



Rajasthan State Mines & Minerals Limited

(A Government of Rajasthan Enterprise)

Corporate Office : 4, Meera Marg, Udaipur - 313 001

Registered Office : C-89-90, Lal Kothi Scheme, Jaipur, CIN-U14109RJ19495GC000505

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No. RSMM/CO/F&A/PF/2023/ 2097

Dated: 09.02.2023

Circular

Sub: Submission of 'Joint option Form' under Para 11 (3) and Para 11 (4) of Employees pension scheme, 1995 in line with the direction given by Hon'ble Supreme Court vide order dated 04th November 2022 passed in SLP No. 8658-8659 of 2019 titled EPFO v/s Sunil Kumar B. & ORS. ETC.

In compliance of EPFO Circular No. Pension/2022/54877/15149 dtd 29.12.2022 regarding Instructions in compliance of orders contained in Para 44(ix) read with Para 44 (v) & (vi) of Hon'ble Supreme Court judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019, the employees/ ex-employees of RSMMML are advised to exercise the option in their own wisdom for higher pension on actual wages and submit the Joint option Form.

The serving employees of RSMMML may exercise their option in triplicate duly signed in original (hard copies) and may submit in envelope marked as "Joint Option EPS'95" to their respective units/offices and the ex-employees to their nearest units/offices on or before 15th February' 2023 as per the details mentioned:

Name of SBU-PC	To whom the document is to be submitted
Head Office, Registered Office, Delhi Office, Kolkata Office	DGM(P&A)
SBU &PC- Rockphosphate	DGM(P&A)
SBU &PC-Gypsum	DGM(P&A)
SBU &PC- Lignite	DGM(P&A)
SBU &PC-Limestone	AM(P&A)

The following documents are to be submitted along with the joint option form:

- Copy of detailed PPO for pensioners
- Copy of Aadhar Card
- Copy of PAN Card
- Copy of Bank Passbook for pensioners

Ex-employees/EPS-95 pensioners may also note that revision in EPS-95 pension may take considerable time as the pension payment under EPS-95 is done by the concerned office of the EPFO and is not in the control of RSMMML.

Disclaimer: In reference to judgement, dated 4th November 2022 of Hon'ble Supreme Court, RSMM Ltd. has written a letter to EPFO seeking guidelines for submission of joint option form for exercising the option and contributing of the EPFO higher pension on higher wages under EPS'95, however, reply to the same is still awaited. This circular is being issued for implementation of said judgement only to adhere to the time limit and is subject to any rectification(s)/guideline(s) that may be issued by EPFO from time to time. Therefore, the joint option submitted by eligible employees do not confer any right to receive or obligation upon RSMM Limited to pay higher pension to them


(Dr. T.R. Agarwal)_{R.A/c.s}

Executive Director (Admin)

EMPLOYEES PROVIDENT FUND ORGANISATION

Regional Office, Udaipur

(Ministry of Labour & Employment, Government of India)

[Application for revision of Pension under the Employees' Pension Scheme, 1995 on actual wages more than the wage ceiling of Rs Rs. 6500/- or 15000/- per month]

(To be submitted to the RPFC concerned through the employer of the establishment where the member worked last)
Employee No.- UAN-

1	Name of Pensioner	
2	PPO No,	
3	EPF/EPS Account No.	
4	Name of the Pension disbursing Bank and Branch	
5	Bank A/c No.	
6	Mobile No.	
7	Aadhar No.	

Declaration by the Pensioner

1. I am a pensioner drawing my monthly pension under the Employees' Pension Scheme, 1995 with effect from _____ with the above noted PPO Number issued from the EPFO, RO/SRO-Udaipur
2. I am a retired/current employee of M/s RSMML with the above noted EPF/EPS Account Number RJ/241/A/
3. My monthly wages for the purpose of subscribing contributions under the EPF Act, 1952 and Schemes framed thereunder were increase beyond the statutory ceiling amount w.e.f _____ and I was subscribing to the EPF at the rate of 12% of my monthly wages more than the ceiling amount till my retirement/till _____
4. I understand that the monthly wages ceiling for the purpose of contributions to EPF was Rs. 5000/- p.m. till May 2001 and Rs. 6500/- p.m thereafter till Aug-2014 and 15000/- thereafter.
5. My employer was also depositing every month w.e.f. _____ 12% of my actual monthly wages, more than the above said statutory wage ceiling(s) as the employer's share of contribution but, the monthly contributions to the Employees' Pension Fund diverted out of the employer's share was limited to Rs. 417/- or Rs. 541/- or 1250 p.m. on the basis of the above said wage ceiling.
6. I therefore understand that I need to pay the difference between the Pension Fund contributions (@8.33% of such actual monthly was more than the ceiling amount) and Rs. 417/- or Rs. 541/- or 1250/- (as the case may be) together with accrued interest year to year date to become eligible for pension on the basis of my actual salary on which my employer deposited the contributions or divert the accumulation towards EPS 95 account in accordance with the judgment by Honorable Supreme Court w.r.t. SLP no, 8658-8659 of 2 pronounced on 4/11/2022,

Accordingly, I may please be intimated the amount, I need to pay or adjust to the Employees' Pension Fund on account of the aforesaid provision to draw enhanced pension on the basis of my actual salary more than the said ceiling as shown in the contribution Cards in Form 3A(R) for the F.Y. _____ to F.Y. _____ enclosed herewith duly certified by my employer.

