



AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4826 OF 2026

Durga Srinivas Kallakuri,

Age 67 years, R/o Flat No. 201, 2nd Floor,
Venkata Sai Mansion, Jawahar Nagar,
Community Hall back, Moulai, Secundarabad,
Hyderabad, Telangana – 500040.

... **Petitioners**

Vs.

The Employees' Provident Fund

Organisation (EPFO), through
the Assistant PF Commissioner,
Regional Office – Nariman Point,
Mumbai – I, having office at 341,
Bhavishya Nidhi Bhawan,
Bandra (E), Mumbai – 400 051.

... **Respondent**

ATUL
GANESH
KULKARNI

Digitally signed
by ATUL GANESH
KULKARNI
Date: 2026.04.18
12:12:45 +0530

AND

WRIT PETITION NO. 4828 OF 2026

Amit Gunvantra Mehta,

Age 63 years, R/o A4, 402, Gopal Park,
near Jamnagar Bus Stand, Ghod
Dod Road, Surat, Gujarat – 395 007.

... **Petitioner**

Vs.

The Employees' Provident Fund

Organisation (EPFO), Through
the Asssistant PF Commissioner,
Regional Office – Vashi, having office
at Tower No. 6, 5th Floor,
Vashi Rly Station Complex,
Vashi, Navi Mumbai – 400 703.

... **Respondent**

AND
WRIT PETITION NO. 4832 OF 2026

Haresh Shantilal Bosmia

Age 58 years, R/o 21-A, Aarohi Plots,
Opp. Skysol Apartment, Aarohi Club Road,
Ghuma, Ahmedabad, Gujrat – 380 058.

... **Petitioner**

Vs.

The Employees' Provident Fund

Organisation (EPFO), Through the
Regional PF Commissioner – II,
Regional Office – Vashi, having office
at Tower No. 6, 5th Floor, Vashi Rly
Station Complex, Vashi,
Navi Mumbai – 400 703.

... **Respondent**

AND
WRIT PETITION NO. 4835 OF 2026

Francis Joseph,

Age 63 years, R/o 1001, Nazarene,
Plot NO. 485, 13th Road, Chembur
East, Mumbai - 400 071.

... **Petitioner**

Vs.

The Employees' Provident Fund

Organisation (EPFO), Through the
Assistant PF Commissioner,
Regional Office – Dadar, having office
at 341, Bhavishya Nidhi Bhawan,
Bandra (E), Mumai – 400 051.

... **Respondent**

AND
WRIT PETITION (ST) NO. 10895 OF 2026

Keepadanda Basappa Monnappa,
Age about 63 years, R/o No. 9, 1st Main
Road, Kaval Baisaranda New Extension,
Bangaluru North, Bengaluru,
Karnataka - 560 032.

... **Petitioner**

Vs.

**The Employees' Provident Fund
Organisation (EPFO),** Through the
Assistant PF Commissioner,
Regional Office – Vashi, having office
at Tower No. 6, 5th Floor, Vashi Rly
Station Complex, Vashi,
Navi Mumbai – 400 703.

... **Respondent**

AND

WRIT PETITION (ST) NO. 10894 OF 2026

Sanjay Sharma,
S/o. Shashi Kant Sharma, aged about
68 years, R/o 95/4, Arya Samaj Road,
Ganesh Ganj, Lucknow,
Uttar Pradesh – 226018.

... **Petitioner**

Vs.

**The Employees' Provident Fund
Organisation (EPFO),** Through the
Assistant PF Commissioner,
Regional Office – Vashi, having office
at Tower No. 6, 5th Floor, Vashi Rly
Station Complex, Vashi,
Navi Mumbai – 400 703.

... **Respondent**

Mr. Satyam Surana for the petitioner in all WPs.

Ms. Payoja Gandhi with Ms. Devangi Manjrekar for the
respondent – EPFO in Writ Petition Nos.4826/2026,
4828/2026, 4832/2026, & 4835/2026.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 16, 2026.

