

HALE – ASSOCIATION OF FORMER EXECUTIVES OF HAL

Suranjandas Road (Old SBI Building), Vimanapura, Bangalore-560 017

BRIEF ON EMPLOYEES PENSION SCHEME

1. BACK GROUND:

The employees of CPSU's were covered under Employees' Provident Fund Scheme 1952 where 'Family Pension Scheme' was in vogue which was subsequently redesignated as 'Employee's Pension Scheme 1995.' The PF Organization fixed monthly wage ceiling of Rs. 5000/- for the purpose of pension (EPS) for all employees even though wages earned would have been higher and recovered 8.33% on that which is Rs. 417/- towards EPF pension up to 30.5.2001. Subsequently, the wage ceiling was raised to Rs. 6500/-, 8.33% on that amount i.e. Rs. 541/- was recovered till attaining the age of 58 years.

2. OCTOBER 2016 JUDGEMENT OF HON'BLE SUPREME COURT:

This became a matter of judicial intervention when it was taken up by certain people and the Hon'ble Supreme Court's Judgement dtd. 4th Oct 2016 in respect of SLP of Sh R.C.Gupta & others noted that,

"All that the Provident Fund Commissioner is required to do In the case is an adjustment of accounts which in turn would have benefitted some of the Employees. At best what the Provident Fund Commissioner would do and which we permit him to do under the present order is to seek a return of all such amounts that the concerned employee may have taken or withdrawn from their provident fund account before granting them the benefit of the proviso to Clause 11(3) of the pension scheme. Once such a return is made in whichever cases such return is due, consequential benefits in terms of this order will be granted to the said employee".

3. PROPOSAL TO CENTRAL GOVT. FROM EPFO

In Jan 2017, EPFO submitted the Proposal to Ministry of Labour & Employment (MoL & E) referring to the Hon'ble S.C Order of Oct.2016 and sought approval of MoL&E for issue of administrative instructions to allow members of the Employees Pension Scheme 1995 who had contributed on higher wages exceeding the statutory ceiling of Rs.6500 in the Provident Fund to divert 8.33% of salary exceeding Rs. 6500 to the pension fund with up-to-date interest as declared under EPF Scheme, 1952 from time to time to get the benefit of Pension on higher salary on receipt of joint option of the Employer and Employee. **This will avoid unnecessary litigation in future. The Financial liability in implementing the Hon'ble Supreme Court Order will be met from the Pension Fund.**

4. APPROVAL OF CENTRAL GOVT.

The Govt. conveyed its approval to EPFO dtd. 16.03.2017 to allow members of the Employees Pension Scheme 1995 who had contributed on higher wages exceeding statutory

wage ceiling of Rs.6500/- in the Provident Fund to divert 8.33% of the salary exceeding Rs. 6500/- to the Pension Fund with up-to-date interest as declared under EPF Scheme from time to time to get the benefit of Pension on higher salary on receipt of joint option of the Employer and Employee.

5. EPFO CIRCULAR TO ALL FIELD OFFICES TO IMPLEMENT MoL&E APPROVAL

EPFO vide its circular dtd. 23.03.2017 directed its field offices to take necessary action in accordance with the order of the Hon'ble Supreme Court in SLP No. 33032-33033 of 2015 as approved by the Govt and as per the provisions of the EPF & MP Act. 1952 and schemes framed there under.

6. INTERIM ADVISORY OF TURNAROUND NATURE BY EPFO

Contrary to its directive dtd. 23.03.2017 EPFO issued an Interim Advisory dtd. 31.05.2017 to all its field offices indicating that **"no member of EPS 95 whose contribution on full salary has not been received in the account of EPFO at the respective periods of contribution, shall be eligible for the benefits contemplated in the Judgement as per the aforesaid Hon'ble Supreme Court Order"**.

7. RESULTANT DENIAL OF BENEFIT

In view of the advisory of EPFO as noted at Para 6, the EPF-95 members from exempted PF Trusts like at HAL are presently denied benefit of Hon'ble Supreme Court Judgement / MoL& E approval. However, EPFO have noted in their interim directive dtd. 31.05.2017 that the matter will be placed before Central Board of Trustees (CBT) for ratification. CBT is the highest decision-making Body on PF/ Pension issues & is chaired by the Minister of L & E with Secretary MoL& E as Member Secretary, and members include CPFC, Labour Secretaries from State Govts, Employers' & Employees' representatives (Federations, SCOPE, Labour Unions, etc.)

8. GRANT OF HIGHER PENSION:

Various Judgements in Hon'ble SC & HC, particularly HC of Kerala are in favour of EPS Pensioners. EPFO have granted Revised Pension to these Petitioners irrespective of whether they are from Exempted OR Un-exempted organizations. In view of this, petitioners of Nine Exempted establishments have been benefited with Revised Pension.

