IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

WRIT PETITION No.25295 of 2023

% Dated 24.06.2026

#

Siddineni Venkateswara Rao
s/o Gopala Krishna, 65 years,
R/o D.No.19/136-B, Bethavolu,
Gudivada, Krishna District & 11 others

………. Petitioners

Versus

Union of India,
Rep. by its Secretary,
Ministry of Petroleum and Natural Gas,
Shastri Bhavan,
New Delhi – 110 001 & 6 others …. Respondents

JUDGMENT PRONOUNCED ON: 24.06.2026

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

Whether Reporters of Local newspapers
may be allowed to see the Judgments?

Whether the copies of judgment may be marked to Law Reporters/Journals

Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

+ HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

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Counsel for the Petitioners	:	Mr. Prabhunath Vasireddy
Counsel for Respondent No.2 to 5	:	Mr. T. Balaji (SC for EPFO)
Counsel for Respondent No.6	:	Mr. Bodduluri Srinivasa Rao

<GIST:
> HEAD NOTE:
? Cases referred

1. AIR 1962 SC 1044
2. AIR 1971 SC 1409
3. (2018) 14 SCC 809
4. W.P.No.632 of 2026 dated 26.03.2026
5. W.P.No.4826 of 2026 dated 18.04.2026
6. (2023) 12 SCC 701
7. WP (MD)Nos.29573 to 29578 of 2024 dated 02.09.2025
8. 2025 SCC online Cal 8995
9. W.P.No.4826 of 2026 dated 18.04.2026
10. 2020 (5) ALT 77

Neutral Citation

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APHC010489832023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3329]**
(Special Original Jurisdiction)

WEDNESDAY,THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 25295/2023

Between:

1. SIDDINENI VENKATESWARA RAO,, S/O. GOPALA KRISHNA, AGED ABOUT 65 YEARS, R/O. D. NO. 19/136-B, BETHAVOLU, GUDIWADA, KRISHNA DISTRICT.
2. VAKA VENKATESWARA RAO,, S/O. AMMAIAH, AGED ABOUT 65 YEARS, R/O. SELAPADU VILLAGE, CHEBROLU MANDAL, GUNTUR DISTRICT.'
3. V. JAYADUTT,, S/O. S.V. SEETHARAMAIAH, AGED ABOUT 64 YEARS, R/O. SEKURU VILLAGE, CHEBROLU MANDAL, GUNTUR DISTRICT.
4. VUYYURU SARABANDHI,, S/O. V. PAPA RAO, AGED ABOUT 64 YEARS, R/O. H. NO. 10-1-30/8, VEJENDLAVARI STREET, CENCHUPETA, TENALI, GUNTUR DISTRICT.
5. RAVULA SAMBASIVA RAO,, S/O. SESHAIAH, AGED ABOUT 66 YEARS, R/O. H.NO. 9-224/1, VADLAMUDI X ROADS, CHEBROLU MANDAL, GUNTUR DISTRICT
6. NARRA SIVA PRASAD,, S/O. HANUMANTHA RAO, AGED ABOUT 64 YEARS, R/O. D.NO. 8-231/3, ANGALAKUDURU, TENALI MANDAL, GUNTUR DISTRICT

7. B. PRATAP KUMAR,, S/O. VENKATA SUBBAIAH, AGED ABOUT 68 YEARS, R/O. ANGALAKUDURU, TENALI MANDAL, GUNTUR DISTRICT
8. V. SRIKRISHNA,, S/O. SUBBA RAO, AGED ABOUT 62 YEARS, R/O. UMA TOWERS, GANGANAMMAPET, TENALI, GUNTUR DISTRICT
9. V. SUDHAKAR,, S/O. V. SRIHARI, AGED ABOUT 61 YEARS, R/O.VADLAMUDI VILLAGE, CHEBROLU MANDAL, GUNTUR DISTRICT
10. CH. SRINIVASA RAO,, S/O. VEERA RAGHAVAIAH, AGED ABOUT 65 YEARS, R/O. FLAT NO. 212, LAXMI EXOTICA APARTMENTS, MPL ROAD, TENALI, GUNTUR DISTRICT.
11. G. RAGHU KUMAR,, S/O. RAMA NAIDU, AGED ABOUT 66 YEARS, R/O. UMA TOWERS, GANGANAMMAPET, TENALI, GUNTUR DISTRICT.
12. P. SREE RAMA MURTHY,, S/O. LATE PALETI ANAJAIAH, AGED ABOUT 65 YEARS, R/O. D.NO. 13-16-44/1, PINAPADU, TENALI, GUNTUR DISTRICT.