PRONOUNCED ON : APRIL 18, 2026

JUDGMENT:

1. Inasmuch as a common question of law arises for consideration and the factual matrix in all the present writ petitions is substantially identical, all these petitions are being disposed of by this common judgment and order, so as to avoid repetition of facts.

2. By these writ petitions filed under Articles 226 and 227 of the Constitution of India, the petitioner in each of the matters has called in question the legality and correctness of the orders dated 8 April 2025, 9 April 2025 and 4 December 2025 passed by the respondent authority, on the grounds set out therein.

3. The facts giving rise to the present proceedings, as set out in Writ Petition No. 4826 of 2026, may be stated thus. The petitioner, after completing his formal education, obtained a Diploma in Electrical Engineering in the year 1980. Thereafter, he entered service and was engaged in various capacities with different employers. It is the case of the petitioner that he remained in continuous and uninterrupted service, holding permanent positions, till he attained the age of superannuation on 29 June 2017. According to him, this tenure of about 35 years was rendered without any blemish. During the course of such employment, the petitioner was granted several pay revisions, transfers and promotional benefits from time to time. It is further

stated that under Section 6-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Employees' Pension Scheme, 1995 came to be notified by the Government of India with effect from 16 November 1995. The petitioner asserts that he satisfies all conditions for availing benefits under the said pension scheme and is therefore entitled to receive pension in accordance with its provisions.

4. It is the petitioner's case that he had duly exercised his option under the said scheme and became a member of the respondent organisation, namely the Employees' Provident Fund Organisation, in accordance with the prescribed procedure. It is further contended that throughout his service tenure, contributions towards the provident fund were regularly made, and the respective employers deducted and remitted both the employer's and employee's contributions to the said organisation without default. The petitioner has further placed reliance upon the order dated 4 November 2022 passed by the Supreme Court in Special Leave Petition (Civil) Nos. 8658–8659 of 2019 in the case of *Employees Provident Fund Organisation and others versus Sunil Kumar B. and others*, reported in 2022 INSC 1171, whereby directions were issued to the respondent organisation and the Union of India to permit eligible employees to exercise joint option for pension on higher wages exceeding the statutory ceiling of Rs.15,000/- per month.

5. In pursuance of the aforesaid directions, the respondent made available an online facility enabling submission of applications for exercise of such joint option. The petitioner

accordingly submitted his application on 31 March 2023, bearing acknowledgment number 230331114801002255161. Along with the application, he submitted requisite documents and particulars as called for by the respondent. It is his case that details of contributions made on higher wages were also furnished. On this basis, the petitioner contends that he had a legitimate expectation that his pension would be computed on the basis of actual wages on which contributions were made.

6. It appears that by communications dated 9 December 2024 and 3 February 2025, the respondent forwarded the petitioner's application to the concerned employers, seeking certain documents and records in accordance with the guidelines issued by the Government of India from time to time. The documents so sought included proof of joint option under Paragraph 26(6) of the EPF Scheme, 1952, proof of joint option under the proviso to Paragraph 11(3) of the Employees' Pension Scheme, 1995, evidence of remittance of provident fund and pension contributions on wages exceeding the prescribed ceiling, any refusal by the authorities in respect of such remittances, and statutory forms such as Forms 3A and 6A along with challans.

7. In response thereto, the employer, by communication dated 20 January 2025, informed the respondent that all relevant documents, returns, and information had already been submitted to the respondent from time to time and were available on record. It was further stated that Forms 3A and 6A had been periodically furnished and therefore there was no necessity for resubmission of the same.

8. Thereafter, by a further communication dated 10 March 2025, the employer reiterated its earlier stand. However, it is material to note that no additional documents, as specifically called for by the respondent in its earlier communications, were furnished along with the said clarification.

