OF INDIA & ORS.**

For the Petitioner	:	Mr. Shovit Betal, Advocate.
For the Union of India	:	Ms. Hasi Saha, Advocate.
For the PF Authorities	:	Mr. Shiv Chandra Prasad, Adv.
For Respondent No.4	:	Mr. Lakshmi Kanta Pal, Adv.
Judgment reserved on	:	22.01.2026
Judgment delivered on	:	29.01.2026

Shampa Dutt (Paul), J.:

1. The writ petition has been preferred praying for directing the respondents no. 2 and 3 to accept and process the applications and joint options for payment of pension on higher wages along with payment of regular and arrears of higher pension to **the eligible beneficiaries of the petitioner trust whose applications have been rejected vide order dated 27.02.2025 by the respondent no.3.**
2. The petitioner herein being the Board of Trustees, Durgapur Steel Plant Provident Fund, Trust have filed the writ application on behalf of its eligible members (both retired and in service) whose joint option application for higher pension as per the judgment of the Hon'ble Supreme Court in

EPFO & Anr. Sunil Kumar B. & Ors., 2022 SCC OnLine SC 1521 has been rejected by the respondent no.3 vide order dated 27.02.2025.

3. The respondents/EPF has **challenged the maintainability** of the writ application on the ground that the Board of Trustees as petitioner herein, cannot raise or espouse the cause of the employees who claim higher pension by way of putting in joint option form with their establishment.
4. It is their further contention that the petitioner Trust has no locus standi to represent the employees as they are not its employees. The trust only maintains the trust fund and its function solely relates to everything to be done in respect of the said fund.
5. In the present case, its the EPF who has the authority to consider the joint option exercised by the establishment and its employee and its only they (the establishment and its employee) who have the locus standi to pray for such relief by maintaining a writ application.
6. Relying upon the judgment of the Calcutta High Court in ***Kelvin Jute Company Limited vs Krishna Kumar Agarwal and Ors., 2006 SCC OnLine Cal 82***, the petitioner states that all affected individuals are either current or former members of the Petitioner Trust and as such the Petitioner Trust has a direct and substantial interest in the subject matter of the present proceedings.

The denial of higher pension benefits by the Respondents is predicated solely because of the cap mentioned in the Petitioner Trust's governing rules. This misplaced reliance on the trust rules in an attempt to blame the Petitioner Trust for denial of higher pension to its members,

renders the Petitioner Trust a directly aggrieved party as the applications have been rejected on the pretext of non-amendment of the trust Rules.

7. The petitioner relies upon Para 7 of the judgment of the Supreme Court in *Union of India vs Jyoti Chit Fund and Finance & Ors., (1976) 3 SCC 607*,

Where in the Court held:-

“7. Processual law is neither petrified nor purblind but has a simple mission — the promotion of justice. The court cannot content itself with playing umpire in a technical game of legal skills but must be activist in the cause of deciding the real issues between the parties. And one guiding principle is not to exaggerate the efficacy of procedural defects where issues of public concern are involved and a public authority vitally interested in the correct principle alerts the attention of the court to the problem. A broadened view of locus standi leads to the futility of technical flaws where larger issues are involved — and that is the trend of modern processual jurisprudence. These general considerations were trite, yet too often ignored, and so need reiteration. Further, the consumers of justice can have scant respect for a procedural policy which is obsessed more with who sparks the plugs of the court system than with what the merits of the rights or wrongs of the relief are. A shift on the emphasis, away from technical legalistics, is overdue if the Judicature is not to aid its gravediggers. We express the view strongly so that hopefuls may be dissuaded from taking up court time by playing up technicalities.”

8. The petitioner also relies upon the judgment in:-

- i. Krishna Kumar Agarwala & Ors. vs Kelvin Jute Company Limited Workers Provident Fund Trust & Ors., 2002 SCC OnLine Cal 901,*

wherein the Court held:-

“17. With regard to the question of locus standi of the petitioners on the ground that they are not persons aggrieved, it appears that the said contention is devoid of merit. The individual member workman or workmen, may have right as against the Trust and could have complained to the Provident Fund Commissioner and may approach the Court on account of

his or their claim. But that will not preclude the Trustees, in the facts and circumstances of the case, to approach the Court. Inasmuch as, the Trustees of the fund, though a private trust, are discharging statutory liability in respect of the statutory fund, since exempted but recognized by the statute. It is the responsibility of the Trustees to discharge their statutory liability in respect of the fund, exempted under Section 17 of the 1952 Act according to the scheme approved. The accumulation of the provident fund dues of each individual member till 30th June, 1986, was, admittedly, maintained by Kelvin Trust. With the transfer of the members of Kelvin Trust to Waverly Trust, such accumulation is liable to be transferred to the Waverly Trust from Kelvin Trust. Therefore, as trustees of the Waverly Trust, the petitioners, have every right to demand such transfer, without which they are unable to discharge their statutory liability viz : to pay the dues payable to the members of the Waverly Trust. That apart, the letter dated 24th January, 2000 though issued during the pendency of the writ petition, yet it related to the position as it stood before the writ petition was moved. As such, in the facts and circumstances of the case, the petitioners are persons aggrieved.

