To All Members,

Pension Implementation Committee,
(CBT, EPF)

Sub: Draft minutes of the 22nd meeting of the Pension Implementation Committee held on 20-01-2006.

Sir,

A copy of the draft minutes of the above meeting as approved by the Chairman, Pension Implementation Committee is forwarded herewith. You are requested to forward your comments, if any, within 10 days from the date of receipt of this letter.

Yours faithfully,

Encl: As above.

ADDL. CENTRAL PROVIDENT FUND COMMISSIONER (PENSION)

Copy to:-
1. PPS to Secretary (Labour), Ministry of Labour, New Delhi.
2. PS to Addl. Secretary, Ministry of Labour, New Delhi.
3. Shri J.P. Pati, Joint Secretary, Ministry of Labour, New Delhi.
5. PS to CPFC
6. FA & CAO
7. All Members of CBT.
MINUTES OF THE 22nd PENSION IMPLEMENTATION COMMITTEE

The 22nd meeting of the Pension Implementation Committee was held under the Chairmanship of Shri J.P. Singh, Additional Secretary, Ministry of Labour & Employment, Government of India on 20-1-2006 at 11.00 AM in the Mini Committee Room, Shram Shakti Bhawan, Ministry of Labour & Employment, New Delhi.

The following members attended the meeting.

(1) Shri A.D. Nagpal  
(2) Shri B.N. Rai  
(3) Shri P. Rajendran  
(4) Shri A. Viswanathan  
(5) Shri M.L. Meena  
(6) Shri J.P. Pati  
(7) Shri K.C. Jain  
(8) Shri Bhudev Chatterjee  
(9) Shri Akshay Pandit

Employees Representative  
Employees Representative  
Employer's Representative  
C.P.F.C. (Member)  
Addl. CPFC (Pension)  
Convener  
Joint Secretary  
Director, Ministry of Labour (Special Invitee)  
Consultant Actuary (Special Invitee)  
Valuer Representative (Special Invitee)
Shri Parduman Singh, Employees’ Representative, Shri Ashwin Dani Employers’ Representative & Smt. Rama Murali, Financial Advisor, Ministry of Labour & Employment could not attend the meeting.

Following officials from EPFO were present:

Smt. Aprajita Jaggi                  RPFC -II      (Pension)
Shri Raman Dhanasekar               APFC          (Pension)
Shri Bhupinder Singh                APFC          (Pension)
Smt. Padma Ramachandran,            S.O.           (Pension)

The Chairman warmly welcomed all the members of the Pension Implementation Committee. The agenda items were taken up one-by-one for discussion.

**Item-1:** Confirmation of the Minutes of the 21st Meeting of the PIC held on 08.10.2004.

The committee approved the minutes of the 21st PIC meeting.

**Item-2:** Action Taken Report on the Pending Matters relating to decisions taken in the earlier meetings.

A revised status position of the compliance position of establishments which were to start compliance after the Hon’ble Supreme Court’s judgement which upheld the EPS’95, was placed before PIC. Shri. A. D. Nagpal pointed out that there are still some establishments for which assessment of dues is not completed. He desired that action shall promptly be taken to ensure early assessment and recovery of dues from all such
Item-3: 8th Annual Valuation of the Employees' Pension Fund for the period 01.04.2003 to 31.03.2004.

A presentation on the 8th Annual Valuation was made by Shri Akshay Pandit, Valuer Representative.

The Chairman desired to know about the sources of data for Annual Valuation. Shri Pandit replied that for 13% of existing members of EPS '95, data was given by the EPFO, which was then projected for the entire population for the valuation. The Chairman enquired whether 13% of data can be representative of the entire population and what could be the margin of error when results are arrived at based on the projection.

Shri Pandit replied that 13% data is more than enough for projecting the entire population and the results can always be relied upon.

Shri A.D. Nagpal wanted to know the opinion of Shri Akshay Pandit, whether the data is correct or not. Shri Pandit replied that there was consistency in the data provided by EPFO.

Shri A.D. Nagpal also enquired about the percentage of data provided by the EPFO in the previous valuations. Shri Pandit clarified that usually the percentage of data supplied in respect of members is in between 12%-17% only. He further clarified that for pensioners data above 90% is being given by EPFO.

