

ITEM NO.12

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

PETITION FOR SPECIAL LEAVE TO APPEAL (C) Diary No.71438/2025

[Arising out of impugned final judgment and order dated 04-04-2025 in WPCT No.199/2024 passed by the High Court at Calcutta]

THE UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

PARESH CHANDRA MONDAL

Respondent(s)

(IA No. 338448/2025 - CONDONATION OF DELAY IN FILING)

Date : 07-01-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MANOJ MISRA  
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) :Mr. Kanakamedala Ravindra Kumar, A.S.G.  
Ms. Madhulika Upadhyay, AOR  
Mr. Raman Yadav, Adv.  
Mr. Aman Jha, Adv.  
Mr. Mrigna Shekhar, Adv.

For Respondent(s) :

UPON hearing the counsel the Court made the following  
O R D E R

1. Delay condoned.

2. The present Special Leave Petition has been filed challenging the judgement dated 04<sup>th</sup> April 2025 passed by the Calcutta High Court in WPCT 199 of 2024, whereby the writ petition filed by the petitioners (including the Union of India) challenging the Order dated 06<sup>th</sup> October 2023 passed by the Central Administrative Tribunal, Kolkata in OA. No 1261 of

2022, was dismissed. It is pertinent to mention that the Central Administrative Tribunal, Kolkata, vide its order dated 06<sup>th</sup> October 2023, has allowed the application filed by the respondent seeking release of the amounts lying in the General Provident Fund ("GPF") of his deceased brother.

3. Both the High Court as well as the Tribunal have decided the petitions in favour of the respondent on the ground that Rule 33(ii) of General Provident Fund (Central Service) Rules, 1960 ("the Rules, 1960") entitles the respondent as the only valid nominee in respect of his brother's GPF account to receive the amounts lying in the Fund.

4. Learned Additional Solicitor General ('ASG') appearing for the petitioners states that some of the nephews of the deceased have raised objections dated 12<sup>th</sup> October 2022 with respect to the respondent's claim over the amounts lying in the GPF account of his deceased brother. According to learned ASG, even when there is a valid nomination in accordance with the Rules, 1960, the amounts cannot be released to the nominee in view of Section 4(1)(c)(i) of the Provident Fund Act, 1925 ("the Act, 1925"), as it stipulates that in case the amount standing in the name of the depositor is above Rs. 5,000/-, then the said amount would be released to the nominee only upon production of a succession certificate or probate or letters of administration. He submits that the High Court as

well as Tribunal have erroneously given primacy to Rule 33 (ii) of Rules 1960 over the statutory provisions and failed to appreciate that Sections 4(1)(b) and Section 4(1)(c)(i) of the Act, 1925 would have an overriding effect over the Rules, 1960 where the amount in the account exceeds Rs.5,000/-. The relevant portion of Section 4 and Rule 33 (ii) are reproduced hereinbelow: -

**"The provident Funds Act, 1925:**

**4.Provisions regarding re-payments.-.....**

***(b) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (1), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it; or***

***(c) in the case of any sum or balance, or any part thereof, which is not payable to any person under clause (a) or clause (b) pay the same,-***

***(i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or under the Bombay Regulation VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or part, or***

***(ii) where no person is so nominated, to any person who produces such probate, letters or certificate:***

.....

**The General Provident Fund (Central Services) Rules, 1960**

**Rule 33 - Procedure on Death of a Subscriber**

....

***(ii) When the subscriber leaves no family, if a nomination made by him in accordance with the provisions of Rule 5 in favour of any person or persons subsists, the amount standing to his credit in the Fund or the part thereof to which the nomination relates, shall become payable to his nominee or nominees in the proportion specified in the nomination."***

5. Additionally, he states that though the respondent has produced a succession certificate under the Indian Succession Act, 1925, yet as the GPF amount is not mentioned in the schedule to the said certificate, the same has rightly not been accepted by the Authority.

6. This Court declines to entertain the present Special Leave Petition as Rule 33(ii) of the Rules, 1960 has been framed by the Central Government and the same cannot be and has not been challenged by the petitioners.

