



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

**1. CWP-28189-2025 (O&M)**

Surinder Kumar

....Petitioner

Versus

Union of India and others

....Respondents

<b>Sr No.</b>	<b>Case No.</b>	<b>Petitioner(s)</b>	<b>Respondent(s)</b>
2	CWP-10061-2026	Dalip Kumar	Union of India and others
3	CWP-10084-2026	Abhiman Banewal	Union of India and others
4	CWP-10165-2026	Sohan Singh	Union of India and others
5	CWP-10198-2025	Devi Singh	Union of India and others
6	CWP-10254-2026	Hawa Singh	Union of India and others
7	CWP-10260-2026	Prithvi Raj	Union of India and others
8	CWP-10308-2026	Naresh Dutta	Union of India and others
9	CWP-10974-2026	Baghrawat Mal	Union of India and others
10	CWP-10975-2026	Surjeet Singh	Union of India and others
11	CWP-10991-2026	Dalip Singh	Union of India and others
12	CWP-10994-2026	Jeet Singh	Union of India and others
13	CWP-11668-2026	Ranbir Singh	Union of India and others
14	CWP-12292-2026	Parladh Singh	Union of India and others
15	CWP-12760-2026	Shinder Pal Singh	Union of India and others
16	CWP-12847-2026	Rawait Singh Gabbi	Union of India and others
17	CWP-12849-2026	Bhagwant Singh Brar	Union of India and others
18	CWP-13094-2026	Rakesh Chander	Union of India and others
19	CWP-13193-2026	Inder Pal Singh	Union of India and others
20	CWP-13240-2026	Mohinder Kumar	Union of India and others
21	CWP-13748-2026	Raj Kumar Sharma	Union of India and others
22	CWP-13815-2026	Surinder Pal Singh	Union of India and others
23	CWP-14960-2026	Subhash Chander	Union of India and others
24	CWP-15980-2026	Balwant Singh	Central Provident Fund



		and another	Commissioner and others
25	CWP-16523-2022	Rajesh Kumar Ghai and others	The Employees Provident Fund Organization and others
26	CWP-167-2026	Surinder Kumar and others	Employees Provident Fund Organization and others
27	CWP-1804-2026	Mohan Lal and others	Union of India and others
28	CWP-20543-2025	Aseem Kumar Agarwal	Union of India and others
29	CWP-2573-2026	Rajesh Kumar	Union of India and others
30	CWP-2575-2026	Megh Raj and others	Union of India and others
31	CWP-2580-2026	Satinder Singh Chattha	Union of India and others
32	CWP-303-2025	Raman Kaplish	Union of India and others
33	CWP-310-2026	Baur Singh	Union of India and others
34	CWP-3137-2026	Karamjit Singh Sidhu and others	Union of India and others
35	CWP-31618-2024	Rajesh Chaudhary	Union of India and others
36	CWP-31854-2025	Sajjan Kumar	Union of India and others
37	CWP-31916-2025	Shisupal Singh and others	Union of India and others
38	CWP-32519-2025	Raghubir Singh	Union of India and others
39	CWP-32522-2025	Sajjan Kumar	Union of India and others
40	CWP-32935-2025	Zora Singh and others	Union of India and others
41	CWP-33105-2024	Rajender Singh Malik and others	The Employees Provident Fund Organization and others
42	CWP-33143-2025	Jagpal Singh	Union of India and others
43	CWP-33173-2025	Balraj Rahej	Union of India and others
44	CWP-33335-2025	Dalbir Singh	Union of India and others
45	CWP-34409-2024	Shiv Kumar	Union of India and others
46	CWP-34624-2025	Ajmer Singh	Union of India and others
47	CWP-34655-2025	Raghubir Singh	Union of India and others
48	CWP-34973-2025	Mahabir Singh	Union of India and others
49	CWP-3513-2026	Hardip Singh	Union of India and others
50	CWP-35927-2025	Tarsem Singh and others	Union of India and others
51	CWP-37188-2025	Krishan Kumar	Union of India and others



52	CWP-37230-2025	Jai Bhagwan and others	Union of India and others
53	CWP-38264-2025	Sanjay Dewan	The Employees Provident Fund Organization and others
54	CWP-4125-2026	Sanjay Garg and others	Union of India and others
55	CWP-4169-2025	Amarjit Singh Sekhon	Union of India and others
56	CWP-4174-2025	Jai Bhushan Chandan	Union of India and others
57	CWP-5280-2026	Sanjeev Kumar	Union of India and others
58	CWP-56-2026	Jaila Ram Swan	Union of India and others
59	CWP-5695-2026	Raj Kumar	Union of India and others
60	CWP-576-2026	Gurskander Singh and others	Union of India and others
61	CWP-6404-2026	Mahavir Parshad and others	Union of India and others
62	CWP-6494-2026	Sanjiv Kumar and others	Union of India and others
63	CWP-7681-2026	Jaswant Singh and others	Union of India and others
64	CWP-7686-2026	Makhan Singh	Union of India and others
65	CWP-8160-2025	Neelam Chopra and another	Union of India and others
66	CWP-8612-2024	Shree Krishan Sharma and others	The Employees Provident Fund Organisation and others
67	CWP-8943-2026	Devinder Kumar	Union of India and others
68	CWP-8944-2026	Gurdip Singh	Union of India and others
69	CWP-9028-2026	Ajay Kumar Sharma	Union of India and others
70	CWP-9099-2025	Chander Bosh Kaushik and others	The Employees Provident Fund Organization and others
71	CWP-9129-2026	Surinder Singh Grewal	Union of India and others
72	CWP-9182-2026	Satish Kumar	Union of India and others
73	CWP-9585-2026	Surjan Singh	Union of India and others
74	CWP-9633-2026	Garib Dass	Union of India and others
75	CWP-9974-2026	Subhash Chander	Union of India and others



1.	Date(s) when judgment was reserved	25.03.2026, 07.05.2026, 25.05.2026
2.	Date of pronouncement of judgment	27.05.2026
3.	Date of uploading judgment	27.05.2026
4.	Whether operative part or full judgment is pronounced	Full
5.	Delay, if any, in pronouncing of full judgment and reasons thereof	Not Applicable

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Ankit Midha, Advocate for the petitioner(s) in CWP-28189-2025, CWP-310-2026, CWP-56-2026, CWP-9182-2026, CWP-9129-2026, CWP-8944-2026, CWP-8943-2026, CWP-9585-2026, CWP-9633-2026, CWP-10165-2026, CWP-10308-2026, CWP-12760-2026, CWP-12847-2026, CWP-12849-2026, CWP-13094-2026.

Mr. Himanshu Chhabra, Advocate  
for the petitioner in CWP-576-2026.

Dr. Sumati Jund, Advocate with Mr. Rahul Saini, Advocate  
for the petitioner(s) in CWP-2573-2026, CWP-2575-2026  
and CWP-2580-2026.

Mr. Hitesh Pandit, Advocate  
for the petitioner in CWP-6404-2026.

Mr. Abhijeet Singh Rawaley, Advocate  
for the petitioner in CWP-4125-2026.

Mr. Mahabir Singh Tanwar, Advocate  
for the petitioner(s) in CWP-31854-2025,  
CWP-32519-2025, CWP-32522-2025, CWP-33143-2025,  
CWP-33173-2025, CWP-33335-2025, CWP-34624-2025,  
CWP-34973-2025, CWP-37188 -2025, CWP-5695-2026,  
CWP-5280-2026, CWP-14960-2026, CWP-9974-2026,  
CWP-10061-2026, CWP-10084-2026, CWP-10254-2026,  
CWP-10260-2026, CWP-10974-2026, CWP-10975-2026,  
CWP-10991-2026, CWP-10994-2026, CWP-11668-2026,  
CWP-12292-2026, CWP-13193-2026, CWP-13240-2026,  
CWP-13815-2026 and CWP-13748-2026.



Ms. Pooja Chopra, Sr. Advocate  
with Mr. Tapish Gupta, Advocate  
for the petitioner in CWP-167-2026.

Mr. Jai Bhagwan Sharma, Advocate  
for the petitioners in CWP-8612-2024, CWP-33105-2024,  
CWP-16523-2022 and CWP-38264-2025.

Mr. Amit Sharma (Kanav), Advocate  
with Mr. Deepankur Sharma, Advocate  
and Ms. Jaskiran Kaur Bassi, Advocate  
for the petitioners in CWP-37230-2025.

Mr. Ashutosh Kaushik, Advocate  
for the petitioner(s) in CWP-9099-2025.

Mr. A.S. Walia, Advocate  
for the petitioner(s) in CWP-9028-2026, CWP-7681-2026,  
CWP-7686-2026, CWP-1804-2026, CWP-3137-2026,  
CWP-31916-2025, CWP-32935-2025, CWP-35927-2025.

Mr. Raman Kaplish (petitioner in person)  
in CWP-303-2025.

Mr. Prateek Pandit, Advocate  
for the petitioner in CWP-3513-2026.

Mr. Om Parkash Sharma, Advocate  
for the petitioner in CWP-31618-2024.

Mr. Amit Sharma, Advocate  
for the petitioner in CWP-15980-2026.

