17.08.2026.
Item No. 2.
Court No. 13
ap/sp

M.A.T. 178 of 2026
With
I.A. No. CAN 1 of 2026

Central Provident Fund Commissioner & Ors.
Versus
Gobinda Prasad Bera & Ors.

Mr. Shiv Chandra Prasad,
Mr. Satyendra Agrawal,
Mr. Goutam Malik.
...For the appellants.

Mr. Indranath Mitra.
...For the respondent no.1/writ petitioner.

1. The subject appeal was de-tagged from about thirty other appeals. The facts of the instant appeal are slightly different from the other appeals. Counsel for the parties are ad idem in this regard. Therefore, this matter is taken up for separate consideration.

2. The subject matter of the writ petition before the Single Bench was an order dated 18th April, 2024 passed by the Employees Provident Fund Officer (EPFO). By the said order, the claim for pension under the Employees Provident Fund Pension Scheme, 1995, at a rate higher than the statutorily fixed rate payable when he exited the Scheme, was rejected by the EPFO Authorities.

3. The said order passed by the EPFO, impugned in the writ petition before the Single Judge, referred to portions of the decision of the Hon'ble Supreme Court of India in the case of ***Employees Provident Fund Organisation & Anr. – Vs. – Sunil Kumar B. & Ors.***

reported in ***(2023) 12 Supreme Court Cases 701***, particularly paragraph 50.7 thereof. Reference was also placed to the decision of ***R.C. Gupta & Ors. – Vs. – Regional Provident Fund Commissioner, Employees Provident Fund Organization & Ors.*** reported in ***(2018) 14 Supreme Court Cases 809***.

4. The facts relevant to the case are that the respondent no.1/writ petitioner Gobinda Prasad Bera was an employee with Tamluk Ghatal Central Co-operative Bank Limited at Tamluk and was a member of Employees Provident Fund Scheme of 1995.

5. He had not exercised option for higher pension upon the higher deposit of Provident Fund Contribution by the employer against a higher salary paid to him, until the statutory age of exit from the Pension Scheme i.e. 58 years. The limit prescribed under the EPS, 1995, i.e. Rs.6500 only. The writ petitioner, however, continued in the service of the said Bank until the age of 60 years. He superannuated on 31st July, 2016.

6. Pursuant to the liberty granted in the case of ***Sunil Kumar B*** (supra), the petitioner exercised the option for higher pension on 18th March, 2023. The writ petitioner correspondingly agreed to refund the employer's share of PF deposit together with interest to the P.F. Authorities.

7. The Single Bench referring to paragraph 9 of ***R.C. Gupta*** decision (supra), paragraphs 34, 49, 50.4

and 50.5 of the ***Sunil Kumar B.*** decision (supra) and paragraph 39 of the decision of the Madurai Bench of the Madras High Court in the case of ***BHEL, NLC, Madura Coats - Vs. – Union of India & Ors.*** dated 2nd September, 2025 being W.P.(M.D.) 29573 to 29578 of 2024, went on to hold that the petitioner was entitled to apply for higher pension corresponding to Higher Provident Fund deposit made by the employer for higher salary being paid to him.

8. Counsel for the appellants, Mr. Prasad, would place reliance upon a decision dated 24th September, 2025 rendered by Punjab & Haryana High Court in the case of ***Om Prakash & Ors. – Vs. – Union of India & Ors.*** reported in ***2025:PHHC:136877*** as also the decision of the Single Bench of Madras High Court at Madurai Bench dated 27th July, 2023 passed in W.P. No. 14255 of 2022 and W.M.P. No. 13498 and 13500 of 2022 in the case of ***P. Djeassilane @ Jayaseelan – Vs. – The Regional Provident Fund Commissioner-II***, to argue that the similar claims similar to that of the writ petitioner/respondent no.1 had been dismissed.

9. This Court, however, notices a vital distinction between the facts of the present case and the decisions in ***P. Djeassilane @ Jayaseelan (supra) and Om Prakash & Ors. (supra)***. In both these cases, the employees had superannuated before 1st September, 2014, who were specifically excluded at paragraph

50.7 of the benefits of the decision of the Supreme Court in the case of ***Sunil Kumar B (supra).***

10. The writ petitioner's case would fall under paragraph 50 Sub-Clause 4 since he superannuated from service on 31st July, 2016. He would, therefore, be entitled to higher pension corresponding to the higher PF deposit made by his employer on account of contributions made on wages exceeding the statutory wage ceiling. The writ petitioner would be entitled to exercise option which he did, for higher pension pursuant to ***Sunil Kumar B.*** decision (supra), ***R.C. Gupta & Ors.*** decision (supra) and ***BHEL, NLC, Madura Coats*** decision (supra).

11. The Single Bench has narrowed down the disentitlement to higher pension to cases where the employee has **exited** the pension scheme upon reaching the age of 58 and has **retired** from service before 1st September, 2014, without exercising option for higher pension. It is only in such cases that EPFO could deny higher pension on wages exceeding the statutory wage ceiling. The EPFO in the impugned order dated 18th April, 2024 while setting out paragraphs from ***R.C. Gupta & Ors.*** decision (supra) and ***Sunil Kumar B.*** decision (supra) has misunderstood and misapplied their ratio.

12. The appellants' contention based on paragraphs 6A and 12 of the Employees' Pension Scheme, 1995 cannot be accepted. Those pensions regulate

membership and vesting of pension, but do not alter the actual date of retirement of an employee. Paragraph 50.7 of Sunil Kumar B. (supra) excludes only those employees who retired before 1st September, 2014, without exercising the requisite option. Since the writ petitioner superannuated on 31st July, 2016, his case is governed by paragraph 50.4 of ***Sunil Kumar B.*** decision (supra).

13. In the light of the aforesaid discussion, this Court is of the view that the order of the Single Bench calls for no interference. The writ petitioner shall be paid pension at the higher rate corresponding to the contributions made by the employer i.e. the wages exceeding the statutory wage ceiling.

14. For the aforesaid purpose, the appellants shall within ten days from the date of this order, communicate to the writ petitioner the differential amount to be refunded to them together with the applicable interest by the writ petitioner.

15. The writ petitioner shall deposit the amount so communicated within ten days from the date of communication, whereupon the appellants EPFO shall sanction and disburse pension at the corresponding higher rate, together with the arrears, within a period of six weeks from the date of such deposit.

16. The appeal shall stand disposed of.

17. In view of disposal of the appeal itself, the connected application being CAN 1 of 2026 is also disposed of.

18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)

(Anuj Singh, J.)