



257

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

Date of decision: 24.09.2025

1. CWP-35154-2024 (O&M)

Om Parkash and others

... Petitioners

Vs.

Union of India and others

... Respondents

2. CWP-10161-2025 (O&M)

Umardin

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

3. CWP-10195-2025 (O&M)

Vijay Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



4. CWP-10223-2025 (O&M)

Maru Ram @ Madu Ram

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

5. CWP-10224-2025 (O&M)

Nirmal Devi Gehlawat @ Nirmal Devi

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

6. CWP-10236-2025 (O&M)

Mehar Singh Jakhar

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

7. CWP-10241-2025 (O&M)

Hawa Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



8. CWP-10247-2025 (O&M)

Dharamvir Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

9. CWP-20005-2025 (O&M)

Darshana Hooda

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

10. CWP-20549-2025 (O&M)

Rajender Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

11. CWP-5292-2025 (O&M)

Lekh Ram

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



12. CWP-5293-2025 (O&M)

Vinod Kumar @ Vinod Kumar Chawla

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

13. CWP-5294-2025 (O&M)

Balram

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

14. CWP-5295-2025 (O&M)

Kapoor Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

15. CWP-5296-2025 (O&M)

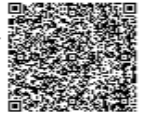
Satbir Singh

... Petitioners

Vs.

The Employees Provident Fund Organization and others

... Respondents



16. CWP-5297-2025 (O&M)

Sukhbir Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

17. CWP-5298-2025 (O&M)

Jaipal Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

18. CWP-5300-2025 (O&M)

Hari Krishan @ Hari Kishan

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

19. CWP-5302-2025 (O&M)

Sajjan Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



20. CWP-7229-2025 (O&M)

Satyapal Yadav

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

21. CWP-7252-2025 (O&M)

Ved Parkash @ Ved Parkash Rao

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

22. CWP-7274-2025 (O&M)

Narain Dutt Gaur

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

23. CWP-7276-2025 (O&M)

Rajender Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



24. CWP-7301-2025 (O&M)

Satbir Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

25. CWP-7304-2025 (O&M)

Narender Kumar @ Narender Kumar Kathuria

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

26. CWP-7325-2025 (O&M)

Jaipal Singh @ Jaipal Singh Hooda

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

27. CWP-7328-2025 (O&M)

Sukhbir Singh Punia

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents



28. CWP-7334-2025 (O&M)

Mohinder Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

29. CWP-7346-2025 (O&M)

Sitar Singh

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

30. CWP-7391-2025 (O&M)

Pushkar Dutt

... Petitioner

Vs.

The Employees Provident Fund Organization and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amardeep Hooda, Advocate
for the petitioner (in CWP-20005-2025).

Mr. Rajvir Singh Sihag, Advocate and
Mr. Nikhil Sharma, Advocate
for the petitioners (in remaining 28 cases).

Mr. Raman Kaplish, Advocate
for respondent No.1 (in CWP-35154-2024).



Mr. Rajesh Hooda, Advocate
for respondents No.2 & 3 (in CWP-35154-2024) and
for respondents No.1 & 2 (in remaining 28 cases).

Mr. Vikas Choudhary, Advocate
for respondent No.3 (in CWP-20005-2025).

HARPREET SINGH BRAR, J. (ORAL)

1. Vide this common order, all the aforementioned 30 writ petitions shall be disposed of, as they arise from a similar factual matrix. However, for the sake of brevity, the facts are culled out from CWP-35154-2024.
2. Instant writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing respondents No.2 & 3 to revise pension of the petitioners in terms of the judgment passed by the Hon'ble Supreme Court in Civil Appeal Nos.10013-10014 of 2016 titled as ***R.C. Gupta and others etc. etc. Vs. Regional Provident Fund Commissioner, Employees Provident Fund Organization and others etc.***, decided on 04.10.2016 (Annexure P-1) and subsequent directions dated 23.03.2017 (Annexure P-2) issued by respondent No.2 to all the Regional Provident Fund Commissioners including respondent No.3 and further to issue a writ in the nature of *certiorari* for setting aside the action of respondent No.3, in failing to revise pension of the petitioners, in terms of the aforesaid judgment and also for quashing of the order dated 21.08.2014 (Annexure P-12) and similar orders passed in the case of other petitioners.
3. Briefly, the facts of the case are that the petitioners are retired employees of respondent No.4-The Jhajjar Central Cooperative Bank Ltd.,