9. Thereafter, the respondent, by order dated 8 April 2025, rejected the petitioner's application for grant of pension on higher wages. The rejection was on the ground that the requisite documents and records, as called for from the establishment or employer, were not submitted.

10. The petitioner has invited attention to Paragraph 20 of the Employees' Pension Scheme, 1995, which casts a statutory obligation upon the employer to submit to the respondent the necessary particulars relating to contributions, including the annual statement in Form 6A. It is contended that the duty to maintain and furnish such records is that of the employer, and thereafter the responsibility for proper maintenance lies with the respondent organisation.

11. After the rejection of the petitioner's claim, the employer, namely Karma Energy Ltd., addressed a further communication dated 17 October 2025 to the respondent, reiterating that all relevant records had already been submitted and requesting reconsideration of the petitioner's application in light thereof.

12. The petitioner further asserts that by communication dated 19 January 2018, Forms 3A along with the joint option declaration and other supporting documents had already been submitted to

the respondent. It is thus contended that the petitioner, being an employee, had no control over the statutory compliances required to be made by the employer or the internal record maintenance of the respondent. Despite having rendered service and having contributed to the provident fund and pension fund on actual higher wages, the petitioner has been denied the corresponding benefit on account of alleged non-submission of records. According to the petitioner, such denial is arbitrary and unsustainable, as it results in penal consequences for lapses attributable to the employer or the respondent authority. Being aggrieved thereby, the petitioner in each of these matters has approached this Court by way of the present writ petitions.

13. Mr. Surana, learned Advocate appearing for the petitioner, submitted that the respondent has erred in not appreciating that the statutory obligation to maintain and submit Form 6A and other relevant records squarely lies upon the employer, and the petitioner, being merely an employee, cannot be fastened with the consequences arising from non-availability or non-production of such records. It is his submission that even assuming that certain documents were not produced by the employer, the respondent was duty bound to examine the correctness and genuineness of the petitioner's claim on the basis of other reliable material available on record, such as Form 3A and the statements of the petitioner's EPF account. According to him, Form 6A, challans and similar documents are only procedural in nature and contain information which is otherwise reflected in Form 3A and the EPF account statements, and therefore non-production of such documents could

not have been made a ground to deny substantive benefits.

14. Learned counsel further submitted that a plain reading of the clarification furnished by the employer would indicate that all relevant records, including details of contributions made by both the employee and the employer, had already been submitted to the respondent from time to time. It is urged that along with the application for joint option, the petitioner had placed on record necessary documents including the joint option form duly certified by the employer, the EPF account passbook and other supporting material, which ought to have been duly considered by the respondent authority. It is also pointed out that the petitioner had furnished an undertaking agreeing to deposit any differential amount, if so determined by the respondent, along with applicable interest through the employer.

15. It is further contended that denial of pension on higher wages, despite the petitioner otherwise satisfying the eligibility conditions, merely on account of technical lapses attributable to the employer, results in manifest injustice and defeats the petitioner's legitimate expectation as well as his accrued right to receive pension. It is submitted that the claim of the petitioner ought to have been considered on the basis of the material available on record, irrespective of alleged deficiencies in documents to be furnished by the employer. On this premise, it is prayed that the petitioner's application for pension on higher wages be allowed and the impugned order dated 28 March 2025 be set aside.

16. Per contra, Ms. Payoja Gandhi, learned Advocate appearing for the respondent, submitted that upon scrutiny of the petitioner's online application for joint option for pension on higher wages, several communications and reminders were issued to the present employer on 13 February 2025, 21 March 2025, 24 March 2025, 27 March 2025 and 29 March 2025 calling upon the employer to furnish requisite documents. It is further submitted that no joint option was received from the previous establishment, and therefore reminders were also issued to the previous employer on 18 February 2025, 21 March 2025, 27 March 2025 and 29 March 2025 in terms of the guidelines contained in the EPFO Head Office Circulars dated 20 February 2023 and 23 March 2023. According to her, submission of joint option along with proof of remittance of contributions on wages exceeding the statutory ceiling from the relevant date till retirement, along with supporting evidence, constitutes mandatory requirements which must be satisfied before a claim for pension on higher wages can be considered.