...PETITIONER(S)

AND

1. THE UNION OF INDIA, REP. BY ITS SECRETARY, MINISTRY OF LABOUR AND DEPARTMENT OF EMPLOYMENT, NEW DELHI-110001.
2. THE COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION, BHAVISHYA NIDHI BHAWAN, 14 BHIKANI CAMA PLACE, NEW DELHI-110066.

3. ADDITIONAL PROVIDENT FUND COMMISSIONER PENSION EMPLOYEES PROVIDENT FUND ORGANISATION, BHAVISHYA NIDHI BHAWAN, 14 BHIKANI CAMA PLACE, NEW DELHI-1100066.

4. REGIONAL PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION, 3RD LANE, KRISHNA NAGAR, GUNTUR, ANDHRA PRADESH.

5. ASSISTANT PROVIDENT FUND COMMISSIONER PENSION EMPLOYEES PROVIDENT FUND ORGANISATION, 3RD LANE, KRISHNA NAGAR, GUNTUR, ANDHRA PRADESH.

6. THE MANAGING DIRECTOR, SANGAM DAIRY, VADLAMUDI, CHEBROLU MANDAL, GUNTUR DISTRICT.

7. CENTRAL BOARD OF TRUSTEES OF, THE EMPLOYEES PROVIDENT FUND ORGANISATION (EPFO) REP.BY ITS CHAIRMAN, OFFICE AT PLATE A, GROUND FLOOR, OFFICE BLOCK-II, EAST KIDWAI NAGAR, NEW DELHI - 110023. RESPONDENT NO.7 IMPLEADED AS PER COURT ORDER DATED 04.05.2026 VIDE IA.NO.3 OF 2026 IN WP.NO.25295 OF 2023

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased topleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent No.6 in approving the applications of the petitioners for joint option validation, for grant of higher pension by the Employees Provident Fund Organization as per its guidelines, even after laps of hundred days after reaching the petitioners applications to the 6th respondent and the inaction of the respondents 4 and 5 in not taking any action against the respondent No. 6 for not approving the Joint option applications of the petitioners is arbitrary, illegal, unjust, unreasonable and in violation of Articles 14 and 21 of the Constitution of India, consequently direct the 6' respondent to approve the Joint option Forms of the petitioners for higher pension and forward the same to the respondents 4 and 5 forthwith

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to direct the respondent No. 6 to approve the joint option forms submitted by the petitioners and forward the same to the respondent No. 4 forthwith and pass such other order or orders as deemed fit and proper in the circumstances of the case

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to vacate the interim order dated 29.9.2023 in W.P.No. 25295 OF 2023 and dismiss the Writ Petition with exemplary costs, and pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to direct the respondents 4 to 6 to complete the process of fixing the higher pension by considering the record available with the respondents 4 to 6 and pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Please to vacate the interim order dated 29.01.2025 in LA No. 01 of 2025 in W.P. No. 25295 of 2023 and dismiss the writ petition with exemplary costs, and pass

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to direct the respondents 2 to 5 to fix the monthly pension of the petitioners by taking into consideration of the factors namely pensionable salary which shall be the average monthly paid drawn, during contributory period of service in the span of 60 months preceding the date of exist of the petitioners from the membership of the pension fund and pass

<u>IA NO: 4 OF 2025</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be please to receive the Additional documents i.,e copies of the Form-3A (Revised) month wise EPF Contribution wages particulars of the writ petitioners as additional evidence in the above W.P No. 25295 of 2023 and pass

<u>IA NO: 5 OF 2025</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to condone the delay of 113 days in resubmitting the I.A.SR. No. 45479/ 2025 and to pass

<u>IA NO: 6 OF 2025</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to Vacate the Interim Order granted on 29. 01.2025 in I.A No. 1 of 2025 in Writ Petition No. 25295 of 2023 and dismiss the above Writ Petition with costs and pass

<u>IA NO: 1 OF 2026</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to implead the Managing Trustee, The National Pension System (NPS) Trust as respondent No.7 in the writ petition No.25295 of 2023 and pass

<u>IA NO: 2 OF 2026</u>

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to implead the Board of Trustees National Pension System (NPS) Trust office at Tower-b, B-302, 3rdfloor, World

Trade Centre, Nouroje Nagar, New Delhi, represented by its Chairman as respondent No. 7 in the writ petition No. 25295 of 2023 and pass

IA NO: 3 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to implead the Central Board of Trustees of the Employees Provident Fund Organisation (EPFO) represented by its Chairman, office at Plate A, Ground Floor, Office Block - II, East Kidwai Nagar, New Delhi, as respondent No. 7 in the writ petition No. 25295 of 2023 and pass

Counsel for the Petitioner(S):