Jhajjar and they retired prior to 01.09.2014. During their service, the petitioners along with their employer-respondent No.4 contributed to the Provident Fund @12% of their actual salary, which was consistently above the statutory wage ceiling of Rs.5,000/- and later Rs.6,500/- per month under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The Employees' Pension Scheme (EPS), 1995 (for short 'EPS') was introduced w.e.f. 16.11.1995. As per the scheme, 8.33% of the employer's contribution was diverted to the Pension Fund. The original paragraph No.11(3) of the EPS, limited the maximum pensionable salary to Rs.6,500/-. However, a proviso added w.e.f. 16.03.1996, allowed the members to contribute on higher wages, if the employer and employee exercised a joint option. The petitioners, although contributing on higher actual wages, did not formally exercise a joint option under the said proviso to paragraph No.11(3) during their service. Multiple High Courts and the Hon'ble Supreme Court, especially through **R.C. Gupta's** case (*supra*), held that there is no cut-off date for exercise of such option and deposit/contribution on actual salary entitles members to higher pension, subject only to return of amounts withdrawn, if any. Following **R.C. Gupta's** case (*supra*), respondent-EPFO issued a circular dated 23.03.2017 (Annexure P-2) permitting implementation of higher pension based on contributions exceeding the ceiling. Thereafter, the petitioners and their employer submitted applications and supporting documents seeking enhanced pension to respondent No.3, however, the same were rejected vide order dated 21.08.2024 (Annexure P-12) merely on the ground that the petitioners failed to



exercise the joint option before retirement.

4. Learned counsel for the petitioner(s) submit that case of the petitioners is squarely covered by the judgment passed by the Coordinate Bench of this Court in **CWP-5378-2024** titled as ***Inderjit Singh Kaknian and others Vs. Union of India and others***, decided on 12.09.2024, in which ratio laid down by the Hon'ble Supreme Court in ***R.C. Gupta's*** case (*supra*) (Annexure P-1) has been discussed in detail and this Court has negated the specific argument raised by the petitioner regarding exercising of option prior to 01.09.2014. Thereafter, in **CWP-6500 of 2020** titled as ***Rohtash Singh and others Vs. Union of India and others***, decided on 03.10.2024, learned counsel for the respondent has taken identical stand that the judgment passed in ***R.C. Gupta's*** case (*supra*) would not be applicable to the petitioners therein, as the Department had not accepted their option in terms of paragraph No.11(3) of EPS, because during their service, they had not exercised the option and had admittedly retired in the year 2018. As such, this Court allowed the aforesaid writ petition on the ground that the respondent had accepted the option of most of the employees and rejected the cases of few retirees. Further, the department indulged into cherry picking and at one point of time, they had issued instructions in the year 2017 (Annexure P-2), in which they sought options from the retirees in terms of the judgment passed in ***R.C. Gupta's*** case (*supra*). For the reasons best known to the respondents, they had withdrawn the instructions issued in the year 2017.