Mr. Shiv Kumar, Advocate (petitioner in person)  
in CWP-34409-2024.

Mr. Raman Kaplish, Advocate (except in CWP-303-2025)  
and Mr. Lovedev Singh, Advocate  
for the petitioner(s) in remaining cases.

Mr. H.S. Gill, Advocate for  
respondent No.1 in CWP-576-2026.

Mr. Prince Singh, Advocate  
with Ms. Navya Jindal, Advocate for respondent No.4  
in CWP-31854-2025 and CWP-38264-2025  
and for respondent No.5  
in CWP-34973-2025 and CWP-31618-2024.



Mr. Deepak Goyat, Advocate for respondent No.5  
in CWP-33143-2025, CWP-33173-2025,  
CWP-33335-2025  
and for respondent No.4 in CWP-10260-2026,  
CWP-12292-2026, CWP-13240-2026, CWP-14960-2026  
and for respondent No.5 in CWP-9974-2026,  
CWP-10061-2026, CWP-10084-2026, CWP-10254-2026,  
CWP-10974-2026, CWP-10975-2026, CWP-10991-2026,  
CWP-10994-2026, CWP-11668-2026  
and CWP-13193-2026.

Ms. Monika Sharma, Advocate for respondent No.5  
in CWP-7681-2026 and CWP-310-2026  
and for respondent No.4 in CWP-1804-2026.

Mr. V.P. Malik, Advocate  
for respondent No.6 in CWP-34973-2025.

Mr. Yash Garg, Advocate  
with Mr. Shailesh Aggarwal, Advocate  
for respondent No.4 in CWP-167-2026 (through V.C.)

Ms. Gehna Vaishnavi, Advocate  
for respondent No.4 in CWP-16523-2022.

Ms. Nikita Goel, Advocate  
with Ms. Naina Ranot, Advocate  
for respondent No.4 in CWP-5695-2026.

Ms. Anjali Singh, Advocate  
for Mr. Rajesh Gaur, Advocate  
for respondent No.5 in CWP-8612-2024  
and for respondent No.3 in CWP-33105-2024.

Mr. Subhash Ahuja, Advocate  
for respondent No.4 in CWP-5280-2026.

Mr. Rahul Verma, Advocate  
for respondent No.4 in CWP-9129-2026  
and CWP-3137-2026  
and for respondent No.5 in CWP-12849-2026, CWP-  
12847-2026 and CWP-13094-2026.

Mr. Samir Rathaur, Advocate for respondents No.2 and 3  
in CWP-31854-2025 and CWP-32519-2025  
and for respondent/EPFO  
in CWP-9585-2026 and CWP-12847-2026



and for respondents No.2 and 3  
in CWP-34409-2024 and CWP-3137-2026.

Mr. Rajesh Hooda, Advocate  
for respondents No.2 and 3 in CWP-303-2025,  
CWP-4169-2025, CWP-4174-2025, CWP-6494-2026,  
CWP-8160-2025, CWP-10198-2025, CWP-20543-2025,  
CWP-31618-2024, CWP-32935-2025 and CWP-34655-2025  
and for the respondent/EPFO in remaining cases.

Ms. Vaishali Jain, Advocate  
for respondent-Housefed in CWP-33335-2025,  
CWP-31854-2025, CWP-32519-2025, CWP-32522-2025,  
CWP-34624-2025, CWP-37188-2025  
and CWP-5695-2026.

Mr. Arun Gosain, Advocate  
with Mr. Ramandeep Singh Sandhu,  
Advocate for respondent No.5 in CWP-576-2026.

Mr. Himmat Singh, Advocate  
and Mr. Bhanu Singh Rohilla, Advocate  
for respondent in CWP-6404-2026 and CWP-7686-2026  
for respondent No.5/PWRMDC in CWP-12760-2026,  
CWP-9585-2026, CWP-10165-2026, CWP-10308-2026,  
CWP-13094-2026 and CWP-9633-2026.

Mr. Gaurav Tangri, Advocate  
for respondents No.2 and 3  
in CWP-34409-2024 and CWP-3137-2026.

Ms. Navyug Geet Brar, Advocate  
for respondent No.4 in CWP-10198-2025,  
CWP-8160-2025, CWP-4169-2025, CWP-4174-2025 and  
CWP-20543-2025.

Mr. G.S. Khokhar, Advocate  
for respondent No.4  
in CWP-32935-2025 and CWP-31916-2025.

Ms. Hanima Grewal, Advocate  
for respondent No.4 in CWP-34409-2024.

Mr. Ankit Kumar, Advocate  
for respondent No.4 in CWP-303-2025 (through V.C.)



**HARPREET SINGH BRAR J. (Oral)**

1. With the consent of all the parties, the aforementioned writ petitions are taken up together and are being decided by this common judgment. However, for the sake of brevity, the facts are taken from **CWP-28189-2025**.

**PRAYER**

2. The writ petition (CWP-28189-2025) has been filed under Articles 226/227 of the Constitution of India seeking the following reliefs:

- a. Issuance of a writ in the nature of *Certiorari* quashing the Circular dated 18.01.2025 (Annexure P-8) regarding computation of pension on pro-rata basis for pensioners whose pension is calculated on higher wages as well as the instructions issued vide e-mail dated 14.02.2024 (Annexure P-7) outlining the method for calculating pensions on higher wages.
- b. Issuance of a writ in the nature of *Certiorari* for quashing Conditions No.6 and 7 of the Joint Declaration Form prescribed by the respondents as a pre-condition for exercising joint option under Para 11(4) of the Employees Pension Scheme, 1995, being *ultra vires* the scheme and judgment of the Hon'ble Supreme Court in ***Employees Provident Fund Organisation v. Sunil Kumar B. 2022(4) SCT 674***.



- c. Issuance of a writ in the nature of *Mandamus* directing the respondents to:
- i. Calculate pension of the petitioner on the basis of Para 11(4) read with Para 12 of Employees' Pension Scheme, 1995, on actual wages without pro-rata reduction and to pay all consequential arrears;
  - ii. Pay interest at least at the rate of 8% p.a. on all arrears of pension from the date of retirement till actual realization, as well as for the specific period of delay in issuance of the revised Pension Payment Order (PPO);
  - iii. Recalculate the arrears of pension by ensuring parity between the wages on which additional contribution was collected and the wages reckoned for pension fixation, along with interest at the rate of 8% p.a.; and
  - iv. Refund the excess interest collected from the petitioner on the contribution on salary exceeding the wage ceiling.

**SUBMISSIONS ON BEHALF OF THE PETITIONER(S)**

- ***The application of pro-rata formula in 'Higher Wages' cases is illegal and arbitrary***

3. Learned counsel for the petitioner(s) *inter alia* contended that on 04.03.1952, the Employees' Provident Funds and Miscellaneous



Provisions Act, 1952 was enacted and brought into force for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments. Subsequently, on 16.11.1995, under Section 6A of the aforesaid Act, the Employees' Pension Scheme 1995 (hereinafter referred to as the '1995 Pension Scheme') was notified so as to provide for monthly pensions payable post retirement. The purpose behind setting up the said scheme was to create a pension fund whereby employees could receive pension as a social security measure meant to assist them in their old age.

3.1 It was submitted that the petitioner joined service of Punjab Water Resources Management and Development Corporation Limited, as a Clerk on 09.10.1980 and was promoted as Senior Assistant on 04.06.1985 and further as Divisional Accounts Officer on 21.09.2001. The petitioner retired from the service of the Corporation on 31.08.2019 (Annexure P-1).

3.2 Learned counsel argued that the petitioner was a member of the 1995 Pension Scheme since its inception. The Scheme provides for grant of pension to employees/members who superannuate after attaining the age of 58 years and upon completion of 10 years of service. The formula for computation of the quantum thereof is also provided in Paragraph 12 of the 1995 Pension Scheme. Furthermore, Paragraph 11 of the Scheme deals with the determination of 'Pensionable Salary'. At that point of time, maximum pensionable



salary was ₹5,000/- and this sum was subsequently enhanced to ₹6,500/- and further, vide notification dated 22.08.2014, to ₹15,000/-.

3.3 It was contended that w.e.f. 16.03.1996, a proviso was inserted in Paragraph 11(3) of the Scheme, enabling both the employer and the employee to exercise an option for contribution on salary exceeding the prescribed ceiling of ₹6,500/- (which was ₹5,000/- per month prior to 08.10.2001 and ₹15,000/- per month with effect from 01.09.2014), so as to retain entitlement to pension under the Scheme. In this regard, it was provided that 8.33% of the employer's contribution, calculated on the employee's salary (being the deductible amount towards the Provident Fund), was required to be remitted to the Pension Fund. As noted above, the Scheme was further modified vide notification dated 22.08.2014, w.e.f. 01.09.2014.

3.4 Learned counsel submitted that, in terms of Paragraph 11(4) of the 1995 Pension Scheme, members who were in service as on 01.09.2014 and who, at the option of both the employer and the employee, had been contributing on salary exceeding ₹6,500/- per month, are entitled to exercise a fresh joint option to continue contributing on salary exceeding ₹15,000/- per month. It was further submitted that, in such cases, the pensionable salary of these members is required to be determined on the basis of their actual higher salary. The petitioner duly exercised the aforesaid Joint Option under Paragraph 11(4) on 11.03.2023 (Annexure P-2).