7. Also, if a succession certificate is required in both eventualities i.e. cases covered under (i) and (ii) of Section 4(1)(c), then it would render otiose all nominations made under the Act, 1925 read with the Rules, 1960.

8. This Court is of the view that if the submission of Government of India is accepted, then the purpose of having a nomination would be lost. After all the process of nomination has a sanctity attached to it.

9. This Court further finds that the basis of cases falling in Section 4(1)(b) and 4(1)(c)(i) is stated to be amount standing to the credit of the depositor. While the basis of classification, namely, the amount of Rs. 5,000/- may have

been substantial and reasonable in the year 1925, i.e., when the Act was passed, however, the same has ceased to be of any relevance a century later due to inflationary market forces. Recognising this ground level reality, the government itself in the Rules framed thirty-five (35) years later stipulated that in cases of nomination, irrespective of the amount of money lying in the account, the same shall be released to the nominee.

10. In any event, Section 5 of the Act, 1925 provides for rights of a nominee under the Act, 1925. The said section is reproduced hereinbelow:-

*"5. Rights of nominees.— [(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum, having become payable, has been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons, to receive such sum or part thereof, as the case may be, unless—*

- (a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules, or*
- (b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein,—*

*and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect:*

*Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund, conferring upon some other person such right in the stead of the person deceased, such right shall, upon the decease as aforesaid of the said person, pass to such other person.]*

*(2)Notwithstanding anything contained in [the Indian Succession Act, 1925 (39 of 1925)] or the Bombay Regulation VIII of 1827, any [person, who becomes entitled as aforesaid, may be granted] a certificate-under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased.*

*[(3) The provisions of this section as amended by sub-section (1)of section 2 of the Provident Funds (Amendment) Act, 1946 (11 of 1946), shall apply also to all such nominations made before the date of the commencement of that Act:*

*Provided that the provisions of this section as so amended shall not operate to affect any case, in which before the said date any sum has been paid, or has under the rules of the Fund become payable in pursuance of any nomination duly made in accordance with those rules.]”*

11. Consequently, keeping in view Rule 33 (ii) of the Rule 1960 and the fact that Section 5(1) of the Act begins with a non-obstante clause by virtue of which, any valid nominee in accordance with the rules of the Fund would be entitled to receive the sums in the provident fund account, means that the nominee has primacy to receive the amounts standing in the name of a depositor upon his death.

12. Additionally, as a literal interpretation of Section 4(1) (b) and 4(1)(c)(i) of the Act, 1925 leads to an inconsistent conclusion that if the amount in the provident fund account exceeds more than Rs. 5,000/-, the nominee is entitled to receive the amount only upon production of a probate or letters of administration or a certificate granted under the Succession Certificate Act, 1889 (7 of 1889), or under the Bombay Regulation VIII of 1827, this Court is of the view that it would be appropriate to construe Sections 4, 5 and Rule 33 (ii) harmoniously. (See : *CIT vs. Hindustan Bulk Carriers*, (2003) 3 SCC 57)

13. Consequently, this Court is of the view that in cases of a valid nomination, the amount in the provident fund account of the deceased depositor or subscriber is required to be released to the nominee.

14. The opinion of this Court is strengthened by the settled position of law that a nominee is a mere trustee to collect the funds and not the beneficial owner [*Sarbatī Devi vs. Usha Devi*, (1984) 1 SCC 424]. Therefore, the mere fact that the amount is released to a valid nominee will not bar the objector(s) or holder(s) of probate or letters of administration or succession certificate from claiming their share from the amount released to the nominee from a competent court.

15. This Court is of the view that the Government of India should not get involved in protracted litigation with respect to the estate of a deceased employee or dispositor under the Act, 1925. The requirement to have a probate or letters of administration or succession certificate even in cases of valid nomination will invariably make the Government a party to litigation which should ideally only be between private parties.

16. In light of the aforesaid reasons, the present Special Leave Petition is dismissed. In case a challenge is laid to the order of the High Court by any competing interest, we may consider the matter on merits. Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)  
ASTT. REGISTRAR-cum-PS

(SAPNA BANSAL)  
COURT MASTER (NSH)