1. PRABHU NATH VASIREDDY

Counsel for the Respondent(S):

1. T BALAJI(SC FOR EPFO)
2. VINOD KUMAR PEMMASANI

The Court made the following:

HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.25295 OF 2023

ORDER:-

1. The present Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the inaction of Respondent No. 6 in approving the petitioners' applications for validation of the Joint Option for higher pension under the Employees' Provident Fund Organisation (EPFO) guidelines. Despite more than 100 days having passed since the applications were received, Respondent No. 6 has failed to take any action. The petitioners also challenge the inaction of Respondent Nos. 4 and 5 in not taking steps against Respondent No. 6 for the delay. Such inaction is arbitrary, illegal, unjust, unreasonable, and violative of Articles 14 and 21 of the Constitution of India. The petitioners therefore seek a direction to Respondent No. 6 to approve their Joint Option Forms for higher pension and forward the same to Respondent Nos. 4 and 5 without further delay.

2. The petitioners are retired employees of Respondent No. 6 and are members and beneficiaries of the Employees' Pension Scheme, 1995. Respondent No. 6 is an unexempted establishment under the Employees'

Provident Funds and Miscellaneous Provisions Act, 1952. By Notification No. G.S.R. 609(E) dated 22.08.2014, effective from 01.09.2014, the Government of India amended certain provisions of the Employees' Pension Scheme. Under the amendment, employees and employers were permitted to contribute on salary exceeding Rs.15,000 per month, and 8.33% of such contribution was required to be remitted to the pension fund. The notification prescribed a time limit for exercising the option. The petitioners state that contributions under the Act were made on their actual salary through Respondent No. 6, but they were not aware of the amendment and the option available under it.

3. The petitioners joined the service of Respondent No. 6 in various capacities and continued in uninterrupted service until their retirement on attaining the age of superannuation. During their service, they received pay revisions, transfers, and promotions from time to time. Under Section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Employees' Pension Scheme, 1995 came into force with effect from 16.11.1995. The petitioners fulfilled all the eligibility requirements under the Scheme and are entitled to pension benefits accordingly. Eligible employees were required to submit a Joint Option Form signed by both the employee and employer. Since EPFO had not prescribed or hosted any

specific format on its website, the petitioners submitted their Joint Option Forms online for claiming higher pension on actual salary instead of the statutory wage ceiling. The applications were duly acknowledged by Respondent No. 4 and were thereafter forwarded to Respondent No. 6 for approval. However, the applications remain pending with Respondent No. 6.

4. The petitioners had approached Respondent Nos. 4 and 5 through the grievance mechanism regarding the delay in approval of their applications, especially as the last date for processing Joint Option applications was 30.09.2023. Respondent Nos. 4 and 5 advised the petitioners to approach Respondent No.6. The petitioners subsequently addressed representations to Respondent No. 6 requesting approval of their Joint Option Forms for higher pension. However, Respondent No. 6 failed to take any action. Aggrieved by the inaction of the respondents, the petitioners have filed the present Writ Petition.

5. The petitioners state that they had duly exercised their option under the Employees' Pension Scheme and became members of the Employees' Provident Fund Organisation in accordance with the prescribed procedure. Throughout their service, provident fund contributions were regularly

deducted from their salaries, and both the employees' and employers' contributions were duly remitted to the EPFO without any default. The petitioners further rely on the judgment dated 04.11.2022 of the Supreme Court in Special Leave Petition (Civil) Nos. 8658–8659 of 2019, *Employees Provident Fund Organisation & Others v. Sunil Kumar B. & Others*, wherein eligible employees were permitted to exercise a joint option for pension on actual wages exceeding the statutory ceiling limit of Rs.15,000 per month.

6. Pursuant to the directions issued by the Supreme Court, the respondents provided an online facility for submission of applications for exercising the joint option. The petitioners accordingly submitted their applications along with all required documents and particulars sought by the respondents. They also furnished details showing that provident fund contributions had been made on wages exceeding the prescribed ceiling. In view of the same, the petitioners had a legitimate expectation that their pension would be calculated on the basis of the actual wages on which contributions were made.

7. Thereafter, Respondent Nos. 4 and 5 forwarded the petitioners' applications to the respective employers and called for certain documents and records in accordance with the guidelines issued by the Government

of India from time to time. The documents sought for one included proof of joint option under Paragraph 26(6) of the Employees' Provident Fund Scheme, 1952, proof of joint option under the proviso to Paragraph 11(3) of the Employees' Pension Scheme, 1995, records showing remittance of provident fund and pension contributions on wages exceeding the statutory ceiling, details of any refusal by the authorities to accept such remittances, and statutory documents such as Forms 3A and 6A together with the relevant challans.