3.5 Accordingly, the pension of the petitioner under the 1995 Pension Scheme was sanctioned by the respondents as Rs.24,511/- per month with effect from 12.08.2019 vide letter dated 23.12.2024 (Annexure P-4). However, the name of the petitioner was wrongly written on the Pension Payment Order (PPO) as 'Surinder Singh' instead of 'Surinder Kumar.' The PPO, as such, was revised vide letter dated 18.02.2025 (Annexure P-5).

3.6 Learned counsel vehemently contended that the respondents have wrongly and illegally applied a *pro-rata* formula while computing the pension of the petitioner, despite the undisputed position that petitioner's case squarely falls under Paragraph 11(4) of the 1995 Pension Scheme. Further, the petitioner retired from service on 31.08.2019 and thus, the entire period of 60 months, relevant for determining the pensionable salary under Paragraph 11(4) falls subsequent to the said amendment dated 01.09.2014. In the said period, the contribution of the petitioner continued to be deducted from his actual salary. It was further argued that the petitioner had never opted for or availed the wage ceiling limits under Paragraph 3 or Paragraph 11(3) of the 1995 Pension Scheme, and therefore, the application of a *pro-rata* formula is wholly unjustified and contrary to the Scheme.

3.7 Learned counsel argued that at the stage of determination of pensionable salary, the respondents have unlawfully applied a *pro-rata* bifurcation (pre/post 01.09.2014) by importing conditions applicable under Paragraph 11(1) of the 1995 Pension Scheme. As a



consequence, the petitioner's pension has been artificially reduced despite having made contributions on a higher salary. It was submitted that Paragraph 11(1) of the Scheme governs the determination of pensionable salary for wage-ceiling contributors and provides for calculation on the basis of the average monthly pay of the last 60 months, subject to a *pro-rata* application of the ceiling limits of ₹6,500/- up to 01.09.2014 and ₹15,000/- thereafter. In contrast, Paragraph 11(4) specifically deals with cases where both the employer and employee have opted to contribute on salary exceeding the prescribed ceiling, and clearly stipulates that, upon exercise of such option, the pensionable salary shall be based on the actual higher salary. Significantly, Paragraph 11(4) contains no reference to any *pro-rata* computation or wage-ceiling bifurcation. It was further contended that Paragraph 12(2) of the Scheme prescribes the formula for determining the monthly pension, and its proviso refers to *pro-rata* pensionable service only in the context of wage-ceiling cases (₹6,500/- or ₹15,000/-). Thus, the concept of *pro-rata* calculation is confined to Paragraph 11(1) and the proviso to Paragraph 12(2), and finds no application to cases falling under Paragraph 11(4).

3.8 Learned counsel submitted that the respondents issued Circular No. Pension/SC/Higher Pension/2022/1357 dated 01.06.2023 (Annexure P-6), laying down the methodology for computation of pension in "higher wages" cases. The circular bifurcates the method into two parts, of which the second part pertains to cases found eligible for



pension on higher wages where the date of commencement of pension is post 01.09.2014. It was contended that the petitioner's case squarely falls within this category. It was argued that the said methodology is in consonance with Paragraph 11 of the 1995 Pension Scheme, as amended. The circular clearly provides that, for such cases, the average salary of the last 60 months is to be taken into account for the purpose of computation of pension, and the pensionable service is to be reckoned as a single continuous period from 16.11.1995 till the date of retirement.

3.9 Thereafter, on 14.02.2024, the respondents circulated an internal e-mail (Annexure P-7) to all Regional Offices of the Employees' Provident Fund Organisation across the country, setting out a methodology for computation of pension on higher wages, along with illustrative examples. The said e-mail, marked "for Internal Circulation only," is wholly inconsistent with and contrary to the provisions of the earlier circular dated 01.06.2023 (Annexure P-6).

3.10 Furthermore, the aforesaid e-mail dated 14.02.2024 (Annexure P-7) introduces a method of calculating pensionable salary in higher-wage cases by bifurcating the service period into pre-01.09.2014 and post-01.09.2014 segments and by adopting concepts such as "highest monthly salary" for each period, which is wholly alien to the Scheme. It was further argued that the 1995 Pension Scheme clearly defines "pensionable salary" as the average monthly pay drawn during the contributory period of service in the 60 months immediately



preceding the date of exit. While the pensionable salary is to be determined on a *pro-rata* basis in terms of Paragraph 11(1) for cases governed by the wage ceiling, as far as cases involving higher wages are concerned, Paragraph 11(4) mandates that the pensionable salary be computed on the basis of the actual higher salary. Accordingly, the methodology introduced through the e-mail is inconsistent with the statutory scheme and impermissible in law.

3.11 Subsequently, the respondents issued another circular dated 18.01.2025 (Annexure P-8), providing clarifications on various policy issues relating to the processing of pension in higher-wages cases. The relevant extract of the said circular is reproduced hereunder:

*“Certain policy issues were raised by the field offices related to processing of pension on higher wages cases. These issues were subsequently taken up with the Ministry of Labour & Employment (MoL&E) for consideration and approval.*

**2. The following clarifications are issued that have the approval of the Hon'ble Minister of Labour & Employment:**

<i>Issue</i>	<i>Clarification/Approval</i>
<b><i>Pension Computation on pro-rata basis.</i></b>	<b><u><i>The pro-rata calculation of pension is provided in Para 12 of the EPS and is equitable, treating both categories of pensioners i.e. pensioners under wage ceiling and those with higher wages on equal footing. Further, the Hon'ble Supreme Court had also</i></u></b>



	<p><u><i>not found the same ultra vires. Accordingly, MoL&amp;E has agreed with the computation of pension on pro-rata basis for the pension on Higher Wages cases.”</i></u></p>
--	--

*(Emphasis added)*

3.12 Learned counsel submitted that, by way of the aforesaid clarification, the respondents are seeking to impermissibly redefine the concept of *pro-rata* computation. It was contended that pension on higher wages and pension under wage-ceiling cases are fundamentally distinct categories, which are treated separately under the 1995 Pension Scheme. The application of a *pro-rata* formula is envisaged only where wages vary across different periods, and not in cases governed by higher-wage contributions. It was further argued that the assertion in the circular dated 18.01.2025 (Annexure P-8), to the effect that the Hon’ble Supreme Court did not find the treatment of both categories of pensioners on an equal footing to be *ultra vires*, is misconceived. In fact, the Hon’ble Supreme Court did not adjudicate on the methodology of pension computation, and the issue was neither raised nor decided in ***Sunil Kumar B. (supra)***. The stand taken by the respondents is thus erroneous, arbitrary, and contrary to the law declared by the Hon’ble Apex Court.

3.13 Learned counsel also submitted that the *pro-rata* method for computation of pension in higher-wage cases was not even in existence when the matter in ***Sunil Kumar B. (supra)*** was under



consideration before the Hon'ble Supreme Court and, therefore, did not form part of the controversy. It was pointed out that higher pensions had been disbursed without applying any *pro-rata* reduction for nearly 09 years following the amendment in September 2014. The subsequent reduction of pension by applying *pro-rata* norms has, in fact, been stayed by various High Courts. In this regard, reliance was placed on the order dated 05.02.2025 passed in **WP(C) No. 4717 of 2025** titled as '***S. Kalyanakrishnan vs. Union of India***' by the High Court of Kerala (Annexure P-9), wherein it was directed that the higher pension being received by the petitioners shall not be curtailed without further orders of the Court.

3.14 It was argued that the norms governing the computation of pension on higher wages cannot be introduced or altered by way of an executive circular, particularly when such methodology finds no place in the 1995 Pension Scheme. It is submitted that any modification to the Scheme must be effected in accordance with law i.e. through statutory amendment. It was further contended that the reference in the circular dated 18.01.2025 (Annexure P-8) to the approval of the Ministry of Labour for the implementation of the *pro-rata* method in higher-wage cases is also misconceived and appears to be an attempt to create confusion, as no such approval can override or substitute the statutory scheme.

3.15 Additionally, it was contended that the said clarification, being in the nature of an executive instruction, cannot override or



amend the statutory provisions of the 1995 Pension Scheme framed under Section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Any amendment to the Scheme can only be effected by the Central Government through a notification published in the Official Gazette. Administrative circulars or clarifications, therefore, cannot introduce new conditions, such as the application of a *pro-rata* formula in higher-wage cases, which are not contemplated under the Scheme.

3.16 Learned counsel emphatically contended that the employees who had exercised the higher-wage option and made additional contributions had a legitimate expectation that their pension would be computed on such higher wages, based on their average salary from the last 60 months preceding retirement. The impugned clarification/e-mail (Annexure P-7), it is submitted, defeats this expectation and operates retrospectively to the detriment of the pensioners, including the petitioner. It was further argued that the 1995 Pension Scheme is a beneficial legislation and, thus, must receive a liberal construction so as to advance the interest of pensioners and not curtail them. The impugned clarification (Annexure P-8), however, seeks to restrict pensionary entitlements, thereby frustrating the very object of the 1995 Pension Scheme.



