

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA No. 3572 of 2023

Samir Ahmed Khan

Versus

The Chairman, Employees' Provident Fund Organisation & Ors.

For the Petitioner : Mr. Upendra Roy, Adv.
Ms. Kanchan Roy, Adv.
Ms. Sadia Zarreen, Adv.
Mr. Swadhin Chowdhury, Adv.

For the P.F. Authorities : Mr. Shiv Chandra Prasad, Adv.

Heard on : 28.08.2026

Delivered on : 29.09.2026

Uploaded on : 29.09.2026

Ajay Kumar Gupta, J.:-

1. Petitioner has filed this instant writ petition praying, *inter alia*, for a writ in the nature of mandamus directing the respondents, particularly respondent nos. 2 and 3, their men, agents, subordinates and each one of them to fix and release all the Pensionery dues and other dues as admissible along with interest for delayed payment in favour of the petitioner and/or to act in accordance with law, along with consequential reliefs.
2. The brief facts relevant for the purpose of adjudication of this case are that the petitioner was appointed by Respondent No. 4 in the post of Supervisor for doing the job of Custom Clearing. He rendered total service for 12 years continuously, i.e. from March 2007 to 14.12.2017 in Kolkata and rest period in Chennai. He contributed his Employees' Provident Fund with the Employees' Provident Fund Organisation without fail.
3. On 15.12.2017, the petitioner was transferred to the company of Respondent No. 5, M/s. Randstad India Private Limited, Chennai-600006, as Executive and, subsequently, his appointment was confirmed along with terms and conditions. The petitioner continued to render his services with Respondent No. 5 till his retirement. The company duly issued monthly salary slips to the petitioner and

contributed its share to Respondent No. 1. The petitioner resigned from his job on 14.05.2020, and Respondent No. 5 duly accepted the same on 14.05.2020 itself.

- 4.** On repeated request by Respondent No. 5, the petitioner also decided to continue to render his services for an additional 3 months, i.e. from June 2020 to August 2020.
- 5.** The petitioner was unaware of the total sum of Employees' Provident Fund contributions deposited with the office of the respondent nos. 1 to 3 by respondent nos. 4 and 5, and, in case the private respondents have not deposited the same, what steps have been taken by the official respondents in that regard. Even the amount of pension to which the petitioner would be entitled has not been fixed correctly, and the amount intimated to the petitioner is far too meagre and insufficient, having regard to the length of service rendered by him. The petitioner is entitled to a higher pension as per the 1952 Pension Act and the Rules framed thereunder.
- 6.** It was alleged that proper pension has not been fixed and paid by the official respondents to the petitioner. Taking into account the contributions deposited by the private respondents nos. 4 and 5, the proper monthly pension ought to have been fixed in favour of the

petitioner and to be paid to the petitioner month-wise, but the petitioner is being deprived.

7. Being highly aggrieved by and dissatisfied with the acts and actions of the respondents, in not extending any actual pension and arrear dues for the service rendered by the petitioner, he approached this Hon'ble Court by filing this instant writ petition seeking aforesaid relief (s). Hence, this writ petition.
8. Learned counsel for the petitioner submitted that the petitioner is not getting pension as per actual deposits with the Employees' Provident Fund Organisation. He rendered almost 12 years of continuous service under Respondent Nos. 4 and 5 and ultimately retired after attaining the age of 58 years. He also rendered 3 months extra service at the request of Respondent No. 5 from June, 2020 to August, 2020. However, he is receiving a very low amount of pension of Rs. 1083/- per month. His pension should be higher than the amount he is receiving now, given the 12 years of service rendered by him.
9. It was further submitted that the respondents did not make their own contribution, although there is a strict provision for contribution from the side of the employer toward employees' Provident Fund to the office of the Employees' Provident Fund Organisation in terms of Employees' Pension Scheme, 1995. The Petitioner is most probably

receiving pension only on the basis of his own contribution, although he should have been receiving at least Rs. 7,000/- per month since he had worked in different establishments till 2020. There are a lot of discrepancies in his EPF accounts.

- 10.** Learned counsel appearing on behalf of P.F. Authorities, on the other hand, vehemently argued and submitted that pursuant to the direction passed by the co-ordinate bench of this Court, the authority has filed a comprehensive report before this Court. Learned counsel drew the attention of this Court to the paragraphs nos. (a) to (c) of the said report filed by respondents nos. 1, 2 and 3 in the form of affidavit. The same is quoted herein below:-

a) *In response to the U.O. Note No. RO/PRB/Legal/WB/PRB/42235/4, it is stated that PF Accumulation of Samir Ahmed Khan had already been transferred from WB/PRB/42235/4 to TN/MAS/35791/2628634 on 02.05.2019 (Sanctioned amount Rs., 1,71,003/-) Member Ledger and Annexure-K are enclosed herewith as ready reference.*

It is also stated that DOJ and DOE in PF A/c No. WB/PRB/42235/4 are 01.12.2006 and 14.12.2017 respectively and PF and EPS contribution for the said period had been deposited by the establishment. Date of Birth of the member is 14.05.1960.

