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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 632 OF 2026

Kiran Rajaram Jadhav,
Aged about 59 years,
Residing at Address:
Room No.401, Building No.272,
Shree Vinayak CHS, RSC 26,
Nr. Bank of Maharashtra,
Charkop Sector 1, Kandivali West,
Mumbai -400 067 … **Petitioner**

V/s.

1. **The Employees Provident Fund Organisation (EPFO)**
   through The Assistant PF Commissioner, Regional Office, - Dadar
   Having Office at:
   Haffkine Bio – 341, Bhavishya Nidhi Bhawan, Bandra (E), Mumbai -400 051.

2. **Haffkine Bio- Pharmaceutical Corporation Limited**
   (A Government of Maharashtra Undertaking) Through its Managing Director, Having Office at
   Pharmaceutical Corporation Limited
   Acharya Donde Marg, Parel,
   Mumbai- 400 012. … **Respondents**

Mr. Satyam Surana, for the petitioner.

Ms. Payoja Gandhi, for respondent no. 1.

Mrs. N.R. Patankar with Mr. Prabhakar M. Jadhav i/b Ms. Tanaya Patankar, for respondent no. 2.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 12, 2026

PRONOUNCED ON : MARCH 26, 2026

JUDGMENT:

1. Rule. Rule is made returnable forthwith.

2. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner calls in question the legality and correctness of the impugned order dated 28 March 2025 passed by respondent No.1, namely the Assistant Pension Commissioner, Regional Office, Dadar, Employees' Provident Fund Organisation.

3. The factual background giving rise to the present petition, as set out by the petitioner, is as follows. The petitioner acquired a Diploma in Pharmacy in the year 1987 and came to be selected for appointment to the post of Pharmacist with respondent No.2. The petitioner joined service on 4 May 1987 and continued in uninterrupted and permanent employment until attaining the age of superannuation on 31 January 2024. The petitioner thus rendered continuous service of approximately 37 years, which is stated to be unblemished. During the tenure of his employment with respondent No.2, the petitioner was granted two pay scale upgradations, firstly on 20 January 2000 and thereafter on 30 July 2014. It is the case of the petitioner that in terms of Section 6-A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Employees' Pension Scheme, 1995 came into force with effect from 16 November 1995. The petitioner asserts that he is

eligible and entitled to avail the benefits under the said Scheme. Accordingly, he exercised his option and became a member of the Employees' Provident Fund Organisation in accordance with the prescribed procedure. The petitioner was allotted EPF No. MH/15257/1025 and Member ID MHBAN00152570000001025. Throughout his service, the petitioner made regular contributions to the provident fund, and respondent No.2 duly deducted and remitted both employer's and employee's contributions to the statutory authority.

4. The petitioner has placed reliance on the judgment and 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 vs. Sunil Kumar B. and Others, wherein directions were issued to respondent No.1, in coordination with the Government of India, to consider applications of eligible employees for exercise of joint options for pension on higher wages exceeding the prescribed ceiling limit of Rs.15,000. Pursuant thereto, respondent No.1 introduced an online facility enabling eligible members to submit applications for exercise of such joint option for pension on actual wages exceeding the statutory ceiling. In pursuance thereof, the petitioner submitted an online application on 29 September 2023 seeking pension on higher wages. It is the petitioner's case that along with the said application, all requisite documents and particulars, as mandated by the Employees' Provident Fund Organisation, were duly furnished. The petitioner also annexed the complete statement of his provident fund account reflecting

contributions made over the course of his employment. According to the petitioner, having contributed on actual wages, he had a legitimate expectation that his pensionary benefits would be computed accordingly on the basis of higher wages.