18. The ground that the transferee is not the beneficiary is also untenable, in view of the fact that as such Trustees of the Waverly Trust, the petitioners are responsible for the purpose of administering the fund and discharging their statutory liability. The question that the beneficiary is paid by the employer, therefore, the Trustees could not claim transfer, is also equally untenable. Inasmuch as, there is nothing to show that the entire amount was paid. It might be an inept drafting; but still then the statement made in Para-6 of the writ petition, on which Mr. Mitra had relied upon, does not bear out the meaning as was sought to be imputed by Mr. Mitra. Relying on the statement, Mr. Mitra sought to contend that Hooghly Mills Company had deposited the entire amount. In order to appreciate the said question, it would be beneficial to quote para-6 as hereafter:

“6. Petitioner states that the dues in respect of provident fund arrears liability taken by Hooghly Mills Ltd. till 29th June, 1986 has already been deposited by the Hooghly Mills Company Limited with the new Provident Fund Trust.”

- ii. *Gadde Venkateswara Rao vs State of A.P., 1965 SCC OnLine SC 25, (Para 8).***

iii. Fertilizer Corporation Kamgar Union vs Union of India, (1981) 1 SCC 568, (Para 48).

9. The point of maintainability has been raised by respondent/EPF for the first time here.
10. The petitioner's contention that the writ petition is maintainable is on the following grounds:-
 - a) That the employees whose interest is being espoused here are/were members of the petitioner trust, which has substantial interest in the subject matter (higher pension).
 - b) As the denial of higher pension relates to the cap mentioned in the petitioner's un amended trust rules, the petitioner trust being an aggrieved party has the locus standi to maintain the writ application.
11. The respondent/EPF's contention on the writ petition not being maintainable is that the petitioner trust not being an aggrieved party has no locus standi.
12. The respondent/EPF in their affidavit-in-opposition are raising the point of maintainability of the writ application by the petitioner/trust, that it is not an aggrieved party has gone on to state grounds, which are to be grounds in appeal against the judgment dated 14.11.2025 passed in WPA 15459 of 2025 and other writ applications.
13. **On hearing the parties** and considering the grounds challenging the maintainability of the writ application and the petitioner trust's case that it is maintainable, and also the status of the petitioner trust herein, it appears that:-

- i. Admittedly the petitioner/trust maintains the trust fund of the employees of the establishment.
 - ii. Admittedly the joint option is exercised by the employee and the establishment. Thus the trust has no role in the said exercise of option for higher pension.
 - iii. As to the stand taken by the petitioner trust that it has the locus standi to maintain this writ, as the refusal and rejection of the joint option application is:-
 - (a) The un amended trust rules.
 - (b) The prayer for amendment after the judgment in *Sunil B. (Supra)*.
 - (c) The (limit) cap in the existing trust rules.
 - iv. Admittedly the rejection of joint option for higher pension is on quoting existing trust rules, and not allowing prayer for amendment/modification of the trust rules after the Supreme Court's judgment in *Sunil Kumar B. (Supra)*, even though admittedly there is not a single word in the judgment in *Sunil Kumar B. (Supra)* about internal trust rules of an establishment.
14. Thus the petitioner trust is an aggrieved party and has the locus standi to maintain a writ application for the relief as prayed.
15. The writ application has been preferred praying for directing the respondents nos. 2 and 3 to accept and process the applications and joint options for payment of pension on higher wages along with payment of regular and arrears of higher pension to the members of the petitioner trust whose joint option form has been rejected vide order dated 27.02.2025.

16. The petitioner further prays for a direction upon the respondent nos.2 and 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 petitioner along with his employer as per Employees' Pension Scheme, 1995, on setting aside/quashing the order dated 27.02.2025 passed by the respondent no. 3.
17. 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's employees (whose applications have been rejected vide order dated 27.02.2025) herein are all similarly placed with the petitioners in WPA 15459 of 2025 and ors. writ applications (14).
18. The petitioner's members application for higher pension has been rejected by an order passed by the respondent no. 3 on **27.02.2025** citing the trust rules of the exempted establishment.
19. The establishment in this case enjoys exemption under Section 17(1) of the said PF Act of 1952 from the operation of Employees' Provident Funds Scheme, 1952.
20. 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.
21. The petitioner states that the said employees are all 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 and have contributed towards provident fund on the basis of actual wages.

22. Thus considering that the petitioner's said members herein stand on the same footing as the petitioners in WPA 15459 of 2025 and ors. writs, it is directed that the order dated 27.02.2025 passed by the respondent no. 3, is hereby quashed and set aside.
23. 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.
24. WPO 648 of 2025 is allowed.
25. Connected application, if any, stands disposed of.
26. Interim order, if any, stands vacated.
27. Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)