



कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)
मुख्य कार्यालय / Head Office
भविष्य निधि भवन, 14-भौकाजी कामा प्लेस, नई दिल्ली-110 066.
Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066.

No: Pension-I/12/33/EPF Amendment/96 Vol.II

Dated:

To,

All ACCs (Zonal Offices)
All Regional P.F. Commissioner (In-Charge of Regions),
All officers-in-charge of SROs.

4432
31 MAY 2017

Subject:- Allowing members of the EPS'95 the benefit of the actual salary in the Pension Fund exceeding wage limit of either Rs. 5000/- or Rs. 6500/- per month from the effective date respectively as per the Hon'ble Supreme Court's order in Civil Appeal NO(S) 10013-10014 of 2016 arising out of SLP No. 33032-33033 of 2015 – reg.

Sir,

Please arrange to refer this office letter No. Pension-I/12/33/EPF/Amendments/96/Vol-I dated 23.03.2017 on the above cited subject. Many references have been received from field offices to confirm if the aforesaid circular dated 23.03.2017 is applicable to employees of EPF exempted establishments. In this context, it is informed as under:

- i. Approval to comply with the order of the Hon'ble Supreme Court in the matter of Shri R.C. Gupta and others is only in respect of the Provident Fund & Pension members whose accounts are maintained by EPFO and whose P.F. Contribution on higher wages has been received by EPFO.
- ii. All the appellant employees in the aforesaid case before the Hon'ble Supreme Court were from unexempted establishment i.e. an establishment making P.F. contributions in the statutory Provident Fund managed by EPFO. The Employer's contribution of 12 % under the Act in respect of the said employees was on actual salary and not on the ceiling limit of either Rs.5,000/- or Rs.6500/-.
- iii. Exercise of option under Para 26 (6) of the EPF Scheme, 1952 is a precursor to exercise of option under proviso to clause 11 (3) of the pension scheme. The appellant employees in the aforesaid case had exercised option under para 26 (6) of the EPF Scheme and contribution on full salary was received in the statutory Provident Fund.
- iv. Employees' Pension Scheme remittances are being made by the establishments and not by the exempted Trusts. As such if establishments with exempted trusts are allowed to make balance remittances on full salary to the Employees Pension scheme afresh, the same will have to be considered for unexempted establishments also. It is not contemplated in the judgment.
- v. In the case of exempted establishment the Provident Fund and Pension Fund are managed by separate legal entities. The Provident Fund of employees of exempted establishments are managed by Exempted Trusts and Pension Fund is managed by EPFO. As such, adjustment of contribution from Provident Fund Account to Pension Account as contemplated in the judgment is not possible.

(2)

The matter was placed in the 40th PEIC meeting. As decided in the 40th meeting of the PEIC the matter will be placed before the CBT. In the interim, it is advised that no member of EPS, 95 whose contribution on full salary has not been received in the account of the EPFO at the respective periods of contribution, shall be eligible for the benefits contemplated in the judgment as per the aforesaid Hon'ble Supreme Court order.

(This issues with the approval of CPFC)

Yours faithfully,



(Mukesh Kumar)

Regional PF Commissioner-I (Pension)