5. It appears that thereafter, by communication dated 14 May 2024, respondent No.1 forwarded the petitioner's application to respondent No.2 employer for the purpose of seeking verification and submission of certain requisite records, in accordance with the guidelines issued from time to time. The documents sought from the employer included proof of joint option under paragraph 26(6) of the EPF Scheme, 1952 duly verified by the employer; proof of joint option under the proviso to paragraph 11(3) of the Employees' Pension Scheme, 1995; evidence of provident fund contributions on wages exceeding the prescribed ceiling of Rs.5,000 and Rs.6,500; proof of pension fund contributions on higher wages; any written refusal by the competent authority of EPFO in respect of such remittances; as well as statutory forms such as Forms 3A and 6A, along with challans evidencing remittance of administrative charges on higher wages. In response to the aforesaid communication, respondent No.2 addressed a clarification dated 29 January 2025 to respondent No.1. In the said communication, respondent No.2 stated that pursuant to the judgment of the Supreme Court dated 4 November 2022, a total of 92 employees had submitted applications for higher pension. It was further stated that in respect of 35 applicants, queries were received regarding submission of Form 3A, and accordingly, Forms 3A for the period from April 1995 to March 2011 were being

furnished. It was also indicated that Forms 3A for the period subsequent to April 2011 were not available on account of transition to online systems. Significantly, the said communication did not enclose or address the other documents sought by respondent No.1 and primarily rested on the unavailability of records.

6. Upon consideration of the material, respondent No.1, by order dated 28 March 2025, rejected the petitioner's application for pension on higher wages. The rejection was founded on the ground that the employer had failed to submit Form 6A and other requisite records for the period prior to March 2010. It was further observed that Form 6A and monthly challans were not available in the office records, and that such documents are essential for verification of annual contribution details. In the absence of Form 6A, the authenticity of contributions on higher wages, as claimed in the joint application, could not be verified. It was also noted that in the absence of challans, it was not possible to ascertain whether administrative charges on higher wages had been duly paid. The order records that despite sufficient opportunity, the employer failed to produce the required documents. Being aggrieved thereby, the petitioner has approached this Court by way of the present writ petition.

7. Mr. Surana learned Advocate appearing on behalf of the petitioner submits that respondent No.1 has failed to properly appreciate that the primary statutory obligation of maintaining and producing Form 6A and other relevant records squarely rests upon the employer, namely respondent No.2. It is urged that the

petitioner, being an employee, cannot be penalised for non-availability or non-production of such records. It is further submitted that even assuming that certain documents were not produced by the employer, respondent No.1 ought to have examined the genuineness of the petitioner's claim on the basis of other reliable material on record, such as Form 3A and the statement of the petitioner's EPF account. According to the petitioner, Form 6A is only a consolidated statement submitted by the employer to the EPFO and substantially contains the same particulars as reflected in Form 3A and the EPF account statements. It is further submitted that a plain reading of the clarification furnished by respondent No.2 would indicate that Form 3A has in fact been annexed, which contains the details of contributions made both by the petitioner and the employer. It is contended that along with the application for joint option, the petitioner had already submitted all necessary documents, including the duly certified joint option form and EPF account passbook, which were required to be considered by respondent No.1. The petitioner has also furnished an undertaking agreeing to deposit any differential amount, if so determined by respondent No.1, through respondent No.2, along with applicable interest.

8. Learned Advocate for the petitioner further submits that the burden of proving non-submission or non-maintenance of Form 6A cannot be shifted upon the employee. It is contended that once the employee establishes that contributions were in fact deducted from wages exceeding the prescribed ceiling, the responsibility shifts upon the employer and the statutory authority to reconcile their

records or to adopt alternative modes of verification. It is urged that respondent No.1, being a statutory authority entrusted with implementation of a beneficial social welfare legislation, is under a corresponding obligation to ensure compliance by the employer with statutory requirements. In cases where the employer fails to furnish records, respondent No.1 cannot reject the claim outright, but is required to take reasonable steps to secure such records or to verify the contributions through other available material. It is further submitted that respondent No.2, as an employer, was under a statutory as well as fiduciary duty to maintain complete and accurate records of the petitioner's contributions and to furnish the same to respondent No.1. The communication dated 29 January 2025 issued by respondent No.2, wherein it is stated that records from April 2011 onwards are not available due to transition to online systems, amounts to an admission of administrative lapse. It is contended that such failure on the part of the employer cannot operate to the prejudice of the petitioner. The rejection of the petitioner's application, without exploring alternative modes of verification such as salary records, bank statements indicating deductions, or other available documents including Form 3A, reflects lack of due diligence on the part of respondent No.1 and results in denial of fair treatment.