8. In response, Respondent No. 6 informed Respondent Nos. 4 and 5 that all relevant documents, returns, and information had already been submitted from time to time and were available in the records of the EPFO. It was specifically stated that Forms 3A and 6A had been regularly furnished and, therefore, there was no necessity to submit the same documents again. Thereafter, Respondent No. 6 addressed a further communication reiterating its earlier stand that all relevant records had already been submitted to the authorities. However, no additional documents, as specifically sought by Respondent Nos. 4 and 5 in their earlier communications, were enclosed along with the said clarification. Subsequently, Respondent Nos. 4 and 5 rejected the petitioners' applications for pension on higher wages. The rejection was on the ground

that the documents and records called for from the employer/establishment had not been furnished. The petitioners place reliance on Paragraph 20 of the Employees' Pension Scheme, 1995, which casts a statutory obligation on the employer to submit all necessary particulars relating to contributions, including annual returns in Form 6A. It is contended that the responsibility for maintaining and furnishing such records primarily rests with the employer and, upon submission, the respondent authorities are required to maintain the same in their records. After the rejection of the applications, Respondent No. 6 once again addressed a communication to Respondent Nos. 4 and 5, reiterating that all relevant records had already been submitted and were available with the authorities. Respondent No. 6 further requested reconsideration of the petitioners' applications for grant of higher pension in light of the records already available with the EPFO. The petitioners further contend that Form 3A, along with the Joint Option declaration and other supporting documents, had already been submitted to the respondents. It is their case that, as employees, they had no control over the statutory compliances required to be undertaken by the employer or over the maintenance of records by the EPFO. Despite having rendered long years of service and having contributed to the provident fund and pension fund on actual wages exceeding the statutory ceiling, they have been denied the corresponding pensionary benefits on the ground of alleged non-submission of records. According to the petitioners, such denial is arbitrary and unjust, as it penalises employees for lapses attributable either to the employer or to the respondent authorities. Aggrieved by the same, the petitioners have approached this Court.

9. Respondent Nos. 2 to 5 filed a counter affidavit opposing the writ petition and contended that the petitioners are not entitled to the relief sought. It is stated that pursuant to the judgment of the Hon'ble Supreme Court permitting eligible employees to exercise Joint Option for pension on higher wages, the petitioners had submitted online applications seeking validation of their Joint Option. Upon scrutiny of the applications, it was found that certain mandatory documents and records required under the Employees' Provident Fund Scheme, 1952, the Employees' Pension Scheme, 1995, and the relevant EPFO guidelines were not complied with. Accordingly, several communications and reminders were addressed to Respondent No. 6 calling upon it to furnish the requisite records, including proof of Joint Option under Paragraph 26(6) of the EPF Scheme, proof of Joint Option under Paragraph 11(3) of the Employees' Pension Scheme, proof of remittance of provident fund and pension contributions on wages

exceeding the statutory ceiling, Forms 3A and 6A, challans, and other supporting documents.

10. The respondents contend that despite repeated opportunities, Respondent No. 6 failed to furnish the necessary documents in accordance with the requirements prescribed by the EPFO. It is further stated that mere submission of an online application does not automatically entitle to pension on higher wages to any employee and that every applicant is required to establish compliance with the conditions laid down by the Hon'ble Supreme Court as well as the circulars issued by the EPFO. According to the respondents, production of a valid Joint Option and proof of remittance of contributions on actual wages, which are above to the statutory ceiling are mandatory requirements for processing such claims. Since the requisite records were not furnished, the respondents were unable to verify whether a valid Joint Option had been exercised and whether contributions on higher wages had in fact been remitted during the relevant period. In the absence of such verification, the petitioners' applications could not be processed further. The respondents therefore maintain that their action was strictly in accordance with law, the judgment of the Hon'ble Supreme Court, and the applicable EPFO guidelines. They

deny that their action is arbitrary or violative of Articles 14 and 21 of the Constitution of India and seek dismissal of the writ petition.

11. Respondent No. 6 filed a separate counter affidavit contending that it had at all times cooperated with the authorities in processing the petitioners' applications for higher pension and that there was no lapse on its part. It is stated that all relevant statutory records, returns, contribution details, and other information relating to the petitioners were periodically submitted to the Employees' Provident Fund Organisation in accordance with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Regulations/Rules and schemes framed thereunder. According to Respondent No. 6, Forms 3A and 6A and other statutory returns had been regularly furnished to the EPFO and therefore formed part of the records maintained by the EPFO.