On a question as to why EPFO has not been able to give more data for accurate valuation Addl CPFC (Pension) clarified that all out efforts are made to collect as much data as possible from the field offices.
The Chairman advised that more focused attention has to be made to collect the maximum data possible so that the Valuation results are more reliable.

CPFC replied that at the time of introduction of EPS'95, a rigorous exercise was made by the field offices to collect the particulars of date of birth, wage, family details etc. so that the necessary primary data could be collected. However, the quantity & quality of data collection & data entry were not up to the expectation. He informed that, the most critical components of the above data are the date of birth and the wage as on 16.11.95. Once under the BPR Project the NSSN details are captured, date of birth shall be available in respect of majority of the members and the wages as on 16.11.95 shall also be made available by the field offices. The Chairman advised EPFO to take the help of some strategist to devise ways of collecting accurate data.

The Chairman also wanted to know the implication of the increase in membership on the pension fund, for which Shri Akshay Pandit replied that the addition of new members, preferably below 30 in age, would definitely increase the surplus and is good for the pension fund. The CPFC replied that in reality the labour market mobility leads to the conclusion that members keep on moving from jobs and on leaving one employment they get the withdrawal benefit as it is lucrative and rejoin again which increases the liability. Shri. Akshay Pandit agreed with the statement of CPFC.

The Chairman observed that the pension scheme in the current state seems to be very liberal with regards to withdrawal benefits and results in more number of people opting for withdrawal benefits & early pension which actually erodes the pension fund. He emphasized the need to find a solution to this problem.
Shri Pandit went on to explain the assumptions based on which the valuation was done. He informed that the 8th Valuation revealed a deficit of Rs.22,021 crores as on 31st March 2004. The raising of the wage ceiling from Rs.5000/- to Rs.6500/- has increased the initial liability by Rs.10000 crores which coupled with the low interest rate earnings & the liberal withdrawal benefits has increased further. The delay in the remedial action has also increased the deficit leading to the present level, which is still increasing day by day and shall keep on increasing unless some immediate steps are taken as already recommended by the Valuer and the consultant Actuary.

CPFC informed the members that the remedial suggestions were made in the 4th Valuation also which was valued by Sh.Bhudev Chatterjee but the matter is still pending with the CBT where the Report of the Panel of Actuaries appointed to evaluate the 4th Valuation Report on the EPS’95 as on 31.3.2000 is placed for consideration.

The Chairman further desired to know about the recommendations made by the Valuer & the underlying logic. The recommendations regarding increase in retirement age from 58 to 60, revision of Table B & D, increase in the reduction rate for early pension and linking of wage limits to calculation of Pensionable salary were explained by the consultant Actuary. Shri.A.D. Nagpal informed that the change in the factors of Table B & D has already been approved by the Central Trade Unions and as for as the other measures the same can be discussed in the CBT. The CPFC added that the corrective measures as a whole shall be placed before the CBT for their discussion adding that the PIC has already approved placement of recommendations before CBT.

Shri B.N. Rai observed that as the female members retire early due to differential retirement age in some industries they shall be greatly affected by the increase in the retirement age to 60 years and the reduction factor to 5%, and requested the Government of India to examine the issue before taking any decision.
Shri. Bhudev Chatterjee observed that the pension fund was designed as a uniform scheme and it is not possible to make a separate benefit structure for women. Further, the fund is at stake and the health of the fund is of paramount importance to sustain the Scheme and benefits to the subscribers.

The CPFC stated that the issue of reduction of pension for early exits shall be discussed in detail by the CBT, before taking any final decision in this regard.

Shri. A.D. Nagpal observed that the increase in contribution was already approved by the Central Trade Unions, which was also pointed out in the Minutes of the Meeting with the CTU by Shri. B.N. Rai. The Chairman advised to have a special CBT for considering all these issues, so that an immediate decision is taken.

Shri. Pandit added that already 2 years have passed from the date on which these corrective measures were recommended by the Valuers, and non-implementation of recommendations has actually increased the deficit in the fund and insisted that the same may be implemented in full to keep the fund solvent and sufficient.

The CPFC invited the suggestion of the consultant actuary on the corrective measures for which Shri. Bhudev Chatterjee strongly emphasized that at least the revision of Tables B & D and the increase of the retirement age from 58 to 60 should be done immediately to make the fund sustainable.