Place:

Date:

Signature of the Pensioner / Member

Name(in capital letters):

Address:

Undertaking by The Employer

Certified that Mr/Mrs _____ was/is an employee of this establishment and a member of EPS'95 with EPS Account No. RJ/241/A/. During his/her service, he/she was/is in receipt of wages more than the statutory wages ceiling as described in the EPF Act and Scheme, 1952 for the period w.e.f _____ till cessation of his/her service on _____ and the employer had deposited employers share of contribution on his actual salary, through more than wage ceiling as in force from time to time, as per the provisions of paragraph 26(6) of the Employees Provident Fund Scheme, 1952. Certified true copies of the Contribution Card in form 3A(R) in respect of the said individual for the period when his/her contributions were paid on wages more than the ceiling amount, i.e. from F.Y. _____ to F.Y. _____, are forwarded herewith along with his/her request for revision of Pension as per judgment by honorable Supreme Court w.r.t SLP no. 8658-8659 of 2019 pronounced on 4/11/2022.

Place:

Date:

Signature of the Authorized Signatory of the Establishment

Name of the Authorized Officer (in capital letter)

Official Seal



ईपीएफओ, मुख्य कार्यालय
श्रम एवं रोज़गार मंत्रालय, भारत सरकार
भविष्य निधि भवन, 14, भीकाजी कामा प्लेस, नई दिल्ली 110066



EPFO, HEAD OFFICE

MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA
BHAVISHYA NIDHI BHAWAN, 14, BHIKAJI CAMA PLACE, NEW DELHI 110066

www.epfindia.gov.in

No. Pension/2022/54877

15149

Date:

29 DEC 2022

To,

All Addl. CPFCs, Zonal Offices.
All RPFCs / OICs, Regional Offices.

Sub: Instructions in compliance of orders contained in Para 44 (ix) read with Para 44 (v) & (vi) of Hon'ble Supreme Court judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019.

Madam/Sir,

The above matter was referred to the Central Government for issuing directions. The Central Government vide letter dated 22.12.2022 has directed that requisite action may be taken by EPFO to implement the directions contained in **para 44 (ix) of the judgment dated 04.11.2022** of the Hon'ble Supreme Court within the stipulated timelines. Government has further directed that adequate publicity may be made to the decisions taken by EPFO to implement the said directions.

2. Accordingly, the field offices are directed to implement the directions contained in para 44 (ix) of the judgment dated 04.11.2022 of the Hon'ble Supreme Court within the stipulated timeline and to ensure adequate publicity of the decisions taken by EPFO to implement the said directions.

3. As may be seen, the Hon'ble Supreme Court has pronounced judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019. The relevant directions of the court with respect to above-mentioned subject are as follows.

"44 (v) The employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment.

44 (vi) The employees who have retired before 1st September 2014 upon exercising option under paragraph 11(3) of the 1995 scheme shall be covered by the provisions of the paragraph 11(3) of the pension scheme as it stood prior to the amendment of 2014.

44 (ix) We agree with the view taken by the Division Bench in the case of R.C. Gupta (supra) so far as interpretation of the proviso to paragraph 11(3) (pre-amendment) pension scheme is concerned. The fund authorities shall implement the directives contained in the said judgment within a period of eight weeks, subject to our directions

contained earlier in this paragraph."

4. In this context, factual position as narrated in R.C. Gupta & ors etc. vs Regional Provident Fund Commissioner, Employees' Provident Funds Organisation & ors etc. dated 04.10.2016 is as follows: -

4.1 Paragraph 4 of the above judgement states:

" The appellant-employees on the eve of their retirement i.e. sometime in the year 2005 took the plea that the proviso brought in by the amendment of 1996 was not within their knowledge and, therefore, they may be given the benefit thereof, particularly, when the employer's contribution under the Act has been on actual salary and not on the basis of ceiling limit of either Rs.5,000/- or 6,500/- per month, as the case may be. This plea was negated by the Provident Fund Authority on the ground that the proviso visualized a cut-off date for exercise of option, namely, the date of commencement of Scheme or from the date the salary exceeded the ceiling amount of Rs.5,000/- or 6,500/- per month, as may be. As the request of the appellant-employees was subsequent to either of the said dates, the same cannot be acceded to."

4.2 Relevant portion of Paragraph 8 of the above judgement states:

".... The said dates are not cut off dates to determine the eligibility of employer employee to indicate their option under the proviso to clause 11(3) of the pension scheme".

