



**BEFORE THE REGIONAL PROVIDENT FUND COMMISSIONER-II**

**DISTRICT OFFICE, BILASPUR, CHHATTISGARH- 495001**



**ORDER u/ Para 26B of E.P.F. Scheme , 1952**

PF Code No: CG/18793

Diary No: 71/2025

Central Board of Trustees (EPF)  
Through EPFO, DO, Bilaspur  
Vs M/s Hind Energy Coal  
Benefication (India) Ltd

**APPEARANCES:**

- A. Department** – Sh S K Shrivastava (Enforcement Officer)
- B. Complainant** – Sh Kranti Pradhan, Ankit Singh, Gautam Porte
  - a. Witness – Sh Babulal Porte
- C. M/s Hind Energy Coal Benefication (India) Ltd- the establishment**
  - a. Sh Ashok Singh – Accounts
  - b. Sh V M Bharat – GM, HR
  - c. Sh Ishwar – HR Manager
  - d. Witness – Sh Abdul Habib, Incharge (Dispatch)

**ORDER** [Issued under section Para 26B of EPF Scheme 1952]

1. The order is being passed under the Para 26B of the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the 'Scheme') by way of which I propose to dispose of the dispute between complainant vide Summons issued against the establishment.
2. Whereas the Establishment M/s Hind Energy Coal Benefication (India) Ltd CG/18793 (hereinafter referred to as Establishment) is an establishment covered under Section 1(3) of the EPF & MP Act, 1952. The establishment is situated in the territorial jurisdiction of Employees' Provident Fund Organization, District Office, Bilaspur ( hereinafter referred as the 'Department')
3. After coverage under the provisions of the Act, it is duty of the establishment to deposit contributions in respect of all of its eligible employees engaged in or in connection with the work of the establishment on monthly basis under account heads such as:
  - i. The Provident Fund contribution (A/c No 1) under section 6 of the Act
  - ii. The Provident Fund administrative charges (A/c No 2) under para 38 of the Employees' Provident Fund Scheme 1952
  - iii. The Pension Fund contributions (A/c No 10) under with para 3 of the Employees' Pension Scheme 1995



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- iv. The Employees' Deposit Linked Insurance contributions (A/c No 21) under section 6C of the Act read with para 8 of the Employees' Deposit Linked Insurance Scheme 1976
  - v. The Employees' Deposit Linked Insurance administrative charges (A/c No 22) under section 6C of the Act read with para 8 of the Employees' Deposit Linked Insurance Scheme 1976
4. Whereas a **complaint** dated 18/8/24 was received from Sh Kranti Kumar Pradhan alleging that the establishment has denied him membership of PF despite him being an employee. Consequently a Show Cause Notice dated 20/8/24 was issued to the establishment to which establishment also furnished its replies. Establishment in its written reply dated 30/8/24 disputed his membership in the EPF Scheme.
5. Whereas under Para 26B of the Scheme –
- 26-B.Resolution of doubts.-*  
*If any question arises as to whether an employee is entitled or required to become or continue as a member, or as to the date from which he is so entitled or required to become a member, the same shall be referred to the Regional Provident Fund Commissioner who shall decide the same*
- Provided that both the employer and the employee shall be heard before passing any order in the matter.*
6. The purpose of the inquiry was to resolve the dispute regarding membership of complainant.
7. Following principles of natural justice, employer was given ample opportunities for hearing as per undermentioned proceedings in chronological manner and sufficient opportunities have been afforded to complainant as well.

**PROCEEDINGS –**

8. Proceedings were held via Google Meet id and in person on request of the parties. Hearings were conducted on 29/1/25 , 14/2/25, 21/2/25 and finally 5/3/25.





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On 29-1-25

9. Complainants submits that employee Sh Kranti Pradhan was employed by establishment since 2006. and ID card mentions the date of joining as well. He further submits that ID card mentions designation as Office Boy. However he was subsequently given designation as Director, while no PF remittances were made against him. Complainant alleges financial irregularities in the account and claims that Kranti Pradhan's account has regular salary credits since 2016 as well as some other transactions. He provides Bank statement and ID card as proof.