- ***The petitioner(s) are entitled to interest on delayed payment of arrears of pension***

4. Learned counsel for the petitioner drew the attention of this Court to Conditions No.6 and 7 of the Joint Option Form under Paragraph 11(4) of the 1995 Pension Scheme, which are reproduced as under:

*“6. I hereby agree to pay due contribution in a single tranche as specified by EPFO, along with interest at rates declared under Para 60 of EPF Scheme, 1952 or at the rate declared by the concerned Trust of such establishment, from time to time, whichever is higher, if any.*

*7. I hereby jointly opt along with my employer to pay full amount 'of contribution on salary exceeding wage ceiling under erstwhile Para 11(3) (since deleted) and Para 11(4) of EPS, 1995 alongwith interest upto the last date of the month in which payment is made, in accordance with the judgment dated 04.11.2022 of the Hon'ble Supreme Court through my last employer within such period as may be directed by EPFO after verification of my joint option. If the full amount payable is not deposited by my last employer within such period as may be directed by EPFO after verification of my joint option, this joint option shall be liable to be treated as null and void.”*

4.1 In this regard, it was contended that Paragraph 11(4) of the 1995 Pension Scheme merely requires the exercise of a joint option by the employer and the employee, and does not empower the respondent—EPFO to impose additional conditions, such as the levy of interest with retrospective effect. It was argued that, by introducing such stipulations,



the respondent–EPFO has effectively sought to legislate through administrative instructions, which is impermissible in law. Reliance was placed on the judgment of the Hon’ble Supreme Court in *Sunil Kumar B. (supra)*, wherein the EPFO was directed to afford an opportunity to eligible employees to exercise a joint option. It was submitted that the Hon’ble Supreme Court did not authorise the imposition of onerous conditions, such as the recovery of interest retrospectively. The impugned stipulation, therefore, travels beyond the mandate of the said judgment.

4.2 It was further contended that the petitioner has been compelled to accept arbitrary conditions, lacking the force of law, including the payment of interest from a past date. It is a settled principle of law that there can be no estoppel against statute, and thus, any declaration obtained under compulsion for availing a statutory benefit cannot operate as a valid waiver of statutory rights.

4.3 Learned counsel submitted that the arrears of pension, representing the difference between the pension payable on higher wages and the pension initially sanctioned to the petitioner upon retirement, became due immediately after his retirement. However, an amount of ₹13,33,882/- was released to the petitioner only in January 2025. It was contended that, as per settled law, pensionary benefits are required to be disbursed within a reasonable period, ordinarily within one month from the date of retirement, whereas, in the present case, the payment has been made after an inordinate delay of more than 05 years



and 03 months. It was further argued that, while the respondents have recovered the differential contribution along with interest, the arrears of pension have been paid to the petitioner after a substantial delay without any corresponding interest, which is arbitrary and inequitable. The petitioner is entitled to interest on the delayed payment of pension arrears and denial thereof is illegal and contrary to the constitutional principle of fairness.

4.4 It was contended that the respondents, vide circular/clarification dated 18.01.2025 (Annexure P-8), have clarified that interest on EPF dues arising on account of wage arrears payable retrospectively may be recovered up to the date of retirement or cessation of membership under the 1995 Pension Scheme, whichever is earlier. The relevant extract of the said circular/clarification dated 18.01.2025 (Annexure P-8) is reproduced hereunder:

<i><b>Issue</b></i>	<i><b>Clarification/Approval</b></i>
<i><b>Reckoning wage arrears that are payable retrospectively</b></i>	<i>The revision of wages with retrospective effect were not deliberate or wilful default on part of the employers. Therefore, such wages should be accounted for against the respective months for which the arrears were meant. In such cases, it would not be appropriate to recover damages under section 14-B. <u>However, the interest on such dues (either from EPF Contribution or through Demand Letters) may be recovered up to the date of retirement/cessation of membership of EPS-95, whichever is earlier.</u></i>



	<i>It may be reiterated that no damages may be imposed in such cases.”</i>
--	--

*(Emphasis added)*

4.5 Learned counsel argued that a perusal of the aforesaid clarification makes it evident that, in cases where the delay is not attributable to any deliberate default on the part of the employer, interest on EPF dues is recoverable only up to the date of retirement or cessation of membership under the 1995 Pension Scheme, whichever is earlier. In the present case, the petitioner retired on 31.08.2019. However, the respondents have recovered interest on the differential contribution towards higher pension up to the date of actual payment. It was submitted that the demand was raised vide letter dated 24.06.2024, and the petitioner deposited the amount on 25.06.2024 along with interest calculated up to the date of payment. Consequently, an additional sum of ₹6,22,297/- has been recovered from the petitioner towards interest beyond the date of retirement. Such recovery is stated to be erroneous, illegal, and contrary to the respondents' own clarification dated 18.01.2025 (Annexure P-8). Accordingly, it is contended that the excess amount of interest so recovered is liable to be refunded to the petitioner, along with interest.

4.6 Moreover, learned counsel emphasised that upon deposit/transfer of the differential contribution towards higher pension, the respondents were required to issue the revised Pension Payment



Order (PPO) within 15 days. In the present case, the demand was raised by respondent No. 3 vide letter dated 24.06.2024, and the petitioner deposited the requisite amount on 25.06.2024 (Annexure P-10). Accordingly, the revised PPO ought to have been issued on or before 10.07.2024. However, the same was issued only on 23.12.2024, resulting in an inordinate delay of approximately five and a half months. It was further pointed out that, vide e-mail dated 15.02.2024 (Annexure P-14), the respondents themselves had directed all concerned officers that, wherever demand letters had been issued and due amounts had been deposited by pensioners, the revised PPO must be issued within 15 days from the date of such deposit. It was contended that while the respondents have recovered the differential contribution along with interest, the petitioner has not been compensated for the delay in issuance of the revised PPO. The petitioner is, therefore, entitled to interest on ₹13,33,882/- i.e. the arrears of pension, for the period of delay.

- ***There is a disparity between wages considered for contribution and wages adopted for pension computation***

5. Learned counsel invited the attention of this Court to the wage details (calculation sheet) obtained from respondent No. 3 under the Right to Information Act, annexed as Annexure P-10. It was contended that, while calculating the amount payable by the petitioner towards differential contribution, the respondents adopted higher wages, including arrears of Dearness Allowance and pay revisions, however,



for the purpose of determining pensionable salary, the respondents have taken a lower wage figure, thereby creating a clear inconsistency.

5.1 Learned counsel submitted that the total salary drawn by the petitioner during the last 60 months preceding retirement was ₹49,91,902/-, whereas the respondents have reckoned the same as ₹48,99,902/-. The discrepancy arises from the failure of the respondents to apportion arrears of D.A. and pay revision benefits to the respective months to which they pertain. While such arrears were considered for computing the differential contribution, they have been excluded from the calculation of pensionable salary.

5.2 It was further submitted that, upon correctly apportioning the arrears to the relevant months, the petitioner has recalculated the pension payable under both methods, i.e., with and without applying the *pro-rata* formula. The monthly pension, if computed without applying the *pro-rata* principle, works out to ₹28,212/-, whereas under the *pro-rata* method, it comes to ₹24,623/-. In contrast, the pension sanctioned under PPO No.3122 (Annexure P-4) is ₹24,511/- per month. Accordingly, a shortfall of ₹3,701/- per month is payable to the petitioner, along with interest. The relevant calculation sheets and details of wages, including apportioned arrears, are annexed as Annexure P-11.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENTS**

6. *Per contra*, learned counsel for the respondents, at the outset, submitted that the petitioner had never exercised any joint option



under the erstwhile Paragraph 11(3) of the 1995 Pension Scheme before the cut-off date of 01.09.2014. It was only by virtue of the indulgence granted by the Hon'ble Supreme Court in *Sunil Kumar B. (supra)* while exercising its powers under Article 142 of the Constitution of India, that the petitioner was given a belated opportunity to submit a joint option. The petitioner availed of this benefit, submitted the joint option along with the requisite undertaking to pay the differential contribution with interest, and only thereafter was granted higher pension. Having accepted the conditions and reaped the benefits, the petitioner is now estopped from challenging the very same conditions, including the *pro-rata* fixation of pension and Conditions No.6 and 7 of the Joint Declaration Form.

- ***The methodology of pro-rata computation flows directly from the statutory scheme and has been upheld by the Hon'ble Supreme Court***

7. Learned counsel for the respondents submitted that the Central Government, vide notifications dated 22.08.2014 (Annexures R/1 and R/2), amended the Employees' Provident Fund Scheme, 1952 and the 1995 Pension Scheme, respectively, with effect from 01.09.2014 and the statutory wage ceiling was enhanced from ₹6,500/- to ₹15,000/- per month. Consequently, the proviso to Paragraph 11(3) of the 1995 Pension Scheme was deleted and a new Paragraph 11(4) was inserted specifically for those employees who were already contributing on higher wages. Additionally, a new proviso was added to Paragraph 12(2) of the 1995 Pension Scheme mandating that monthly pension



shall be determined on a *pro-rata* basis for pensionable service up to 01.09.2014 at the maximum pensionable salary of ₹6,500/- per month and for the period thereafter at ₹15,000/- per month.

