

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

Date of decision: 23.02.2026
CWP-25596-2024

1.

Om Parkash Miglani and another

....Petitioners

Versus

Union of India and others

....Respondents

2.

CWP-25626-2024

Krishan Lal

....Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Sharma (Kanav), Advocate with
Ms. Deepankur Sharma, Advocate and
Ms. Jaskiran Kaur Basi, Advocate
for the petitioner(s) in both cases.

Mr. Rajesh Hooda, Advocate
for respondents No.2 to 4 in CWP-25626-2024 &
for respondents No.2 and 3 in CWP-25596-2024.

**Mr. Madan Pal, Advocate
for respondent No.4 in CWP-25596-2024.**

HARPREET SINGH BRAR, J (Oral):

1. This common judgment shall dispose of both the aforementioned petitions as they arise from a similar factual matrix and pose an identical question of law. However, for the sake of brevity, the facts are being taken from **CWP No.25596 of 2024**.

2. The present petition has been filed under Article 226/227 of the Constitution of India, praying for issuance of a writ in the nature of



Certiorari for quashing the impugned notice dated 10.02.2023 (Annexure P-4) issued by respondent No.3, whereby re-examination of cases pertaining to pension on higher wages for employees who had retired prior to 01.09.2014 without exercising option under para 11(3) of Employees' Pension Scheme, 1995 as it stood prior to the amendment, has been ordered in purported compliance of the judgment dated 04.11.2022 passed by the Hon'ble Supreme Court in ***EPFO v. Sunil Kumar B., SLP (C) No.8658-8659 of 2019.***

A further prayer has been made for issuance of a writ in the nature of *Mandamus* directing respondents No.1 to 3 to restore the pension on higher wages which already granted to the petitioner in consonance with the directions issued by the Hon'ble Supreme Court in case titled as ***R.C. Gupta v. Regional Provident Fund Commissioner, Civil Appeal No (S).10013-10014 of 2016***, decided on 04.10.2016 (Annexure P-1).

3. Learned counsel for the petitioners *inter alia* contends that as pre-2014 retirees, the petitioners were directly affected by the legal developments following the judgment passed by the Hon'ble Supreme Court in ***R.C. Gupta***'s case (*supra*). In compliance thereof, the respondents secured approval from the Central Government and issued a conscious policy decision through Circular dated 23.03.2017 (Annexure P-2) stipulating that higher pension be granted to all retirees who had contributed to the Provident Fund with respect to their actual salary. Pursuant to this circular, the petitioners exercised a joint option. Consequently, the respondent No.2 issued a demand letter on 18.03.2019 (Annexure P-3) and the petitioners deposited the requisite differential



amount, leading to a corresponding enhancement of their pension, based on their actual salary. However, the respondents have now sought to re-examine this entitlement. This has resulted in the issuance of the impugned notice dated 10.02.2023 (Annexure P-4) and the subsequent reduction of the petitioners' pension to the statutory wage ceiling. Learned counsel further submits that the controversy at hand is no longer *res integra* being squarely covered by the judgment rendered by a Coordinate Bench of this Court in **CWP-5378-2024** titled as ***Inderjit Singh Kaknian and others v. Union of India and Others***, decided on 12.09.2024 (Annexure P-7).

4. *Per contra*, learned counsel for respondents is not in a position to distinguish the case of the petitioner(s) from the petitioner in ***Inderjit Singh Kaknian***'s case (*supra*).

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that the present controversy stands settled by a Coordinate Bench of this Court in ***Inderjit Singh Kaknian***'s case (*supra*). The relevant part of the said judgment reads as under:

“(i) There was no particular cut-off date in the unamended proviso to Paragraph 11(3) of the Pension Scheme and Supreme Court in R.C. Gupta’s case (supra) has candidly held that there was no cut-off date to exercise option;

(ii) Judgment in R.C. Gupta’s case (supra) was delivered in 2016 and thereafter employers and employees filed their option. The option was filed as per aforesaid judgment. The respondent authorities not only invited options from employees but also accepted their option and acted upon;



(iii) *The employees deposited amount alongwith with interest which was withdrawn from Provident Fund. The said amount was calculated by respondent and on being deposited by employees was duly accepted;*

(iv) *Employees are getting enhanced pension for last 5 years and substantial reduction at this stage cannot be countenanced;*

(v) *Supreme Court in its subsequent judgment in **Sunil Kumar**'s case (supra) was adverting with challenge to amended paragraph 11 of the Pension Scheme and petitioners have retired prior to amendment came into force.*

(vi) *Supreme Court has not doubted or disturbed findings of **R.C. Gupta**'s case (supra) rather approved it in so many words in different paragraphs.*

(vii) *The Supreme Court has denied benefits ensuring from **Sunil Kumar**'s case (supra) judgment to employees who had retired prior to 01.09.2014 without exercising option. The Court had denied benefits arising out of judgment of **Sunil Kumar**'s case (supra) to certain employees but did not disturb right created by **R.C. Gupta**'s case (supra) judgment.*

(viii) *The Court merged option to be exercised under unamended para 11(3) with option to be exercised under amended para 11(4). The parties were permitted to file option within 4 months from the date of judgment though as per amended para 11(4) option could be exercised within 6 months from 01.09.2014. As per respondent, an employee who was in service on 01.09.2014 and had not exercised option either under amended or unamended para 11, can exercise option within 4 months from the date of judgment in **Sunil Kumar**'s case (supra) but a person who has already*



*exercised option prior to aforesaid judgment though after pronouncement of judgment in **R.C. Gupta**’s case (supra) is not entitled to benefit of enhanced pension. Opinion of respondent seems to be not only contrary to beneficial scheme but also to both judgments of Apex Court.*

(ix) The respondent ignoring settled law is relying upon one sub-para of conclusion of the judgment and ignoring the ratio decidendi. The ratio decidendi of the said judgment is clear and lucid that there was no cut-off date under unamended para 11(3) and option could be exercised even after retirement subject to deposit of amount alongwith interest which was withdrawn from the provident fund.”

6. In view of the facts and circumstances of the case and the fact that the issue involved in both the present petitions has already been settled by this Court, same are disposed of and the impugned notice dated 10.02.2023 (Annexure P-4) is hereby set aside. The respondent-EPFO is directed to re-examine the cases of the petitioners regarding pension on higher wages in terms of the judgment rendered in **Inderjit Singh Kaknani**’s case (supra).

7. Pending miscellaneous application(s), if any, stand also disposed of.

8. A photocopy of this order be placed on file of connected case.

23.02.2026
monika

(HARPREET SINGH BRAR)
JUDGE

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|---------------------------------|---------|
| 1. Whether speaking/ reasoned : | Yes /No |
| 2. Whether reportable : | Yes /No |