17. Learned counsel for the respondent further submitted that sufficient opportunity was granted to both the employer and the petitioner to produce the requisite documents. However, the establishment only submitted a communication dated 24 January 2025 and failed to furnish acknowledged copies of Forms 3A and 6A for the relevant period commencing from 16 November 1995 or from the date of joining, as the case may be. It is therefore contended that in the absence of essential records, the respondent was not in a position to determine the petitioner's eligibility. It is thus submitted that the petitioner's claim does not satisfy the

conditions laid down by the Hon'ble Supreme Court in its judgment dated 4 November 2022, read with the applicable circulars issued by the EPFO. On these grounds, it is urged that the writ petitions are devoid of merit and deserve to be dismissed.

REASONS AND ANALYSIS:

18. I have given anxious consideration to the rival submissions and to the material placed before this Court. The main issue is whether an eligible employee can be denied the benefit of pension on higher wages only because the employer does not respond, or does not place on record every document which the authority asks for, even though the employee has already made out a prima facie claim from other available material. This difficulty becomes more serious for the period prior to the year 2010, when the present system of online filing and electronic record transmission was not in full operation, and many establishments were still maintaining records in manual form. In such a situation, the authority cannot insist upon one single document as if it is the only proof of the claim.

19. The submission of Mr. Surana does carry weight. It is a settled position that the employee does not maintain custody over returns which are required to be prepared and submitted by the employer under the scheme. Documents such as Form 6A, challans, and other related filings are part of the employer's obligation, and the control over their preparation, preservation and submission lies with the establishment. The employee has no role in this process. Therefore, if there is any lapse in production

or maintenance of such records, the same cannot be fastened upon the employee. To hold otherwise would result in placing an burden upon a person who has neither authority nor access to such documents.

20. In the present case, the petitioner has relied upon Form 3A, the EPF account statement, the joint option form certified by the employer, and also furnished an undertaking to deposit any differential contribution. These documents are indicators of the employment, the wages drawn, and the contributions made. Form 3A reflects yearly contribution details, and the EPF account statement shows the running account of deposits. If these records indicate that deductions were made on higher wages and contributions were credited, then they form a basis to examine the claim. In such a situation, the absence of one document, namely Form 6A or certain challans, cannot be treated as fatal. What is required is satisfaction about the factum of contribution, and that can be gathered from multiple sources.

21. At the same time, the stand of the respondent also deserves due consideration. The respondent is justified in contending that grant of pension on higher wages is subject to fulfillment of conditions laid down by the Supreme Court as well as the circulars issued by the EPFO. The authority must be satisfied that there was a valid joint option exercised in accordance with law and that the contributions on wages exceeding the statutory ceiling were remitted. These are essential requirements and cannot be diluted. However, the manner in which these requirements are applied must be reasonable. The authority cannot insist upon a perfect set

of documents in every case, particularly when dealing with old records where such perfection may not be possible. The test is of satisfaction based on available material.

22. It must also be kept in mind that the scheme in question is a beneficial legislation. Its purpose is to secure pensionary benefits to employees who have contributed during their service. It is not intended to create hurdles which make it impossible for a genuine claimant to succeed. If the approach of the authority is technical, it may result in denial of benefits to persons who have fulfilled their obligations. Such an interpretation would defeat the object of the scheme. Therefore, while compliance with conditions is necessary, the same must be assessed in a realistic manner.

23. In the facts of the present case, it is seen that the petitioner applied through the online mechanism introduced pursuant to the directions of the Supreme Court. Thereafter, the respondent called upon the employer to furnish records and issued several reminders. The employer responded by stating that the relevant documents had already been submitted earlier and were available with the EPFO. This reply raises a possibility that the records may be in the possession of the authority. At the same time, such a statement by the employer cannot be accepted without verification. It casts a duty upon the respondent to examine its own records and ascertain whether the documents are indeed available.