9. It is submitted that the respondents are under a statutory obligation to maintain proper and complete records of contributions. Their inability to produce or retrieve such records cannot be a valid ground to deny the petitioner his accrued entitlement. It is contended that pension is not a matter of

discretion but a right earned by an employee for long and continuous service. The scheme is intended as a measure of social security to ensure financial stability in post-retirement life. Denial of such benefit on grounds beyond the control of the employee results in serious prejudice and infringes the petitioner's right to livelihood and dignity. In support of these submissions, learned Advocate for the petitioner has placed reliance upon the judgment of the Allahabad High Court in *Bechu Rai vs. State of U.P. & Others* decided on 31 March 2014, the judgment of the Rajasthan High Court in *Harishankar Sharma vs. Rajasthan Small Industries Corporation Limited* decided on 2 April 2025, and the judgment of the Punjab and Haryana High Court in *Suresh Kumar & Another vs. State of Haryana & Others* decided on 15 January 2024.

10. Mrs. N.R. Patankar, learned Advocate appearing for respondent No.2 employer submits that in response to the communication dated 14 May 2024 issued by respondent No.1, calling upon respondent No.2 to furnish wage details for the entire period of service commencing from 16 November 1995, the employer has provided all available details of month-wise wages on which provident fund contributions were made. It is submitted that details of contributions made both by the employer and the employee, along with interest wherever applicable, have been furnished. It is further submitted that Form 3A has also been provided, which contains relevant details including the employer code and particulars of contributions. According to respondent No.2, despite availability of sufficient material, respondent No.1 has failed to extend the benefit of higher pension to the petitioner.

11. On the other hand, Ms. Payoja Gandhi learned Advocate appearing for respondent No.1 supports the impugned order and submits that in absence of Form 6A and monthly challans, the claim of the petitioner could not be duly verified. It is contended that Form 6A constitutes an essential document for verification of annual contributions and, in its absence, the authenticity of contributions on higher wages as stated in the joint option application cannot be established. It is further submitted that in absence of challans, it is not possible to ascertain whether administrative charges on higher wages have been duly paid by the establishment. It is urged that despite sufficient opportunity having been granted, the employer failed to produce the requisite documents, and therefore, the petitioner's claim does not satisfy the conditions laid down by the Supreme Court in its judgment dated 4 November 2022.

REASONS AND ANALYSIS:

12. Having heard the learned advocates for the parties and having gone through the material placed on record, this Court finds that the controversy is a narrow one, though it carries serious consequence for the petitioner. The petitioner has served respondent No.2 for about 37 years. It is not in dispute that he was a regular employee, that provident fund contributions were deducted from his wages during service, and that he applied for pension on higher wages after the directions of the Supreme Court in the case of Employees' Provident Fund Organisation and Others v. Sunil Kumar B. and Others. The rejection is founded mainly on non-production of Form 6A and monthly challans. Therefore, the

real question is not whether the petitioner served long enough or whether he made the joint option application. The real question is whether his claim can be defeated only because some employer-side records were not produced in the form demanded by respondent No.1.

13. This Court finds itself unable to accept the stand taken by respondent No.1 in the inflexible manner in which it has been adopted. The approach appears to proceed on a narrow reading of record requirements without considering the practical position of the employee. Form 6A is a statutory record which is required to be maintained and submitted by the employer. It remains within the control and custody of the establishment. An employee has neither access to such record in ordinary course nor any authority to maintain or preserve it. Therefore, expecting the petitioner to produce such document is not in consonance with the scheme of the statute. It must be seen that the petitioner has placed on record that he was continuously in service, that deductions towards provident fund were made from his wages, and that his membership with the EPF Organisation was active throughout. He has also exercised the joint option within time and submitted the available documents. Once these foundational facts are shown, the authority was required to consider the claim in a reasonable and practical manner. The law relating to pension is not meant to create hurdles. It is intended to secure a post-retirement benefit. If the interpretation of the scheme results in denial to a genuine employee only because of missing employer records, then such interpretation cannot be accepted.