7.1 Learned counsel highlighted the specific language of Paragraph 11 and 12 of the 1995 Pension Scheme and contended that the petitioner has misconstrued the applicable pension formula. According to learned counsel, the petitioner seeks computation of pension at a flat rate by taking the average salary of the last 60 months preceding retirement, without applying the *pro-rata* principle for the periods before and after 01.09.2014. It was contended that, under the amended provisions, the pension is required to be computed by dividing the service into **three distinct segments**: (i) service up to 16.11.1995, i.e., prior to the introduction of the 1995 Pension Scheme; (ii) service from 16.11.1995 to 01.09.2014; and (iii) service from 01.09.2014 up to the date of retirement. Accordingly, the benefit of past service is first determined for the period up to 16.11.1995, followed by computation of pension for the period from 16.11.1995 to 01.09.2014, and thereafter for the period from 01.09.2014 till retirement. It was thus argued that the pension is to be calculated on a *pro-rata* basis in accordance with the Scheme, and not on a flat-rate method as suggested by the petitioner.

7.2 Learned counsel further relied heavily on the judgment of the Hon'ble Supreme Court in ***Sunil Kumar B. (supra)*** and submitted that the very same amendments to Paragraphs 11 and 12 of the 1995 Pension Scheme were challenged before the Hon'ble Supreme Court,



and in Paragraph 36 of the judgment, the Court unequivocally upheld the change in methodology for computation of pensionable salary. Paragraph 44(i) and (viii) of the said judgment expressly declare that the provisions contained in Notification dated 22.08.2014 (Annexures R/1 and R/2) are legal and valid, and that no flaw was found in altering the basis for computation of pensionable salary. Therefore, the *pro-rata* formula stands judicially affirmed and cannot be re-agitated in these proceedings.

7.3 It was further submitted that, on this very issue, various Regional Offices had sought clarification from the Head Office regarding the manner in which higher pension in post-2014 retirement cases was to be fixed and the method for computation on a *pro rata* basis. In response, the Head Office, vide e-mail dated 14.02.2024 (Annexure R/4), clarified that the same *pro-rata* formula is to be applied even in higher pension cases and also provided an illustrative example for guidance. The position was subsequently reiterated by the Head Office through Circular dated 18.01.2025 (Annexure R/5).

- ***The claim of petitioner for refund of interest charged for grant of Higher Pension and also to pay the interest on arrears of higher pension is not legally tenable***

8. Learned counsel submitted that the petitioner became entitled to higher pension only after the judgment in ***Sunil Kumar B. (supra)*** allowed him to submit the joint option. Prior to that, the petitioner had no vested right to a higher pension. Learned counsel argued that the petitioner made contributions to the Pension Fund on the



basis of the wage-ceiling before exercising the said joint option; as such, the amount which ought to have been contributed on the basis of the petitioner's actual salary from 16.11.1995 till the date of superannuation- 31.08.2019, was never so deposited. The contribution made by the petitioner, in fact, on the wage-ceiling, remained in his Provident Fund account, where it continued to earn interest until its withdrawal upon retirement. Consequently, the Pension Fund was deprived of the interest that would have accrued on the contributions corresponding to the actual salary of the petitioner, while the petitioner derived the benefit of interest on the same amount in his Provident Fund account.

8.1 It was submitted that, in order to neutralise this imbalance, the petitioner was required to deposit the differential contribution along with applicable interest, which merely represented the interest component already earned by him on the said amount while the same remained in the Provident Fund. It was emphasised that the petitioner has not paid any additional interest from his own funds, but has only refunded what he had earlier received as interest. In these circumstances, it was contended that the petitioner's claim for interest on delayed payment of pension arrears is wholly untenable. Having already enjoyed the benefit of interest on the same corpus during its retention in the Provident Fund, the petitioner cannot claim a second round of interest upon its conversion into pension. Granting such a claim would amount to conferring multiple interest benefits on the same



amount, which is neither equitable nor permissible under the statutory scheme.

8.2 Moreover, the petitioner submitted the joint option only in the year 2023, and thereafter, the respondents processed his case. Therefore, there is no delay attributable to the respondents in releasing the arrears of pension.

8.3 In response to the petitioner's claim regarding disparity between wages considered for contribution and wages adopted for pension computation, learned counsel submitted that the wage details were taken on the basis of the member ledger, which reflects month-wise details as deposited by the employer. No bifurcation or details of arrear payment or abnormal increase in wages in any particular month was provided by the employer to the EPFO. Therefore, it was submitted that the respondents have correctly calculated the pensionable salary from the member ledger based on the increasing order of wages.

- ***The pro-rata formula is actuarially sound and prevents inequitable cross-subsidization***

9. Lastly, learned counsel for the respondents submitted that the department's position is founded on sound actuarial principles and considerations of equity. It was contended that, in cases of pension on higher wages, the total pension payout over the lifetime of a beneficiary substantially exceeds the actual contribution made by the individual member, even after accounting for transfers from the Provident Fund along with accrued interest. If pension were to be computed entirely on



higher wages without any *pro-rata* adjustment, the Pension Fund, which is primarily structured on contributions up to the statutory wage ceiling, would be subjected to a disproportionate financial burden. Such an approach, it was argued, would lead to impermissible cross-subsidisation, effectively shifting the financial liability of higher-wage beneficiaries onto ordinary members contributing within the prescribed ceiling. Learned counsel submitted that the *pro-rata* principle is inherent in the framework of the 1995 Pension Scheme, and does not require any separate or additional authorisation. Neither the Hon'ble Supreme Court in *Sunil Kumar B. (supra)* nor the amended provisions of the 1995 Pension Scheme mandate a uniform recalculation of the entire pensionable service on higher wages.

10. It was further contended that Courts ought not to direct pension computation in a manner that disrupts the actuarial balance of a statutory pension scheme, particularly where the Scheme itself prescribes a specific methodology. The application of the *pro-rata* principle in higher-wage cases, therefore, is not a curtailment of benefits but a necessary safeguard to preserve the financial sustainability of the Pension Fund. Any deviation therefrom would result in inequitable enrichment of a limited class of beneficiaries at the expense of the broader body of members contributing within the statutory framework.



### **OBSERVATION & ANALYSIS**

11. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, the following questions arise for adjudication:

1. *Whether the application of the pro-rata formula for computation of pensionable salary in 'Higher Wages' cases is legally valid?*

2. *Whether the petitioner(s) are entitled to interest on delayed payment of arrears of pension?*

3. *Whether there exists any disparity between the wages considered for contribution and the wages adopted for pensionable salary, entitling the petitioner(s) to recalculation of their pension?*

#### ***ISSUE 1: The application of the pro-rata formula for computation of pension in 'Higher Wages' cases***

12. At the outset, this Court considers it appropriate to advert to the genesis and statutory object underlying the introduction of the *pro-rata* method for the computation of "pensionable salary." The said method, incorporated through the 2014 amendment to the 1995 Pension Scheme, was intended to address a specific regulatory transition, namely, the enhancement of the statutory wage ceiling from ₹6,500/- to ₹15,000/-. In cases where a member's contributions were confined to these statutory ceilings, the *pro-rata* principle serves an actuarial function by ensuring that the pension payable for a particular segment of service bears a rational nexus to the quantum of contributions made during that period.



13. Paragraph 11(1) of the 1995 Pension Scheme explicitly mandates the *pro-rata* computation for ‘wage-capped’ members, directing that the pensionable salary be determined separately for service up to September 1, 2014 (capped at ₹6,500) and for service thereafter (capped at ₹15,000). The logic is anchored in the principle of ‘*quid pro quo*’: since the employee/member and employer only remitted contributions on the lower ceiling for the pre-2014 period, the member cannot legitimately expect a pension payout based on a higher figure for that segment. In this narrow context, *pro-rata* computation prevents an un-funded ‘windfall’ and preserves the actuarial balance of the pooled fund.