12. It is further stated that upon receipt of communications from Respondent Nos. 4 and 5 seeking certain records in connection with the petitioners' applications, Respondent No. 6 informed the authorities that the required documents had already been submitted from time to time and were merely available with the records of the EPFO. Respondent No. 6 asserts that certain historical records pertaining to earlier periods,

particularly prior to digitisation, were not readily available with it, whereas the same were available with the EPFO, which is the statutory custodian of such records. It is also contended that Respondent No. 6 repeatedly requested Respondent Nos. 4 and 5 to verify the records available with them and to provide copies of Forms 3A and 6A for the relevant period or adopt an alternative method for verification of the petitioners' claims. However, no effective steps were taken in that regard, except demanding the 6th respondent for submitting the documents.

13. Respondent No. 6 further states that it has never opposed the petitioners' claims for higher pension and, on the contrary, has consistently supported their applications. Even after rejection of the applications, Respondent No. 6 addressed further communications to Respondent Nos. 4 and 5 reiterating that the relevant records had already been submitted and requesting reconsideration of the petitioners' claims. According to Respondent No. 6, the petitioners cannot be denied pensionary benefits merely on account of non-availability of certain historical records, particularly when the contributions had been duly remitted and the records had already been furnished to the EPFO. It is therefore contended that the grievance of the petitioners arises primarily due to non-verification of

available records by the EPFO and not because of any default on the part of Respondent No. 6.

14. During hearing, Sri Prabhunath Vasireddy, learned counsel for the petitioners, submitted that Respondent Nos. 4 and 5 failed to get it comply the statutory obligation to maintain and submit Form 6A and other relevant records rests squarely upon the employer. The petitioners, being employees, cannot be made to suffer for the non-availability or non-production of such records. He contended that even assuming that certain documents were not furnished by the employer, Respondent Nos. 4 and 5 were bound to examine the petitioners’ claims on the basis of other reliable material available on record, including Form 3A and the EPF account statements. According to him, documents such as Form 6A and challans are procedural in nature and contain information that is otherwise reflected in Form 3A and EPF records. Therefore, non-production of such documents which are very much available with Respondent Nos.4 & 5 could not be a valid ground for denying substantive benefits.

15. Learned counsel further submitted that the communications issued by Respondent No. 6 clearly indicate that all relevant records, including details of contributions made by both the employee and employer, had

already been furnished to the EPFO from time to time. It was argued that the petitioners had submitted the Joint Option Forms duly certified by the employer, along with EPF account statements and other supporting documents, all of which ought to have been considered by the authorities. It was also pointed out that the petitioners had undertaken to deposit any differential contribution, together with applicable interest, if so determined by the respondents.

16. It was further contended that denial of pension on higher wages, despite the petitioners satisfying all the eligibility requirements, merely because of procedural lapses attributable to the employer, results in grave injustice. Such an approach defeats both the legitimate expectation and the accrued right of the petitioners to receive higher pensionary benefits. Learned counsel therefore submitted that the claim ought to have been considered on the basis of the material already available on record and that the petitioners are entitled to the benefit of higher pension.

17. In support of his contentions, learned counsel for the petitioners placed reliance upon the judgments of the Hon’ble Supreme Court in **Calcutta Gas Company (Proprietary) Limited vs. State of West**

Bengal[1]; Deokinandan Prasad vs. The State of Bihar[2] R.C. Gupta vs. Regional Provident Fund Commissioner, EPFO[3]; and judgments of High Court of Bombay in **Kiran Rajaram Jadhav vs. The Employees Provident Fund Organization[4]; Durga Srinivas Kallakuri vs. The Employees Provident Fund Organization[5].** On the strength of the principles laid down in the above judgments, learned counsel for the petitioner would contend that, pension is not a bounty payable on the sweet will and pleasure of the employer and that, right to pension is a valuable right vested on the employee/government servant.

18. Per contra, Sri T. Balaji, learned counsel appearing for Respondent Nos. 2 to 5, submitted that upon scrutiny of the petitioners' online applications, several communications and reminders were issued to Respondent No. 6 calling upon it to furnish the requisite documents. He submitted that no Joint Option from the previous establishment was received and, therefore, further reminders were issued in accordance with the applicable EPFO guidelines. According to him, production of a valid Joint Option, proof of remittance of contributions on wages exceeding the

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[1] AIR 1962 SC 1044
[2] AIR 1971 SC 1409
[3] (2018) 14 SCC 809
[4] WP No.632 of 2026 dated 26.03.2026
5 W.P.No.4826 of 2026 dated 18.04.2026

statutory ceiling, and supporting records are mandatory requirements which must be fulfilled before a claim for higher pension can be considered.