14. The submission made on behalf of the petitioner regarding similarity of particulars in Form 6A and Form 3A deserves careful consideration. Form 3A contains year-wise contribution details. It reflects wages and contributions. Form 6A is largely a consolidated version prepared by the employer for submission. Therefore, when Form 3A and account statements are available, the essential data is already on record. The clarification given by respondent No.2 itself shows that Form 3A was available at least for a substantial period and was forwarded. It also admits that further records could not be produced due to transition to online system. This position shows that the deficiency is not because the petitioner failed to act, but because the employer did not have complete records in one place. Such difficulty cannot be used to defeat the claim.

15. The Court also notices that the petitioner had filed additional supporting material along with his application. These include the certified joint option form and EPF account details. These documents are not insignificant. They are part of the official record system itself. They reflect that the petitioner was a contributing member. They show continuity of employment and deduction. When all these documents are read together, they create a clear picture of contribution and service. The authority was therefore required to assess the claim on the basis of cumulative material. The duty of a statutory authority in such matters is to verify and decide, not to reject at the first instance of difficulty.

16. The contention that burden cannot be placed upon the employee is also well-founded. The employee's role is limited. He works, earns wages, and contribution is deducted. He does not

maintain statutory returns. That responsibility lies with the employer. If the employer has failed in maintaining records or producing them, then the consequence cannot be shifted upon the employee. Otherwise, it would result in denial of benefit to a person who has no control over such records. Such an approach would be unjust. Pension is not a matter of favour. It is a benefit earned through long years of service.

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

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

verified. This exercise is not seen in the impugned order.

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

20. The principles emerging from the decisions relied upon by the petitioner support this view. They recognise that technical deficiencies on the part of the employer or record-keeping authority should not defeat a legitimate claim of an employee. Pension schemes are welfare measures. They are intended to provide financial support after retirement. Therefore, they must be applied in a manner that advances the object and not defeats it. A person who has worked for several decades and contributed regularly cannot be denied benefit because of gaps in official records.

21. This Court also observes that the available material in the present case was sufficient to at least undertake a proper verification. The EPF account history, the Form 3A records, the employer's communication, and the joint option application together form a reliable basis. They are carry evidentiary value. Ignoring them and focusing only on missing documents amounts to giving importance to form over substance. Such approach is not

acceptable in matters of social welfare.

22. In view of the above discussion, this Court is satisfied that the impugned order suffers from a serious error in approach. It proceeds on the assumption that absence of certain employer-side records is fatal. It overlooks the material placed by the petitioner and the admissions made by the employer. The petitioner has done whatever was possible for him to do. The remaining gap is on the side of the employer and the authority. That gap cannot extinguish the petitioner's entitlement.

23. Therefore, the impugned order dated 28 March 2025 is liable to be set aside. The matter requires reconsideration. Respondent No.1 shall re-examine the petitioner's claim by taking into account all available records, including Form 3A, EPF account details, the joint option application, and the employer's clarification. If any further information is required, the same shall be called from the employer and, if necessary, from the petitioner. The exercise shall be completed within a reasonable period. The petitioner shall not be denied the benefit solely on the ground of non-production of Form 6A or challans, if the entitlement can otherwise be established from the material on record.

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

(i) The writ petition is allowed;

(ii) The impugned order dated 28 March 2025 passed by respondent No.1 is quashed and set aside;

(iii) The matter is remanded to respondent No.1 for fresh consideration of the petitioner's claim for grant of pension on higher wages;

(iv) Respondent No.1 shall reconsider the petitioner's application by taking into account all available material on record, including Form 3A, EPF account statements, joint option application, and the clarification submitted by respondent No.2, and shall not reject the claim solely on the ground of non-production of Form 6A or challans, if the claim can otherwise be verified;

(v) Respondent No.1 is at liberty to call for any further information or clarification from respondent No.2 employer and, if necessary, from the petitioner, for the purpose of proper verification;

(vi) The aforesaid exercise shall be completed within a period of eight weeks from the date of receipt of this order;

(vii) If the petitioner is found entitled upon such reconsideration, consequential benefits shall be extended to him in accordance with law within a further period of eight weeks;

(viii) Rule is made absolute in the above terms. No order as to costs.

(AMIT BORKAR, J.)