b) *As per the records of this office, Shri Samir Ahmed Khan was a provident fund subscriber under the establishment M/s Randstad India Private Limited, Chennai-600006, which is a*

covered establishment under the EPF & MP Act, 1952. The petitioner was allotted with PF Account No. TN/MAS/35791/2628634. The following are the service details of the petitioner as per this office records:

- 1) Name: Samir Ahmed Khan*
- 2) Father's Name: Late Kamruddin Khan*
- 3) Date of Birth: 14.05.1960*
- 4) Date of Joining: 15.12.2017*
- 5) Date of Exit PF: 14.05.2020*

- c) Before joining the 5th Respondent establishment, the petitioner was employed in M/s. Jagannath Enterprise, Kolkata – 700026, which is also a covered establishment under the EPF & MP Act, 1952. The petitioner was allotted with PF Account No. WB/PRB/42235/4. The date of joining is 01.12.2006 and date of exit 14.12.2017. The provident fund accumulations and pension fund service was transferred from PF Account No. WB/PRB/42235/4 to PF Account No. TN/MAS/35791/2628634 in June, 2019. The provident fund contributions in respect of PF Code No. TN/MAS/35791/2628634 has been received up to the month of May 2020 and pension fund contribution up to the month of May, 2018 (An employee shall cease to be the member of pension fund from the date of attaining the age 58 years). The provident fund accumulation of the petitioner was settled for a sum of Rs. 2,76,097/- in October, 2020. The pension was sanctioned to the member vide PPO No. WBCAL00128723 and the member is drawing monthly pension of Rs. 1083/- from 14.05.2018. The copy of member ledger in respect of PF Account No. TN/MAS/35791/2628634 is enclosed. Further, the pension particulars (PPO enquiry) copy is also enclosed. In so far, this office is concerned the provident fund account was settled fully*

as per the service records and the contributions received along with upto date interest.

Further, it to inform that an undertaking has been obtained from M/s Randstad India Private Limited vide their letter dated 08.06.2023 and the same is enclosed.”

11. Learned counsel, Mr. Prasad, also placed reliance on a decision in the case of ***Employees Provident Fund Organisation and another vs. Sunil Kumar B and others***¹ in support of the submission that the employee, i.e., the Petitioner herein, had an option in respect of the pension scheme, and that the pension payable depends on the amounts accumulated during the tenure of service as contributions made by the employee and the employer.
12. Heard the submissions of the learned counsels for the respective parties and having gone through the materials available on record as well as the judgment relied upon by Learned Counsel on behalf of the PF Authorities. It is an undisputed fact that the petitioner was an employee in M/s Jagannath Enterprise, Kolkata- 700026. The petitioner was allotted a PF Account No. WB/PRB/42235/4. The date of joining was 01.12.2006 and, thereafter, he served up to 14.12.2017 in Kolkata. Subsequently, his provident Fund accumulation and pension fund were transferred from PF Account No. WB/PRB/42235/4 to PF Account No. TN/MAS/35791/2628634

¹ (2023) 12 SCC 701

in June, 2019, when he transferred to M/s. Randstad India Private Limited, Chennai-600006. He worked there till 14.05.2020.

- 13.** The provident fund contributions in respect of PF Code No. TN/MAS/35791/2628634 have been received from the Employer up to the month of May 2020. An employee shall cease to be a member of the pension fund from the date of attaining the age of 58 years. The Petitioner's provident fund accumulation was settled for a sum of Rs. 2,76,097/- in October, 2020. The pension was sanctioned to the member vide PPO No. WBCAL00128723 and the member has been drawing monthly pension of Rs. 1083/- since 14.05.2018. However, the petitioner was aggrieved by the said fixation, made several representations to the authorities, and finally instituted this writ petition.
- 14.** Upon overall consideration of the facts and circumstances, this Court is of the view that the grievances of the petitioner involve an element of disputed questions of fact with regard to non-contribution of actual employers' share to the Employees' Provident Fund, and non-payment of salary for his rendering extra service to the Respondent no. 5 from June, 2020 to August, 2020. The said disputes cannot be adjudicated in the exercise of writ jurisdiction under Article 226 of

the Constitution of India without contemporaneous documents to support the claim.

15. For his grievances regarding payment of a lesser pension amount and/or arrear pension under the Employees' Provident Fund (EPF) or Employees' Pension Scheme (EPS), an employee may approach the appropriate authority to resolve disputes, shortfalls, or calculation errors under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, which empowers authorities to conduct inquiries and determine the correct pension and arrear dues in accordance with law, if so advised.
16. Accordingly, **WPA No. 3572 of 2023** stands **disposed of** without order as to costs.
17. Needless to observe, this order shall not preclude the petitioner from approaching an appropriate forum for his relief, and if such forum is approached, the proceedings shall be taken to its logical conclusion in accordance with law without being influenced by any of the observations made in this order.
18. Connected applications, if any, are also, thus, disposed of.
19. Interim order, if any, stands vacated.
20. Parties shall act on the server copies of this Judgment downloaded from the official website of the High Court at Calcutta.

- 21.** Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon compliance of all the necessary and legal formalities.

(Ajay Kumar Gupta, J.)

P.A.