5. Learned counsel for respondent-EPFO submits that admittedly, the



petitioners retired prior to 01.09.2014 and they had not exercised option under para No.11 of the Pre-Amendment Scheme. The employees, who had retired in these circumstances, are not eligible for the benefits under this scheme. A three-Judge Bench of the Hon'ble Supreme Court in ***The Employees Provident Fund Organization and another etc. Vs. Sunil Kumar B. and others etc., 2022 INSC 1171***, had categorically held in clause(v) of para No.44 that the employees, who had retired prior to 01.09.2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme, have already exited from the membership thereof. They would not be entitled to the benefit of this judgment. Some of the employees, who had retired prior to 01.09.2014, had filed Misc. Application No.2162 of 2022 in WP (C) No.874 of 2018 titled as ***Association of Former Executives of Hindustan Aeronautics Ltd. (HALE) and others etc. Vs. Employees Provident Fund Organization and others etc.,*** with regard to clarification of para No.44(v). The said application has been registered as IA No.194149 of 2022 in M.A No.2162 of 2022 in WP(C) No.874 of 2018 and the Hon'ble Supreme Court was pleased to dismiss the same on 07.08.2023 and further this issue came up to be considered before the Hon'ble Supreme Court in Writ Petition (Civil) No.97 of 2025 titled as ***Powergrid Retired Employees' Association (PREA) Vs. Union of India and others,*** which stands decided on 19.03.2025, wherein it was again reiterated that the employees, who retired prior to 01.09.2014 without exercising their option under paragraph 11(3) of the pre-amendment scheme, are not entitled to the benefits of pension scheme.



6. Having heard learned counsel for the parties and after perusing the record of the case file with their able assistance, it transpires that the petitioners retired prior to 01.09.2014 and during their service, they did not exercise option under paragraph 11(3) of the pre-amendment scheme.

7. Further, EPS was introduced for the first time on 16.11.1995, to which para 11(3) was included w.e.f 16.03.1996 and proviso to para 11(3) was deleted w.e.f 01.09.2014. The unamended para 11(3) of the Employee Pension Scheme 1995 is reproduced below: -

“Para 11. Determination of Pensionable Salary -

(1) Pensionable salary shall be average monthly pay drawn in any manner including on piece-rate basis during the contributory period of service in the span of 12 months preceding the date of exit from the membership of the Employees' Pension Fund:

Provided that if a member was not in receipt of full pay during the period of twelve months preceding the day he ceased to be the member of Pension Fund, the average of previous 12 months full pay drawn by him during the period for which contribution to the pension fund was recovered, shall be taken into account as pensionable salary for calculating pension.

(2) If during the said span of 12 months there are non-contributory periods of service including cases where the member has drawn salary for a part of the month, the total wages during the 12 months span shall be divided by the actual number of days for which salary has been drawn and the amount so derived shall be multiplied by 30 to work out the average monthly pay.

(3) The maximum pensionable salary shall be limited to Rupees



six thousand and five hundred /Rs.6500/- per month.

**** Provided that if at the option of the employer and employee, contribution paid on salary exceeding A [Rupees six thousand and five hundred/Rs.6500/-1 per month from the date of commencement of this Scheme or from the date salary exceeds Rupees six thousand and five hundred /Rs.6500/- whichever is later, and 8.33 per cent share of the employers thereof is remitted into the Pension Fund, pensionable salary shall be based on such higher salary."***

**** Deleted w.e.f 01.09.2014"***

8. The proviso to para 11(3) was deleted w.e.f 01.09.2014.
9. A three-Judge Bench of the Hon'ble Supreme Court in ***Sunil Kumar***'s case (*supra*), while speaking through Justice Aniruddha Bose, made the following observations: -

"44. We accordingly hold and direct:-

xxx

xxx

xxx

(v) The employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgement.

(emphasis added)

10. Recently, a two-Judge Bench of the Hon'ble Supreme Court in ***Powergrid Retired Employees' Association***'s case (*supra*), while following the principle laid down in ***Sunil Kumar***'s case (*supra*), dismissed a similar petition, wherein the petitioner had retired prior to 01.09.2014 without exercising their option.



11. The core issue in the present matter is “*whether the employees, who retired prior to 01.09.2014 without having formally exercised a joint option under the proviso to paragraph 11(3) of the pre-amended scheme, 1995, are entitled to higher pension?*” is no longer *res integra*. It has been crystallized by the Hon'ble Supreme Court that the employees, who retired before 2014 amendment, which came into effect from 01.09.2014, without exercising the stipulated option, are deemed to have exited the scheme and are not entitled to its benefits leaving no room for ambiguity.

12. In view of the above discussions, all the aforementioned 30 (thirty) writ petitions are hereby dismissed.

13. All the pending miscellaneous application(s), if any, shall stand disposed of.

14. Photocopy of this order be placed on the files of connected cases.

24.09.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No