On 14-2-25

10. Establishment submits written representation dated 14-2-25, submitting that Sh Kranti Pradhan was engaged in capacity of **Commission Agent** to assist with liaison work related to land matters in Dipka and surrounding areas. It further submits that the complaint is time barred since department has already concluded 7A inquiry for period Aug 2013 to Aug 2016 and that department after verifying all records has not assessed any dues for Sh Kranti Pradhan in previous inquiry. Complainant submits that establishment is claiming credits under name salary as erroneous without any basis. Complainant further submits that he had provided salary slips for verification by establishment. Establishment categorically denies the authenticity and establishment submits that salary slips are issued on need basis. Therefore salary slips are not issued to all employees. Complainant counters by saying this proves that Kranti pradhan was not provided salary slip despite being an employee as not issuing salary slip is a regular practice.
11. EO submits that still for period after September 2016, establishment needs to demonstrate with record as to how he was engaged as a commission agent. EO requires establishment to provide any record on the basis of which it could be proved that Kranti Pradhan was a Commission Agent and paid a commission. Establishment also submits on record that Kranti Pradhan was not a Director in Hind Energy. Complainant submits that he was mentioned as Director in Hind Multi Services which is a related concern.

On 21-2-25

12. EO submits that he has submitted application to HDFC bank for submission of statement of Sh Kranti Pradhan and same shall be provided shortly. Complainant Sh Ankit Singh submits that dues have been paid by establishment in respect of Sohan Singh Porte since 2015 to 2017 despite the fact that dues had attained finality vide 7A inquiry till 2016. This proves that establishment had not produced complete records in previous inquiry and department





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was misled. Complainant further submits that Kranti Pradhan was working since 2006 and establishment has not covered his dues in previous 7A inquiry.

13. Kranti Pradhan submits on record that - he was engaged as peon with the establishment since 2006. He submits that he was engaged in capacity of employee. He further claims that was engaged in land related work also and land was bought in his name. There were other employees who were engaged in land related work e.g. Sohan Singh Porte, Jai Singh Porte, Balram Porte, Lalit Porte, Jai Prakash Gond, Shiv Narayan Gond. He further submits that he was reporting to Sh Abdul Habib (Manager at Dipka). On being asked as to whether he was Director in any firm, he submits that was made to sign certain documents regarding Directorship but has no idea of what it means.
14. He further submits that he was given daily wage for kharcha paani (subsistence) but he was promised payment of 13000/- per month and same was never paid. He finally states that he was given monthly payments in bank for some months in 2016 and 2018 and that he can produce witnesses who can testify that he was working continuously since 2006.
15. Establishment representatives say that if no wages were paid since 2006 to 2021, then it is questionable as to why he continued to work for 15 years without any payment. He states that kharcha paani (subsistence amount) was nothing but commission paid to Sh Kranti Pradhan. Further vide letter dated 21-2-25 he submits that as per establishment records of 2016 and 2017, Kranti Pradhan name is not there in salary sheets and that they will produce records substantiating Commission based payments on next date.
16. Complainant counters that Axis bank statement for 2016 clearly states with entry "Salary" and that the Account itself is a Salary Account which can be verified from concerned Bank branch. Further it is inexplicable that establishment continued to erroneously mark salary and paid commission for such long periods. Complainant further counters that he is not literate and has studied only till class 11th and did not know whom to complaint/ approach for non-payment of complete wages and PF.
17. Establishment is directed to produce evidence of commission and produce Abdul Habib (Manager) in next hearing. Complainants are directed to produce the above named witnesses who can testify that he was employee engaged for the claimed period.

**On 5-3-25**

18. Complainants show bank statement of Axis Bank whereby credit entries with name SALARY are reflected for 18 months. They have produced Sh Babulal Porte a fellow worker as witness who was getting EPF benefits whose Bank statement has same entry with similar





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amount. On inquiring from witness Sh Babulal Porte submits that Sh Kranti Pradhan and him have been working since 2006. While he was employed in loading/unloading, Pradhan was engaged as office boy.

19. Complainants intervene to further add that same designation is mentioned in his office ID card as well which has been submitted to the office. Establishment has produced ledger entries showing payments to Kranti Pradhan as amounts for Travelling/commission/reimbursement of petrol. Its responsible person for accounts Sh Ashok Singh has been produced as witness and submits on record that payments were made to Kranti Pradhan along with payments for salaried employees. Its Site Incharge Sh Abdul Habib submits that Sh Pradhan was engaged for land related work and was not an employee. Parties have no further submissions to make. All submissions have been taken on record. After hearing both sides and rival contentions, case was reserved for orders.

ANALYSIS -

20. The contention regarding Office Boy being Employee under EPF & MP Act needs to be examined in the light of relevant statutory provision.