14. It is settled law that beneficial statutes must receive a liberal construction. In fact, the Constitution Bench of the Hon’ble Supreme Court in *D.S. Nakara v. Union of India, 1983(1) SCC 305* has clarified that the Courts may not interpret provisions regarding pension or a statute introducing a pension scheme in a manner that renders them inane. The relevant part thereof is reproduced hereunder:

*“28. Pensions to civil employees of the Government and the defence personnel as administered in India appear to be a compensation for service rendered in the past. However, as held in Dodge v. Board of Education, (1937) 302 US 74 : 82 Law Ed 57 a pension is closely akin to wages in that it consists of payment provided by an employer, is paid in consideration of past service and serves the purpose of helping the recipient meet the expenses of living. This appears to be the nearest to our approach to pension with*



*the added qualification that it should ordinarily ensure freedom from undeserved want.*

**29. *Summing-up it can be said with confidence that pension is not only compensation for loyal service rendered in the past, but pension also has a broader significance, in that it is a measure of socio-economic justice which inheres economic security in the fall of life when physical and mental prowess is ebbing corresponding to ageing process and therefore, one is required to fall back on savings. One such saving in kind is when you gave your best in the he day of life to your employer, in days of invalidity, economic security by way of periodical payment is assured. The term has been judicially defined as a stated allowances or stipend made in consideration of past service or a surrender of rights or emoluments to one retired from service. Thus the pension payable to a Government employee is earned by rendering long and efficient service and therefore can be said to be a deferred portion of the compensation for service rendered.*** *In one sentence one can say that the most practical raison d'etre for pension is the inability to provide for oneself due to old age. One may live and avoid unemployment but not senility and penury if there is nothing to fall back upon.*

**30. *The discernible, purpose thus underlying pension scheme or a statute introducing the pension scheme must inform interpretative process and accordingly it should receive a liberal construction and the Courts may not so interpret such statute as to render them inane (see American Jurisprudence 2d. 881).***”

*(Emphasis added)*



15. Against this backdrop, this Court proceeds to examine the relevant provisions of the 1995 Pension Scheme. Paragraph 11 and 12 of the Scheme, as they presently stand, are reproduced hereunder for ready reference:

**“11. Determination of Pensionable Salary. - (1) The pensionable salary shall be the average monthly pay drawn in any manner including on piece rate basis during contributory period of service in the span of sixty months preceding the date of exit from the membership of the Pension Fund and the pensionable salary shall be determined on pro-rata basis for the pensionable service up to the 1<sup>st</sup> day of September, 2014, subject to a maximum of six thousand and five hundred rupees per month, and for the period thereafter at the maximum of fifteen thousand rupees per month:**

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

*(2) If during the said span of 60 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 60 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 fifteen thousand rupees per month.*

(4) **The existing members as on the 1st day of September, 2014, who at the option of the employer and employee, had been contributing on salary exceeding six thousand and five hundred rupees per month, may on a fresh option to be exercised jointly by the employer and employee continue to contribute on salary exceeding fifteen thousand rupees per month and the pensionable salary for the existing members who prefer such fresh option shall be based on the higher salary:**

*Provided that the aforesaid members have to contribute at the rate of 1.16 per cent. [\*\*\*] on salary exceeding fifteen thousand rupees as an additional contribution from and out of the contributions payable by the employees for each month under the provisions of the Act or the rules made thereunder:*

*Provided further that the fresh option shall be exercised by the member within a period of six months from the 1st day of September, 2014:*

*Provided also that the period specified in the second proviso may, on sufficient cause being shown by the member, be extended by the Regional Provident Fund Commissioner for a further period not exceeding six months:*

*Provided also if no option is exercised by the member within such period (including the extended period), it shall be deemed that the member has not opted for contribution over wage ceiling and the contributions to the Pension Fund made over the wage ceiling in respect of the member shall be diverted to the Provident Fund account of the*



*member along with interest as declared under the Employees' Provident Funds Scheme from time to time.*

**12. Monthly Member's Pension.** - (1) A member shall be entitled to: -

(a) *superannuation pension if he has rendered eligible service of 10 years or more and retires on attaining the age of 58 years;*

(b) *early pension, if he has rendered eligible service of 10 years or more and retires or otherwise ceases to be in the employment before attaining the age of 58 years.*

(2) *In the case of a new entrant, the amount of monthly superannuation pension or early pension, as the case may be, shall be computed in accordance with the following factors, namely: -*

*Monthly member's pension =*

$$\frac{\text{Pensionable salary} \times \text{Pensionable service}}{70}$$

**Provided that the members' monthly pension shall be determined on a pro-rata basis for the pensionable service up to the 1st day of September, 2014 at the maximum pensionable salary of six thousand and five hundred rupees per month and for the period thereafter at the maximum pensionable salary of fifteen thousand rupees per month...**

*(Emphasis added)*

16. Paragraph 11(1) governs the computation of pensionable salary in cases where contributions are restricted to the statutory wage ceiling. It provides that pensionable salary shall be determined on the basis of the average monthly salary drawn during the last sixty months, with the wage ceiling of ₹6,500/- being applicable up to 01.09.2014 and



₹15,000/- thereafter on a pro-rata basis. Paragraph 11(4), however, operates in a distinct field. It specifically applies to cases where both the employer and employee have exercised the option to contribute on wages exceeding the prescribed ceiling. In such circumstances, the Scheme expressly provides that pensionable salary shall be computed on the basis of the actual higher salary. Significantly, this provision contains no stipulation regarding pro-rata computation or bifurcation based on wage ceilings.

17. Likewise, Paragraph 12(2), which prescribes the formula for calculation of monthly pension, refers to pro-rata pensionable service only through its proviso and only in the context of wage-ceiling cases. Thus, the statutory framework indicates that the concept of pro-rata computation is confined to cases governed by Paragraph 11(1) and the proviso to Paragraph 12(2), and does not extend to cases falling under Paragraph 11(4). This Court is of the considered view that a fundamental distinction must be drawn between members governed by Paragraph 11(1) and those governed by Paragraph 11(4). The latter category represents a distinct class of ‘Higher Wage’ contributors who have historically remitted, or have retrospectively remitted (with interest), contributions on their actual salaries without regard to the statutory wage ceilings.

18. Significantly, the respondents themselves issued a circular dated 01.06.2023 (Annexure P-6), prescribing the methodology for computation of pension in “Higher Wages” cases. The circular classifies



such cases into two categories, the second category pertaining to members whose pension commenced after 01.09.2014 and who were found eligible for pension on higher wages. The circular specifically provides that, in such cases, the pensionable salary is to be determined on the basis of the average monthly pay drawn during the contributory period of service falling within the 60 months preceding the date of exit from membership of the Pension Fund. Notably, the circular contains no reference whatsoever to the application of any pro-rata methodology. The relevant portion of the circular dated 01.06.2023 (Annexure P-6) is reproduced hereunder for ready reference:

*“Please refer to the Circular No. Pension/SupremeCourtjudgement/POHW/2022/143 dated 09.05.2023 regarding "Deposit / Transfer of due contribution with interest into Pension Fund" wherein It was informed in Para 14 **that the method of computation of Pension will follow through subsequent circular.***

***2. In this regard, the matter of method of computation of Pension has been considered and it is informed that, as for now, the computation of pension shall be in accordance with the provisions of Employees' Pension Scheme (EPS), 1995 as follows: -***

*i. Cases found eligible for pension on higher wages where date of commencement of pension is prior to **01.09.2014**: Pension shall be calculated based on average monthly pay drawn during contributory period of service In the span of 12 months preceding the date of exit from the membership of the pension fund.*



*ii. Cases found eligible for pension on higher wages where date of commencement of pension is post 01.09.2014: Pension shall be calculated based on average monthly pay drawn during contributory period of service in the span of 60 months preceding the date of exit from the membership of the pension fund.*

*(Emphasis added)*

19. Rather, it appears that the application of the pro-rata formula to “Higher Wages” cases was introduced for the first time vide e-mail dated 14.02.2024. A copy of the said e-mail, marked “for Internal Circulation only,” is annexed as Annexure P-7, and the relevant extract thereof is reproduced hereunder:

*“2. Requests have been received from various Zonal and Regional Offices to provide an example of calculation of pension on higher wages where date of commencement of pension is post-01.09.2014 i.e. pro-rata calculation is to be done.*

*3. Accordingly, it is once again clarified that as per provisions of EPS, 1995, pro-rata calculation is being done since 01.09.2014 in normal pension cases (please refer Circular No. Actuarial/18(2)/2008/Vol.III/7738 dated 29.08.2014). Now, after implementation of judgment of the Hon'ble Supreme Court, in eligible cases, the normal pension earlier given has to be enhanced to pension on higher wages. Since, there is no separate formula in EPS, 1995 for calculation of pension on higher wages in respect of ordinary EPS members, therefore, in higher wages cases also, as per provisions of EPS, 1995, calculation shall be*



done similarly, where date of commencement is on and after 01.09.2014:

***(a) Calculation of Pension in Higher Wages Cases will be on pro-rata basis as per provision of EPS, 1995: \_***

*Monthly Member's Pension = Pensionable Salary x Pensionable Service/70.*

***Pro-rata calculation will entail separate calculation for pensionable service prior to 01.09.2014 and pensionable service post-01.09.2014.***

***(b) Calculation of Pensionable Salary in Higher Wages Cases:***

***(i). For pensionable service prior to 01.09.2014: Pro-rata pensionable salary i.e. highest monthly salary prior to 01.09.2014 or 60 months' average of salary preceding the date of exit from the membership of the Pension Fund, whichever be less.***

***(ii). For pensionable service post-01.09.2014: Pro-rata pensionable salary i.e. highest monthly salary post-01.09.2014 or 60 months' average of salary preceding the date of exit from the membership of the Pension Fund, whichever be less.***

*(c) Two years weightage, where due, is to be added to pensionable service prior to 01.09.2014 i.e. in (b)(i) above.”*

*(Emphasis added)*

20. The respondents further sought to justify the application of the *pro-rata* formula to “Higher Wages” cases through the issuance of yet another clarification/circular dated 18.01.2025 (Annexure P-8). However, this Court finds substance in the contention advanced by



learned counsel for the petitioner that the e-mail dated 14.02.2024 (Annexure P-7) and the subsequent clarification dated 18.01.2025 (Annexure P-8) mark a clear departure from the methodology earlier prescribed vide Circular dated 01.06.2023 (Annexure P-6) and are not in consonance with the amended provisions of the 1995 Pension Scheme. By introducing a bifurcation of service into periods prior to and subsequent to 01.09.2014, and by employing notions such as “highest monthly salary” for the respective periods, the respondents have adopted concepts which find no place in the Scheme itself.