4.3 Relevant portion of Paragraph 10 of the above judgement states:

"...If both the employer and the employee opt for deposit against the actual salary and not the ceiling amount, the exercise of the option under paragraph 26 of the provident fund scheme is inevitable. Exercise of the option under paragraph 26(6) is a necessary precursor to the exercise of the option to the Clause under 11(3). Exercise of such option, therefore, would not foreclose the exercise of a further option under Clause 11(3) of the pension scheme unless the circumstances warranting such foreclosure are clearly indicated".

5. Accordingly, the direction of the Hon'ble Supreme Court in R.C. Gupta judgement pertains to such employees who contributed on higher wages under paragraph 26(6) of EPF Scheme, and had further exercised their option under the proviso to erstwhile para 11 (3) prior to their retirement, but their option request under the proviso to paragraph 11(3) was explicitly denied by concerned office of the RPFC and /or contribution on higher salary was refunded / diverted back to provident fund accounts.

6. The following pensioners may apply digitally/ online at www.epfindia.gov.in for validating their options, if any, by the concerned Regional Office:

- i. the pensioners who as employees had contributed under paragraph 26(6) of EPF Scheme on salary exceeding the prevalent wage ceiling of Rs 5000/- or 6500/-; and
- ii. exercised joint option under the proviso to Para 11(3) of the pre-amendment scheme while being members of EPS,95; and
- iii. their exercise of such option was declined by PF authorities,

7. The way such pensioners would apply to the concerned Regional Office is as follows:

- i. The request will be made in such form and manner, as may be specified by the Commissioner.
- ii. The application form for validation will contain the disclaimer as ordered in the aforesaid government notification.
- iii. In case of share requiring adjustment from Provident Fund to Pension Fund and if any, re deposit to the fund, the explicit consent of the pensioner will be given in the application form.
- iv. In case of transfer of funds from exempted provident fund trust to pension fund of EPFO, an undertaking of the trustee shall be submitted. The undertaking shall be to the effect that due contribution along with interest-up to the date of payment, will be deposited within the specified period.
- v. The method of deposit of such funds will follow through subsequent circulars.
- vi. Aforesaid application form must contain the following specified documents for evidence and for further processing : -

- a. Proof of joint option under Para 26(6) of the EPF Scheme duly verified by the employer; and
- b. Proof of joint option under the proviso to erstwhile Para 11(3) duly verified by the employer; and
- c. Proof of remittance in Provident Fund on higher wages exceeding the prevalent wage ceiling of ₹5000/6500; and
- d. Proof of remittance in Pension Fund on higher wages exceeding the prevalent wage ceiling of ₹5000/6500, if any; and
- e. Written refusal of APFC or any other higher authority of EPFO to such requests / remittance.

8. The above application forms when received in the specified time period will be dealt with in the following manner by Regional PF Commissioner:

- i. A facility will be provided for which URL will be informed shortly. Once received, the Regional PF Commissioner shall put up adequate notice and banners on the noticeboard for wider public information.
- ii. Each application will be registered and digitally logged. The receipt number will be provided to the applicant.
- iii. The application will land into employer's login whose verification with e-sign will be essential for further processing.
- iv. RPFC will cause each application to be converted into e-file, as far as possible.
- v. The concerned dealing assistant will examine the papers including the note on receipt of due amount in the Pension Fund, and mark the case to Section Supervisor / Account Officer.
- vi. The concerned SS / AO will mark out any discrepancies and send it with the rule position to APFC / RPFC-II who after due examination will put the case to Officer-in charge of RO.
- vii. The OIC shall examine each case of pension on higher salary and dispose it by passing a speaking order that shall be intimated to the applicant through e-mail/post. Efforts will be made to intimate them through telephone/SMS.

9. Officer in-Charge of the concerned Regional office will send a weekly monitoring report to the respective Zonal Office. The monitoring format will be specified by the ACC-HQ Pension. Zonal office will also report the aggregate position of the zones weekly to the Pension Division at Head Office.

10. Any grievance by the applicant can be registered on EPFiGMS after submission of his request form and payment of due contribution, if any. The registration of such grievance shall be under specified category of higher pension with reference to Supreme Court Judgment dated 04.11.2022. All such grievances shall be addressed and disposed of at the level of Nominated Officer. Grievances

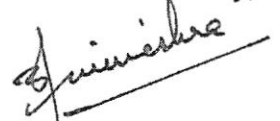
will be monitored by the Officer in-Charge of Regional Office and Zonal Office.

11. These directions are issued in compliance of the judgement dated 04.11.2022 of Hon'ble Supreme Court and notification of the MoL&E for immediate implementation.

12. This circular is being issued in supersession of all earlier instructions issued on this subject.

[This issues with the approval of CPFC.]

Yours faithfully,



(Animesh Mishra)

Addl. Central P.F. Commissioner (Pension)

Copy to: -

1. PS to Secretary to the Government of India, Ministry of Labour and Employment.
2. Under Secretary to the Government of India, Ministry of Labour and Employment with reference to letter No. R-15011/03/2022-SS-II dated 22.12.2022.
3. PS to CPFC.
4. All ACCs HQ and ACCs at H.O for information & necessary action. Further for online applications, URL may please be informed to field offices by ISD.
5. Rajbhasha section for providing Version in Hindi.