24. In a situation where the employer does not fully cooperate, the authority cannot close the matter at that stage. It must proceed

further and make its own inquiry from available sources. This would include examination of its internal records such as electronic data, old physical returns, member ledgers, passbook entries, contribution history and Form 3A details. These materials can provide a picture regarding the contributions made by or on behalf of the employee. The authority must then arrive at a conclusion based on this material.

25. For this reason, I am of the view that in cases of this nature, particularly relating to periods prior to the year 2010 when record keeping was not digitised, the authorities must adopt a workable approach. Initially, the authority must call upon the employer to produce records and grant reasonable opportunity. If the employer fails to respond or responds inadequately, the authority must then turn to its own records and verify what is already available. Thereafter, if gaps are still found, the authority should seek corroboration from other reliable documents such as the employee's joint option, salary records, appointment details, wage slips, bank statements and prior communications of the employer. If upon such examination it appears that contributions on higher wages were in fact made and that the employee had exercised the option, then the authority should proceed to process the claim, subject to payment of any differential contribution and applicable interest. Rejection should not be the immediate outcome. It must come only after all possible avenues of verification are exhausted and a finding is recorded that the claim cannot be substantiated even on consideration of available material. Even in such a case, reasons must be clearly stated.

26. This approach becomes necessary because the employee cannot be made to suffer for defaults of the employer or for deficiencies in record maintenance by the authority itself. The system of maintaining records is intended to safeguard the interests of employees. It cannot be used as a ground to deny benefits. Particularly in cases relating to earlier periods, insistence on production of original records in a particular format may lead to unjust results. The authority must therefore adopt a rational method of verification, asking whether there is evidence of contribution, whether the employment is established, and whether the overall material supports the claim.

27. Applying these principles to the present case, it becomes evident that the petitioner has raised a substantial claim. The documents produced by him, when read along with the employer's responses and the records likely to be available with the respondent, required a deeper scrutiny. The impugned order, however, proceeds on the ground that certain documents were not produced by the employer, without examining whether the other materials on record were sufficient to establish entitlement. This reflects a mechanical approach which is not consistent with the nature of the scheme. The claim ought to have been examined on its substance, especially when the deficiency is attributable to lack of cooperation by the employer and the historical nature of the records.

28. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:

(i) The impugned orders dated 8 April 2025, 9 April 2025 and 4 December 2025 passed by the respondent, rejecting the applications of the petitioners for grant of pension on higher wages, are quashed and set aside;

(ii) The matters are remanded to the respondent authority for fresh consideration of the petitioners' applications for pension on higher wages, in accordance with law and in light of the observations made in this judgment;

(iii) The respondent shall, upon such reconsideration, not reject the claims solely on the ground of non-production of Form 6A, challans or similar records by the employer, particularly for the period prior to the year 2010, and shall instead examine all available material including Form 3A, EPF account statements, contribution history, and any other corroborative documents;

(iv) The respondent shall make an independent verification of records available in its own custody, including electronic data and past returns, and shall also take into account the communications made by the employer and the documents already submitted by the petitioners;

(v) In the event the respondent finds that contributions on higher wages were in fact made and that the petitioners had exercised the joint option in substance, the respondent shall process the claims and grant consequential pensionary benefits, subject to deposit of any differential contribution along with applicable interest, in accordance with the

scheme;

(vi) The petitioners shall be given an opportunity, if required, to furnish any additional material or clarification in support of their claims, within such time as may be prescribed by the respondent;

(vii) The entire exercise of reconsideration shall be completed within a period of twelve weeks from the date of receipt of this order;

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

(ix) All writ petitions are accordingly allowed in the above terms. No order as to costs.

(AMIT BORKAR, J.)