21. As noted above, the 1995 Pension Scheme unequivocally defines “pensionable salary” as the average monthly pay drawn during the contributory service period comprised within the 60 months immediately preceding the member’s exit. While Paragraph 11(1) contemplates *pro-rata* computation in cases where contributions are subject to the statutory wage ceiling, Paragraph 11(4), which governs higher-wage cases, specifically envisages computation on the basis of the actual higher salary.

22. It is settled law that executive or administrative instructions cannot amend or override statutory rules, nor can any such instructions be issued in derogation of the statutory framework. This is for the reason that administrative directions, being non-statutory in character, do not carry the force of law. On the contrary, statutory rules, framed under the authority of an enabling statute, have the binding force of law, provided they are consistent with and not repugnant to the parent



Act. Thus, while statutory rules occupy the field with statutory force, mere executive instructions cannot operate to curtail, modify, or expand their scope. Reliance in this regard can be placed on the judgments of the Hon'ble Supreme Court in *Yash Charitable Trust vs. Union of India*, 2026 INSC 96; *Paluru Ramkrishnaiah vs. Union of India*, AIR 1990 SC 166; *State of U.P. vs. Babu Ram Upadhyaya*, AIR 1961 SC 751; *Swapan Kumar Pal vs. Samitabhar Chakraborty*, 2001(2) SCT 1104 (SC); and *Ram Ganesh Tripathi vs. State of U.P.*, 1997(1) SCT 494 (SC).

23. Furthermore, this Court is unable to accept the contention of learned counsel for the respondents that the Hon'ble Supreme Court in *Sunil Kumar B. (supra)* had upheld the applicability of the *pro-rata* formula for computation of pensionable salary in “higher wages” cases. A careful reading of the said judgment reveals that the issue concerning the application of the *pro-rata* methodology in such cases was neither raised before nor adjudicated by the Hon'ble Apex Court. Rather, as noticed hereinabove, the said methodology appears to have been introduced for the first time through the e-mail dated 14.02.2024 (Annexure P-7), and therefore, was not even in existence at the time when the matter was under consideration before the Hon'ble Supreme Court.

24. Accordingly, this Court is of the considered opinion that the *pro-rata* methodology for “Higher Wages” cases sought to be introduced through the e-mail dated 14.02.2024 (Annexure P-7) and



clarification dated 18.01.2025 (Annexure P-8), travels beyond the statutory framework of the 1995 Pension Scheme and cannot be sustained in law. In such cases, the pensionable salary is required to be determined based on average monthly pay drawn during contributory period of service in the span of 60 months preceding the date of exit from the membership of the pension fund. Accordingly, the first issue stands answered in the aforesaid terms.

***ISSUE 2: The petitioner(s)' entitlement to interest on delayed payment of arrears of pension***

25. Conditions No. 6 and 7 of the Joint Option Form under Paragraph 11(4) of the 1995 Pension Scheme required the petitioner to deposit the full amount of contribution on salary exceeding the wage ceiling under erstwhile Paragraph 11(3) (since deleted) and Paragraph 11(4) of the Scheme, ***together with interest up to the last date of the month in which the payment was made***. In this regard, this Court finds substance in the contention advanced by learned counsel for the petitioner that Paragraph 11(4) merely contemplates the exercise of a joint option by the employer and employee and does not confer any authority upon the respondent–EPFO to impose additional stipulations, such as the levy of interest with retrospective effect. Furthermore, the Hon'ble Supreme Court in ***Sunil Kumar B. (supra)*** had also not authorised the imposition of any such condition.

26. Upon deposit of the contribution amount of ₹20,29,275/- by the petitioner, along with interest calculated up to the date of



payment vide cheque dated 25.06.2024, the respondents issued the revised PPO on 23.12.2024 (subsequently revised vide letter dated 18.02.2025 available at Annexure P-5), sanctioning his pension at the rate of ₹24,511/- per month with effect from 12.08.2019. Thereafter, an amount of ₹13,33,882/- towards arrears of pension, representing the difference between the pension payable on higher wages and the pension originally sanctioned upon retirement, was released in January 2025, i.e., after a lapse of more than five years from the date of retirement of the petitioner. Furthermore, as is evident from the e-mail dated 15.02.2024 (Annexure P-14), the respondents were required to issue the revised PPO within 15 days of the deposit/transfer of the differential contribution towards higher pension. However, in the present case, the revised PPO was issued only on 23.12.2024, i.e., after an inordinate delay of approximately five and a half months.

27. It is trite law that pension is neither a bounty, nor a matter of grace, but a vested right. The State is under a legal obligation to ensure timely disbursement of pensionary and retiral dues as and when they become payable. Failure to discharge this obligation entitles the retiree to seek compensation in the form of interest for the delayed payment. The entitlement to such interest is intrinsically linked with the right to pension and other retiral benefits, and constitutes an integral facet thereof. Reliance in this regard can be placed on the judgment of the Full Bench of this Court in *A.S. Randhawa vs. State of Punjab*, 1997(3) SCT 468.



28. Thus, where a statutory benefit is withheld for reasons not attributable to the employee, the concerned authority is under a legal obligation to compensate the employee by payment of interest. In the present case, the delay was occasioned directly by the restrictive interpretation of the 1995 Pension Scheme adopted by the respondent—EPFO, which ultimately came to be corrected by the Hon’ble Supreme Court in *Sunil Kumar B. (supra)*. Consequently, the petitioner cannot be made to suffer the erosion of the value of his pension due to the administrative or legal errors of the respondents.

29. Furthermore, this Court is unable to accept the argument put forth by the respondents that the petitioner is not entitled to interest because he had already benefitted from interest on the differential amount during the period it remained in his Provident Fund account. Admittedly, the respondents themselves have recovered the differential contribution from the petitioner along with interest to “neutralize” this very imbalance. Having charged the petitioner interest at a specific rate for the period where the funds remained with him, the respondents cannot now use the same logic to deny him interest for the period his pension arrears were unduly retained by the department. This Court is of the considered view that, in the peculiar facts and circumstances of the present case, principles of equity and fairness demand *reciprocity*. If the respondents have levied interest upon the petitioner for delayed deposit of the amount of contribution on salary exceeding the wage ceiling, they



cannot escape liability to pay interest for the corresponding delay in release of arrears of pension.

30. Reliance in this regard can also be placed on the judgment of the Division Bench of the High Court of Madhya Pradesh in ***Employees Provident Fund Organisation vs. Achyut Bhoraskar W.A. No.1441 of 2019, decision dated 16.12.2019***, wherein, while dealing with a similar controversy, the following was observed:

*“5. The learned Single Judge keeping in view the identical issue decided by the Division Bench has dismissed the writ petition. The three writ appeal preferred by the Employees Provident Fund Orders have been dismissed by this Court vide a common order dated 23.08.2018 i.e. W.A. No.766/18, W.A. No.887/18 and W.A. No.973/18. The Division Bench has dismissed the writ appeal keeping in view the judgment delivered by the Hon'ble Supreme Court in the case of **R.C. Gupta and others v. Regional Provident Fund Commissioner, Employees' Provident Fund organization and others (SLP No.33032/2015)**. The Division Bench of this Court in paragraph Nos.2 to 15 has held as under:-*

*"2. This intra court appeal under Section 2 (1) of Madhya Pradesh Uchcha Nyalayaya (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005 has been filed by the appellant / Employees' Provident Fund Organization against order dated 03.01.2018 (Annexure A/2) passed in Writ Petition No.4979/2017 by which the learned Writ Court allowed the writ petition filed by respondent No.1 (writ petitioner) and directed the appellant to accept*



*the amount from respondent No.1, which he withdrew and revise his pension, as per the directions given by Hon'ble the Apex Court on 04.10.2016 in the case of R.C. Gupta and others v. Regional Provident Fund Commissioner, Employees' Provident Fund Organization and others (SLP No.33032/2015). It is also observed by the learned Single Judge that since appellant was also not at fault and Hon'ble the Apex Court in the year 2016 has directed them to give benefit of the scheme without applying cut off date, hence the appellant is also not liable to pay interest on the arrears of pension to respondent No.1.*

xx

xx

xx

**9. Contention of the learned counsel for respondent No.1 before the Writ Court was that appellant is wrongly demanding interest on the amount so deposited by respondent No.1. If respondent No.1 is liable to deposit interest, then he is also liable to get interest on the arrears of pension payable to him in compliance to order of Hon'ble Supreme Court. Therefore, in order to maintain equity and balance, the appellant be restrained to claim interest from respondent No.1 and he shall not claim interest on the arrears of pension and the appellant is demand interest, then respondent No.1 is also entitled for interest on arrears of pension.**