9. PRESENT POSITION:

There are more than 17 cases filed in various High Courts against the Interim Advisory of EPFO dtd. 31.05.2017 and are in various stages. However, it is seen that EPFO accords benefit of Revised Pension to Specific Petitioners only when the verdict is in favour of EPS-95 pensioners and not to ALL exempted Trusts.

In addition, Sh NK Premachandran, an Hon'ble MP from Kerala had raised the issue in Parliament and presented the full case in September 2017. The then Minister of L&E (Sh Bangaru Dattatreya) had promised that the SC orders will be implemented in letter & spirit. The subject has been followed up by the same MP very recently (on 18/19th Oct.) with the new Minister (Sh Santosh Gangwar) where the Secretary and CPFC were also present.

Representations have been made by various Forums/Associations of retired employees/executives of large PSUs whose PF Trusts are exempted, to PM, Labour Minister, CPFC, CBT members appealing them

to intervene and resolve the issue so that everyone need not go to SC/HC to file a petition. These include ONGC, IOC, BHEL, Fertilizer Corpn., Food Corpn., NTPC, BPCL, BSNL etc.

Formation of a National level Forum has been initiated for this purpose (and for similar causes in future) which held its initial meeting in Delhi on 24th Sept., 2017. A representative committee has been formed to frame the by laws and take necessary actions to register the Federation. HALE has already expressed its intention to join the Federation.

There have been statements by few CBT Member(s) and CPFC himself in Public Forums that the directives of SC will be implemented to ALL pensioners irrespective of Non- exempted or Exempted establishments.

10. HALE's INVOLVEMENT IN THE ON GOING MOVEMENT

HALE on its part have taken up the issue at Government level and have sent an appeal / representation to Hon'ble Prime Minister with a copy to Defense Minister, Labour Minister, EPFO and CMD (HAL) during 1st week of July 2017. We have sent a reminder to the new Labour Minister with copies to PM, Raksha Mantri and CPFC on 14th Oct. 2017.

Parallely, HALE has also written to CBT members on 21.07.2017 to take up this issue in the forth coming CBT meeting to nullify the interim order of EPFO dtd. 31.5.2017. HALE has also written to S/Sh Ananth Kumar, Malikarjuna Kharge as local MPs and Minister of Parliamentary Affairs & Leader of Opposition respectively, as well as some known MPs.

Also, we have concurred with Ex NTPC and Ex BHEL Executive Associations on the proposal for formation of a Forum / Federation at National Level to take up the subject issue to Hon'ble Supreme Court if the need arises. A meeting of Associations of Retired Executives was held on 24th Sept. 2017 in this regard.

It is learnt that CBT is likely to meet in first week of Nov. 2017 & HALE will send reminder to CBT Members.

President, HALE met some of these Retired Association Executives as well as has made attempts to meet Sh Santosh Gangwar thru' some known sources as well as Sh RK Singh (earlier Secretary DP, Secretary Home and presently Power Minister). HALE is also trying to meet Sh Anantha Kumar at Bangalore.

(N C AGARWAL)
President

(B S VISWANATHA RAO)
Secretary

Important Note : Kindly fill up the format given below and send the same by post to HALE office. This will help us in taking up the issue with PF authorities.

Date:

From:

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Mobile E-mail

To:

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,
No. 36, NH-4, Lakshmi Complex,
K. R. PURAM
Bangalore - 560036

Sub: Deposit of differential amount & revision of monthly pension (EPS) in view of Judgements of Hon'ble Supreme Court dated 31.3.2016, 12.7.2016 and 04.10.2016

Dear Sir,

It is to inform you that I am a retired employee of M/s Hindustan Aeronautics Ltd and a member/ pensioner of EPS-95 of EPFO. My PPO number is _____ and I am getting monthly pension from EPFO @ Rs. _____ w.e.f _____.

2. Hon'ble Supreme Court of India as per its Judgements dated 31.3.2016, 12.7.2016 & 4.10.2016 has allowed revision of monthly pension to the pensioners on the basis of actual salary (instead of on ceiling amount of Rs 5000/- and Rs 6500/-) after payment of differential amount. Before granting them the said benefit, the Apex Court has permitted the EPFO to seek a return of all such differential amounts that the concerned employees (EPS members) may have taken or withdrawn from their Provident Fund account at the time of their retirement.

3. I am ready to deposit the said differential amount which may kindly be intimated to me along with its details / calculations and also the approximate amount of my revised pension and arrears on its revision after depositing the said amount in accordance with the aforesaid judgements.

4. It may be mentioned here that SLP's filed by EPFO with respect to few exempted organizations have been dismissed by the Hon'ble Supreme Court vide judgements dated 31.3.2016 and 12.7.2016.

5. Hence, I request you to kindly provide the information as mentioned at para 3 above. It may please be noted that I am ____ years old and am a Senior Citizen and request an early reply to my letter.

Thanking you,

Yours Sincerely,

(_____)