**Section 2(f) of the EPF & MP Act -**

*(f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of [an establishment], and who gets, his wages directly or indirectly from the employer, [and includes any person,—*

*(i) employed by or through a contractor in or in connection with the work of the establishment;*

*(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment;] [(ff) "exempted employee" means an employee to whom a Scheme [or the Insurance Scheme, as the case may be,] would, but for the exemption granted under [\*\*\*] section 17, have applied*

21. Establishment has claimed that complainant Kranti Pradhan was merely a commission agent and not an employee and that all payments to him were commission for land related work since he was a local resident with good community relations. Its witness Sh Abdul Habib has also affirmed that complainant was engaged for land related work. Establishment



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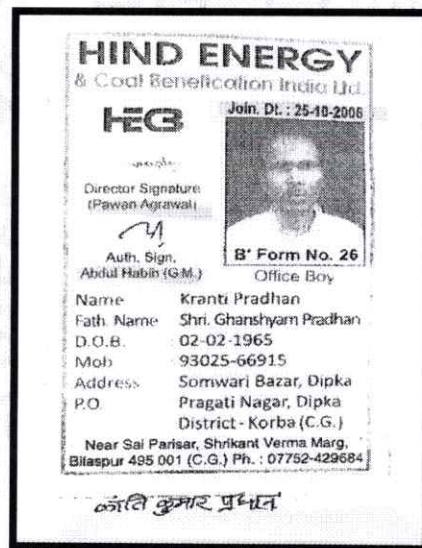
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has relied on its attendance registers and ledgers having entries - Travelling/commission/reimbursement of petrol. Establishment has further raised contention of delay of 18 years in filing complaint. On the other hand, complainants have relied on ID card issued by establishment and bank statements to assert that Sh Kranti Pradhan was an employee under EPF & MP Act 1952.

22. ID Card of Sh Kranti Pradhan shows date of joining as 25-10-2006 and provides designation as **"Office Boy"**. It contains the signature of Director of the establishment and its Authorized Signatory who was summoned as witness as well. Wrt ID card, establishment has vide its letter dated 14/2/25 only relied on Section 3 of Limitation Act 1963 and stated that limitation prescribed for employment related claims is only 3 years whereas the Sh Kranti Pradhan has filed complaint after lapse of 18 years.



23. To a naked eye, the signatures of Director and the Authorized Signatory are matching with other records like emergency pass other employees, financial statements submitted by establishment. In any case establishment has never claimed any infirmities in the ID card nor has it denied its authenticity. It has solely relied on statutory limitation of 3 years in employment related claims. Even this assertion is erroneous since Para 26B of the EPF Scheme doesn't provide for any limitation.
24. To clarify the issue raised regarding limitation, there can be no limitation for initiating a proceeding under the Act. The cause of action if true i.e. non-enrolment is a recurring cause of action and the default is continuing since contravention is alive day to day through out





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the service period of the claimant. Further the legislature intentionally did not provide the period of limitation under Para 26B since EPF & MP Act being special social welfare legislation is designed to protect the interest of employees, the provisions of the Limitation Act cannot be made applicable in the absence of any legislative provision. In case of Mangalam Publications vs RPFC, W.P-27143 of 2005, Hon'ble Kerala High Court while dismissing the petition filed by the establishment held that -

*"EPF Scheme is framed under a welfare legislation. If at all any doubt arises, interpretation need to be made only in favour of the employee. **Para 26B does not provide for any limitation for undertaking any enquiry envisaged under the same.**"*

25. Moreover, as per the complainants Sh Kranti Pradhan was engaged as office boy or peon between 2006 to 2021. The bank statements for period 2016 to 2017 have 18 specific months where entries named - **BRN/SALARY PAYMENT-By Salary** are clearly observed. The amounts are ranging from Rs 6000-Rs 6500/-. Further entries in the Bank account of Witness Sh Babulal Porte (who was an employee) are also bearing same terms. Establishment has asserted that Sh Pradhan's account was mistakenly labelled as Salary account, but not a single entry is there in the bank statement to show that commission was paid.