**10. Learned Writ Court relying on paragraph No.11 of the judgment of the Supreme Court in the case of R.C. Gupta and others v. Regional Provident Fund Commissioner, Employees Provident Fund**



**Organization (supra) has held that the Hon'ble Supreme Court has permitted the Provident Fund Commissioner to seek return of such amount which the employees have withdrawn from the Provident Fund Account; and has directed the Provident Fund Commissioner not to claim interest along with such amount of PF. It was also observed by the Writ Court that by order dated 17.10.2012, the appellant has rejected the claim of respondent No.1 for re-fixation of pension on the basis of actual salary exceeding wage limit, but now the appellant permitted to revise pension of respondent No.1 after the judgment of the Supreme Court; and as he was not at fault to withdraw the amount of PF, therefore, he is not liable to pay interest on such amount which he withdrew from his PF Account and deposit it for the revision of pension.**

xx

xx

xx

**13. On due consideration of the arguments of the learned counsel for the parties, so also the reasoning assigned by the learned Writ Court in the impugned order, we are of the view that there is no legal flaw in the order passed by the learned Writ Court. Judgment dated 22.09.2014 passed in Writ Petition (C) No.12999/2014 T.V. Joseph and others v. Union of India and others of the High Court of Kerala at Ernakulam cited by the learned counsel for the appellant will not be applicable in the present facts and circumstances of the case."**

xx

xx

xx



**6. In light of the Division Bench order passed by this Court as the controversy involved in the present case has already been concluded, the present writ appeals also stand dismissed.”**

*(Emphasis added)*

31. Moreover, learned counsel for the respondents could not controvert the fact that vide circular/clarification dated 18.01.2025 (Annexure P-8), it has been clarified that interest on EPF dues arising on account of wage arrears payable retrospectively may be recovered up to the date of retirement or cessation of membership under the 1995 Pension Scheme, whichever is earlier. However, in the present case, the respondents have recovered interest on the differential contribution towards higher pension up to the date of actual payment.

32. Additionally, it must be pointed out that this Court vide order dated 22.04.2026 in **CWP No. 34409 of 2024** titled as ***Shiv Kumar vs. Union of India and others***, directed the respondents therein to file an affidavit indicating the exact amount of interest imposed upon the actual due amount and to place on record the details of interest charged upon the petitioners from the year 1995 till the issuance of the demand notices. In compliance with the aforesaid order, an affidavit dated 14.05.2026 was filed in Court and the relevant portion thereof is reproduced hereunder:

*“3. That the present affidavit is being filed in compliance of the above- mentioned direction of this Hon'ble Court. The deponent after scrutiny of the records in the office of Employees' Provident Fund Organisation, submits that on*



*the deposits made by the petitioners for the purpose of grant of enhanced pension, the interest rate charged on the differential contribution (the 8.33% employer share plus the 1.16% additional contribution) is the 'statutory rate of interest' declared by the Government of India for the Employees' Provident Fund (EPF) for the respective financial years. A table indicating the rate of interest along with the respective years is reproduced herein below for the kind perusal of this Hon'ble Court:*

<b>Year</b>	<b>Rate of Interest</b>
1995-96 to 1999-2000	12%
2000-01 (12% for 1st Quarter and 11% 2nd to 4th Quarter)	12% and 11%
2001-02 to 2004-05	9.5%
2005-06 to 2009-10	8.5%
2010-11	9.5%
2011-12	8.25%
2012-13	8.5%
2013-14	8.75%
2014-15	8.75%
2015-16	8.8%
2016-17	8.65%
2017-18	8.55%
2018-19	8.65%
2019-20	8.5%
2020-21	8.5%
2021-22	8.1%
2022-23	8.15%
2023-24 to 2025-26	8.25%

4. That the above-mentioned interest was charged on compound basis.”



32.1 Therefore, it is an admitted position that the respondents have levied interest at varying rates on a compound basis. Consequently, this Court holds that the petitioner(s) shall likewise be entitled to interest, computed on a compound basis and at the corresponding applicable rates, on the delayed payment of arrears of pension. The second issue stands answered accordingly in the aforesaid terms.

***ISSUE 3: Disparity between the wages considered for contribution and the wages adopted for pensionable salary***

33. It is a fundamental principle of any contributory pension scheme that there must be a parity between the wages on which an employee pays their share and the wages used to determine their eventual benefit. Any divergence between these two figures, where the department accepts contributions on a higher wage but calculates the pension on a lower one, is inherently discriminatory and legally unsustainable.

34. In the present case, the petitioner has demonstrated a clear mathematical inconsistency. While the respondents calculated the differential contribution payable by the petitioner by including higher wages, such as arrears of Dearness Allowance (DA) and benefits from pay revisions, curiously, they excluded these very elements when determining the pensionable salary. Learned counsel for the petitioner had contended that the petitioner's total salary during the relevant 60-month period was ₹49,91,902/-, yet the respondents reckoned it as ₹48,99,902/-. This discrepancy of nearly ₹92,000 arose solely from the



respondents' failure to apportion arrears of D.A. and pay revisions to the specific months to which they relate.

35. The defence raised by the respondents that they are bound by the 'member ledger' provided by the employer and that no bifurcation of arrears was available, cannot be accepted by this Court. The respondent-EPFO is a statutory body tasked with the correct administration of a social security fund, therefore, it cannot be allowed to hide itself behind administrative bookkeeping oversights or the failure of an employer to provide month-wise bifurcations. Once the respondents verified the higher wages for the purpose of *collecting* money from the petitioner, they were effectively estopped from claiming that those same wages could not be verified for the purpose of *paying* the pension.

36. The petitioner has provided detailed calculation sheets (Annexure P-11) showing that if the arrears are correctly apportioned and the *pro-rata* principle is excluded (as held by this Court under Issue No. 1), the monthly pension ought to be ₹28,212/-, instead, the petitioner was sanctioned a pension of only ₹24,511/- per month. This results in a significant monthly shortfall that deprives the retiree of his rightful dues. Consequently, this Court finds that there exists a clear and unjustified disparity between the wages considered for contribution and the wages adopted for pensionable salary. Issue No.3 is answered, accordingly.



## CONCLUSION

37. In view of the foregoing discussion, all the captioned writ petitions are disposed of in the following terms:-

- a. The Circular dated 18.01.2025 (Annexure P-8) and the internal e-mail dated 14.02.2024 (Annexure P-7) are hereby quashed to the extent they prescribe the pro-rata methodology for calculation of pensionable salary in “Higher Wages” cases. Consequently, the respondents are directed to forthwith recalculate the pensionable salary of the petitioner(s) on the basis of the average monthly pay drawn during contributory period of service in the span of 60 months preceding the date of exit from the membership of the pension fund, without applying the pro-rata formula or bifurcating the service period.*
- b. The respondents shall ensure complete parity between the wages taken into account for recovery of differential contribution and those adopted for determination of pensionable salary, including due apportionment of arrears of Dearness Allowance and pay revision benefits to the respective months to which they relate. The consequential arrears of pension arising therefrom shall also be recalculated and released to the petitioner(s).*
- c. The respondents are directed to pay simple interest at the rate of 8% per annum on the aforementioned arrears of pension arising from the recalculation of pensionable salary without application of the pro-rata formula and from the rectification of disparities between the wages considered for contribution purposes and those adopted for pension fixation. Such interest shall be calculated from the expiry of 15 days from the date of submission of*



*the joint option forms by the petitioner(s) until the date of actual disbursement of the arrears.*

- d. Furthermore, admittedly, the petitioner(s) were not paid any interest on the delayed release of arrears representing the difference between the pension payable on higher wages and the pension originally sanctioned upon retirement, even though such amounts had become due immediately upon retirement. For instance, with regards to the petitioner in CWP-28189-2025, an amount of ₹13,33,882/- towards the difference between the pension payable on higher wages and the pension originally sanctioned upon retirement was released in January 2025 without any interest. Accordingly, the respondents are directed to pay interest on the delayed release of the aforesaid arrears, computed on a compound basis and at the same rates at which interest had been charged from the petitioner(s). Such interest shall be calculated from the expiry of two months from the date of retirement of the respective petitioner(s) till the date of actual disbursement of the arrears.*
- e. The entire exercise of recalculation, release of arrears, and payment of interest shall be completed within a period of twelve weeks from the date of receipt of a certified copy of this order.*
- f. It must be clarified that the present judgment is a judgment in rem, intending to give benefit to all similarly situated persons, whether they have approached this Court or not. Reference in this regard must be made to the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in State of Uttar Pradesh vs. Arvind Kumar Srivastava, 2014(4) SCT 648. Therefore, the respondent authorities shall be duty-bound to extend*



*the benefit of this judgment to all similarly situated persons. Such persons ought not to be compelled to approach this Court for the aforesaid reliefs and shall be at liberty to submit appropriate representations to the respondents/competent authority within a period of three months from today. Needless to say, the respondents/concerned authority shall process these claims expeditiously.*

38. Pending miscellaneous applications, if any, shall stand disposed of.

39. A photocopy of this order be placed on the file of other connected cases.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**27.05.2026**

*yakub*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No