19. Learned counsel further submitted that adequate opportunities were afforded both to the petitioners and the employer to furnish the required records. However, the employer failed to produce Forms 3A and 6A at the relevant period. In the absence of such records, Respondent Nos. 2 to 5 were unable to determine the petitioners' eligibility. It was therefore contended that the petitioners had failed to satisfy the conditions prescribed by the Hon'ble Supreme Court in its judgment dated 04.11.2022 and the relevant EPFO circulars. On that basis, dismissal of the writ petitions was sought.

20. In support of his contentions, learned counsel for EPFO/Respondent Nos.4 & 5 placed reliance upon the judgment of the Hon'ble Supreme Court in **The Employees Provident Fund Organization vs. B. Sunil Kumar[6],** judgment of High Court of Madras in **D. Chandirasegar & others vs. Union of India[7]** and judgment of High Court of Calcutta in

6 (2023) 12 SCC 701
[7] WP (MD) Nos.29573 to 29578 of 2024 dated 02.09.2025

Anuradha Roy & others vs. Union of India[8]**.** [9]**.** On the strength of the principles laid down in the above judgments, learned counsel for Respondent Nos.4 & 5 would contend 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, thereby, they would not be entitled to the benefit.

21. On the other hand, Sri Bodduluri Srinivasa Rao, learned counsel appearing for Respondent No. 6, submitted that Respondent Nos. 4 and 5 had insisted upon forwarding the higher pension applications despite being aware that certain records pertaining to the relevant period were not available with Respondent No. 6 and were instead available with the EPFO authorities. It was submitted that the EPFO had digitised its records, whereas Respondent No. 6 had limited access to historical data. Learned counsel further submitted that Respondent No. 6 had repeatedly requested Respondent No. 4 to provide copies of Forms 3A and 6A or to suggest an alternative mechanism for resolving the issue. However, no assistance was forthcoming. It was also pointed out that even when the petitioners submitted representations dated 31.01.2025, the EPFO did not furnish the

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[8] 2025 SCC Online Cal 8995
9 W.P.No.4826 of 2026 dated 18.04.2026

requested records and instead sought further salary particulars from Respondent No. 6 without looking their digitized records for the relevant period.

22. This Court has carefully considered the rival submissions and the material placed on record. The principal issue that arises for consideration is whether an otherwise eligible employee can be denied the benefit of higher pension on higher wages solely because the employer fails to produce every document sought by the authority, despite the existence of other material indicating eligibility in all respects. This issue assumes greater significance in cases relating to periods prior to 2010, when electronic record maintenance was not fully implemented and many establishments maintained its records manually. In such circumstances, the authorities cannot insist upon a single document as the exclusive mode of proof. On the other hand, every record, as required is also available with Respondent Nos.4 & 5.

23. The submissions advanced on behalf of the petitioners are merit submissions and acceptable. It is well admitted fact that employees do not have custody or control over statutory returns required to be maintained and submitted by the employer. Documents such as Form 6A, challans,

and related records form part of the employer’s statutory obligations. Being an employee, he neither prepares nor preserves such documents. Therefore, any deficiency in the production or maintenance of such records cannot be attributed to the employee. To hold otherwise would impose an unreasonable burden upon a person who has neither access to nor control over such documents.

24. In the present case, the petitioners have relied upon Form 3A, EPF account statements, Joint Option Forms duly certified by the employer, and undertakings to deposit any differential contribution with interest. These documents provide substantial evidence regarding the petitioners’ employment, wages, and contributions. Form 3A reflects annual contribution details, while EPF account statements disclose the contribution history maintained by the authorities. If these records indicate that contributions were made on higher wages, they would constitute relevant evidence for determining eligibility. In such circumstances, the absence of Form 6A or certain challans cannot, by itself, be treated as fatal to the claim. Moreover, it is not the case of Respondent Nos.4 & 5 that Respondent No.6 had committed any default in payment of EPF contributions in respect of its employees, more particularly regarding the petitioners. Whereas, Respondent No.6 was never penalized by

Respondent Nos.4 & 5 on the ground of default of payment of EPF contributions at any point of time. Thus in the absence of any default, Respondent Nos.4 & 5 should proceed further without insisting a particular document and can go ahead as per the scheme and entitlement to meet the ends of justice.

25. At the same time, the stand of the respondents cannot be entirely disregarded. Pension on higher wages can be granted only upon satisfaction of the conditions prescribed by the Hon'ble Supreme Court and the EPFO guidelines. The authorities must verify that a valid Joint Option was exercised and that contributions on wages exceeding the statutory ceiling were actually remitted. These requirements are fundamental and cannot be diluted. However, the process of verification must remain practical and reasonable, particularly where old records are involved and complete documentation may no longer be readily available.