**AXIS BANK**

Joint Holder -  
HIND ENERGY & COAL BENEFICIATION  
(INDIA) LIMITED

BILASPUR  
CHHATTISGARH  
495001

Statement Generated By : 245292

Customer No : 857992595  
Scheme : SAVINGS-EASYACCESS  
Currency : INR

Statement of Account No : 915010027543953 for the period (From : 22-06-2016 To : 22-06-2017)

Trans Date	Chq No	Particulars	Debit	Credit	Balance	Init. Br
		OPENING BALANCE			543.87	
25-06-2016		915010027543953: Int Pd 01-04-2016 to 25-06-2016		5.00	548.87	2621
08-07-2016		BRN-SALARY PAYMENT-BY SALARY/ hind energy		6551.00	7099.87	052
11-07-2016		ATM-CASH/SBI GEVERA PROJECT/BILASPUR C/110716	1000.00		6099.87	2621
13-07-2016		ATM-CASH-AXIS/BPAN262101/3350/130716/KORBA	6000.00		99.87	2621
16-07-2016		Service Tax @15.00% on Charge	2.25		97.62	2621
16-07-2016		Consolidated Charges for A/c	15.00		82.62	2621
09-08-2016		BRN-SALARY PAYMENT-HIND ENERGY COA		6259.00	6341.62	101





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26. Establishment has produced attendance registers and ledgers and stated that since Sh Pradhan's name was not included in the attendance records and payments were marked as Commission in its ledgers hence Sh Pradhan was only a commission agent and not an employee. No details of deals/events have been provided for which recurring commission in the range of Rs 6000- Rs 6500 was paid. Further establishment by its own admission has stated that it did not provide salary slips to everyone.

27. Once there is an ID card stating **Office Boy** issued by establishment and its authenticity has not been denied by it, it is not open to the establishment to categorize and classify him as commission agent and deny statutory benefits under EPF & MP Act. In this regard, **Section 91 of Indian Evidence Act** is of importance here –

*When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.*

28. An Office Boy does work that is regular and provides integral support to daily activities and operations of the establishment. Further Office boy was working under supervision of Sh Abdul Habib and as per submission of witness Babulal Porte, he was been working with the complainant since 2006. Establishment may term Kharcha-paani for Sh Kranti Pradhan as commission, but if that kharcha paani is marked salary in its bank accounts and is paid in lieu of work as Office Boy, it clearly establishes **Employee-Employer relations**. Importantly kharcha-paani (subsistence payment) clearly shows that Sh Pradhan had economic dependency on the establishment.

29. Hon'ble Bombay High Court in **Wardha Nagri Sahakari Adhikosh Maryadit Bank VS RPFC Nagpur WP No 2039 of 2024** has held that agents had an economic dependency on the establishment and were involved in activities integral to the its operations, establishing an employer-employee relationship. It further held that Economic Realities Irrespective of Nomenclature Indicate Employer-Employee Relationship.

30. Similarly, Madras High Court in **Focused Corporate Services (India) Pvt. Ltd. Vs. Union of India WP No 10236 of 2010** has held that merely because commission is paid to the employees, they do not cease to be employees under the PF Act.





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31. The EPF & MP Act 1952 is a beneficent legislation and hence a liberal construction of the definitions to be preferred rather than a narrow and pedantic interpretation. An employee called by any other name remains an employee for the purpose of the Act and it does not depend on the nomenclature devised in order to defeat the mandate of the Act. What cannot be done directly, should also not be permitted to be done indirectly.
32. Any organisation can arrange its force in such a manner as to derive maximum benefit, but in my considered opinion such arrangement cannot be at the expense of employee's legitimate statutory entitlements. So long as the interest of employees are not adversely affected, the business entity can organise its business in such a manner as to reduce the cost. But as soon as such an arrangement falls foul of and/or impinges upon the right of a third party, such arrangement cannot be said to be bona fide or valid.

ORDER

33. I have gone through the records, as well as oral and written submissions made by the complainant, establishment and the department. It is very clear that the establishment has not paid the statutory dues as required under the Act and schemes framed there under. During the course of enquiry sufficient opportunities were given to the establishment, complainants and department to raise and counter the objections, which they have availed.
34. In view of the facts and submissions as discussed above I, **Gaurav Dogra**, Regional Provident Fund Commissioner II, District Office, Bilaspur, Chhattisgarh think fit, and accordingly hold that complainant Sh Kranti Pradhan an EMPLOYEE under Section 2f of the Act who has been paid salary and direct the establishment to remit the PF deductions in respect of **complainant and similarly placed employees** under the provisions of the Act and various schemes framed there under within 15 days.
35. Establishment is directed to submit the proof of remittance failing to which action may be taken in accordance with provision under the Act. Case is disposed off accordingly  
Issued under my hand and seal on this 13/03/2025 .



*[Signature]* 12/3/25

Regional PF Commissioner II  
DO, Bilaspur (C.G)