26. It must also be remembered that the Employees' Pension Scheme is a beneficial social welfare legislation intended to secure pensionary benefits to employees who have contributed during their service. The Scheme is not intended to create procedural barriers that defeat legitimate claims. A rigid and overly technical approach may result in denial of

benefits to persons who have otherwise eligible and fulfilled their obligations under the Scheme. Such an interpretation would be contrary to its underlying purpose and object of the scheme.

27. Pension is an amount payable to a retired employee for the past service rendered by him to the State. Such pension is the livelihood to a person who is in twilight or at the dawn of life. If, for any reason, the pension is not paid, it is hardly difficult to survive for the rest of the life, incurring various expenditures at the old age whose health becomes deteriorated on account of advanced age and thereby it is imperative to incur substantial amount for their medical and maintenance.

28. Payment of salary or pension to the employees is only to eke out their livelihood during their service by way of salary and after retirement by way of pension. If, whole or part of the salary or pension is deferred, it amounts to denial of right to life guaranteed under Article 21 of the Constitution of India. Initially, right to livelihood was not recognized as fundamental right under Article 21 of the Constitution of India. But, later it was recognized as Fundamental Right by judicial interpretation to Article 21 of the Constitution of India.

29. In **Smt. Dinavahi Lakshmi Kameswari v. The State of Andhra Pradesh**[10], Division Bench of this Court held that non-payment of pension, if not authorized by law, is violation of Article 300-A of the Constitution of India.

30. In **Kiran Rajaram Jadhav vs. The Employees Provident Fund Organization** (referred supra), High Court of Bombay held as follows:

> " 12……….. The rejection is founded mainly on non-production of Form 6A and monthly challans. Therefore, the wp632-26-J.doc real question is not whether the petitioner served long enough or whether he made the joint option application. The real question is whether his claim can be defeated only because some employer- side records were not produced in the form demanded by respondent No.1.
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> 13. Form 6A is a statutory record which is required to be maintained and submitted by the employer. It remains within the control and custody of the establishment. An employee has neither access to such record in ordinary course nor any authority to maintain or preserve it. Therefore, expecting the petitioner to produce such document is not in consonance with the scheme of the statute. It must be seen that the petitioner has placed on record that he was continuously in service, that deductions towards provident fund were made from his wages, and that his membership with the EPF Organisation was active throughout. He has also exercised the joint option within time and submitted the available documents. Once these foundational facts are shown, the authority was required to consider the claim in a reasonable and practical manner. The law relating to pension is not meant to create hurdles. It is

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intended to secure a post-retirement benefit. If the interpretation of the scheme results in denial to a genuine employee only because of missing employer records, then such interpretation cannot be accepted.

17. The stand taken by respondent No.2 further supports the petitioner. The employer has not disputed the petitioner's service. It has not denied deduction of provident fund. On the contrary, it has stated that wage details and Form 3A were forwarded. This shows that the basic facts are accepted. The difficulty arises only in relation to certain records not being available for later period. That issue is between the employer and the authority. The employee cannot be placed in disadvantage because of that. When the employer itself accepts contribution details in substance, the authority ought to proceed on that basis and verify further if needed.

18. This Court also finds that the reasoning in the impugned order proceeds on an incomplete understanding. It states that without Form 6A and challans, verification is not possible. Verification can be done by examining different kinds of records. It is not confined to one form alone. EPF records, Form 3A, employer submissions, and account statements are all relevant. If one document is missing, it does not make the entire claim unverifiable. The authority was expected to examine whether on the basis of total material the contribution could be reasonably wp632-26-J.doc verified. This exercise is not seen in the impugned order.

19. Similarly, the issue regarding non-availability of challans cannot be treated as decisive. In a long service career, it is not unusual that some records are not readily traceable. That by itself cannot result in denial of pension. If there was any doubt, the authority could have called for clarification or directed the employer to reconcile records. It could have also taken steps to verify from its own system. The rejection shows that the authority has not exercised its power in a fair manner.

> 20. The principles emerging from the decisions relied upon by the petitioner support this view. They recognise that technical deficiencies on the part of the employer or record-keeping authority should not defeat a legitimate claim of an employee. Pension schemes are welfare measures. They are intended to provide financial support after retirement. Therefore, they must be applied in a manner that advances the object and not defeats it. A person who has worked for several decades and contributed regularly cannot be denied benefit because of gaps in official records.
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> 23. Therefore, the impugned order dated 28 March 2025 is liable to be set aside. The matter requires reconsideration. Respondent No.1 shall re-examine the petitioner's claim by taking into account all available records, including Form 3A, EPF account details, the joint option application, and the employer's clarification. If any further information is required, the same shall be called from the employer and, if necessary, from the petitioner. The exercise shall be completed within a reasonable period. The petitioner shall not be denied the benefit solely on the ground of non-production of Form 6A or challans, if the entitlement can otherwise be established from the material on record."

31. In the present case, the petitioners submitted their applications pursuant to the mechanism introduced following the judgment of the Hon'ble Supreme Court. Respondent Nos. 2 to 5 thereafter sought records from Respondent No. 6 through a series of communications. Respondent No. 6 consistently maintained that the relevant records had already been furnished to the EPFO and were available in its records. While such a statement cannot be accepted without verification, it certainly casts an

obligation upon the authorities to examine their own records before rejecting the claim. It is pertinent here to note that, in fact the applications of the petitioners were not rejected on the ground that either they are ineligible or they have not contributed higher amounts towards EPF.

32. In situations where the employer is unable to fully cooperate, the authorities cannot close the matter solely on that basis. They must undertake an independent verification by examining available records, including electronic data, physical returns, contribution histories, member ledgers, EPF account statements, and Form 3A details. These materials may provide sufficient evidence regarding contributions made on behalf of the employee. A reasoned decision must thereafter be taken on the basis of the available material.

33. Accordingly, this Court is of the view that in cases involving historical records, particularly those relating to periods prior to 2010, the authorities must adopt a pragmatic approach. They should first provide the employer a reasonable opportunity to furnish records. If the response remains inadequate, the authorities must verify their own records and seek corroboration from other reliable documents such as salary records, appointment orders, wage slips, bank statements, contribution histories,

and prior correspondence. If the available material indicates that contributions on higher wages were made and a valid option was exercised, the claim should be processed subject to payment of any differential contribution and interest, if required. Rejection should be resorted to only after all reasonable avenues of verification have been exhausted and clear reasons are recorded.

34. Such an approach is necessary because employees cannot be made to suffer for the defaults of their employers or deficiencies in record maintenance by the authorities themselves. The purpose of maintaining statutory records is to protect the interests of employees, not to deprive them of benefits. Particularly in cases involving older records, insistence upon production of documents in a specific format may result in serious injustice. The authorities must therefore adopt a reasonable and evidence-based approach while evaluating such claims.

35. Applying these principles to the present case, this Court finds that the petitioners have raised a substantial claim requiring proper examination. The documents produced by them, read together with the communications issued by Respondent No. 6 and the records likely available with the EPFO, warranted a deeper inquiry. The claim appears to

have been holding solely on the ground that certain documents were not furnished by the employer, without adequately examining whether the remaining material was sufficient to establish entitlement. Such an approach is mechanical and inconsistent with the beneficial object of the Scheme. The petitioners' claims ought to have been considered on their merits rather than being rejected solely on account of procedural deficiencies attributable to others.

36. Accordingly, the writ petition is disposed of, with the following directions:

i. The action of Respondent Nos. 2 to 7, particularly Respondent No. 6, in not approving the petitioners' Joint Option applications for higher pension is declared arbitrary, unreasonable, and violative of Articles 14 and 21 of the Constitution of India.

ii. The matter is remanded to Respondent Nos. 4 and 5 for fresh consideration of the petitioners' applications for pension on higher wages in accordance with law and in the light of the observations made in this judgment.

iii. While reconsidering the applications, Respondent Nos. 4 and 5 shall not reject the claims solely on the ground of non-production of Form 6A, challans, or similar records by the employer, particularly in respect of periods prior to the year 2010. The authorities shall examine all available material, including Form 3A, EPF account statements, contribution history, and any other relevant or corroborative records.

iv. Respondent Nos. 4 and 5 shall independently verify the records available in their custody, including electronic data, historical returns, contribution records, and any other material relevant to the petitioners' claims. They shall also take into consideration the communications issued by Respondent No. 6 and the documents already submitted by the petitioners.

v. If, upon such verification, Respondent Nos. 4 and 5 are satisfied that contributions on higher wages were made and that the petitioners had substantially complied with the requirement of exercising a Joint Option, they shall process the claims and extend consequential pensionary benefits in accordance with the Employees' Pension Scheme, subject to payment of any differential contribution together with applicable interest, if required.

vi. The petitioners shall be afforded a reasonable opportunity to submit any additional documents, information, or clarification that may be required in support of their claims.

vii. The entire exercise of reconsideration and passing of appropriate orders shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

viii. It is clarified that the respondents shall pass a reasoned and speaking order upon reconsideration, dealing with all relevant material and contentions;

ix. There shall be no order as to costs.

37. Consequently, miscellaneous petitions, if any pending, shall stand dismissed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date: 24.06.2026

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Whether the order is:

Speaking	-	Reasoned	Yes
Reportable	-	Non-reportable	Yes

HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO.25295 OF 2023

Date: 24.06.2026

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