**Item-4:** Pension Fund contribution on over and above wage ceiling limit (Deferred item of 21st meeting)

Addl (CPFC) Pension introduced the item. He read out the relevant Para i.e. Para-11 (3) for the members. He explained in brief the importance and necessity of the proposal. Shri A.D. Nagpal wanted to know whether the proposal was in accordance with the provisions of the Scheme.
CPFC then explained the proposal in detail. He explained to the members that as per Para-11 (3) of the scheme, the members were allowed to contribute over and above the Statutory Limit (Rs.6500/- at present) on a joint option to be exercised by the Employee as well as the Employer. But, the option had to be exercised on and from the month in which the wages crossed the statutory limit. Option was not allowed to be exercised with retrospective effect. The Central Government contributes towards Pension Fund at the rate of 1-1/6% but this contribution is restricted to the statutory limit. So, the Pension Fund also loses the contribution from the Government on wages beyond the statutory limit. Therefore, if the benefits are allowed, the low wage earners would provide subsidy to the high wage earners, which would be inequitable, unjustified and unfair. In that situation, the cross subsidy would flow in a reverse direction. He also stated that the reasoning behind the proposal had been explained in the Agenda item itself and requested the members to go through the items and deliberate upon the same.

Shri A.D. Nagpal said that he agreed with the item that suitable modifications/amendments were required, otherwise the scheme might fail.

Shri B.N. Roy also agreed with Shri A.D. Nagpal. He said that as the proposal was in favour of poor, he supported it.

Thus there was a general agreement on the proposal with the recommendation to take up the issue before the Central Board of Trustees.

Item 5: Proposed amendment to incorporate a provision for limitation period to exercise option for membership in Para 7 of Employees Pension Scheme, 1995.

Shri M.L. Meena, ACC(Pension) read the above item to all the members of the PIC.
Shri. A.D. Nagpal wanted to know, as to why there is a requirement for the limitation period. The CPFC replied that even after completion of 10 years by the EPS'95 the option for membership is still kept open to all the PF members who were non FPF members and to the FPF members who ceased their FPF membership between 1.4.93 to 15.11.1995. The EPS '95 is not an open ended scheme and hence this facility extended to the above PF members cannot continue indefinitely. Therefore it is proposed that a time limit upto 16.11.2006 can be announced for such PF members erstwhile FPS 1971 members to opt for the membership of EPS '95 after giving due publicity in the media. Shri. Rajendran appreciated the justification in the time limit given and supported the proposal.

The proposal was agreed by all and the item stood approved.

Supplementary Item:- Administrative expenses of EPS, 95 – Proposed amendment in Para 27(2) & 28 of EPS, 95

Addl CPFC (Pension) introduced the item by explaining the relevant Paras of the Scheme.

CPFC while explaining the issue, informed the members that the EPFO was already incurring two types of administrative expenses on EPS'95. First the service charges being paid to the disbursing agencies. This cost will be growing as more and more pensioners join the stream. The second is the administrative cost on running the scheme which is costed at 16% of EPFO's overall expenditure. He stated that EPS contribution is a part of EPF contribution i.e. 8.33% of the Employer's contribution of 12% is diverted to the Pension Fund. Employer is already paying administrative charges on EPF Scheme. Since EPS contribution is in the first instance EPF contribution only, it is not appropriate to load another administrative charges to EPS.
Therefore, the provision in EPS '95 which provides for loading administrative expenses on Employees' Pension Fund needs to be amended so that the Employees' Pension Fund is used only for providing benefits to the EPS members and administrative costs of disbursing pension. Other administrative costs should not be added. This will strengthen EPS, 1995.

The members present also agreed with the above proposal and approved the item for the consideration of the CBT, EPF.

The meeting ended with a vote of thanks to the Chair.
22ND MEETING OF THE PENSION IMPLEMENTATION COMMITTEE (SUB-COMMITTEE OF CBT, EPF)

ON

20TH JANUARY 2006

AT

11:00 AM

VENUE

MINI COMMITTEE ROOM
SHRAM SHAKTI BHAWAN,
MINISTRY OF LABOUR,
NEW DELHI-110 001.
EMPLOYEES' PROVIDENT FUND ORGANISATION
NEW DELHI

22ND MEETING OF THE
PENSION IMPLEMENTATION COMMITTEE
(SUB-COMMITTEE OF CBT, EPF)

ON

20TH JANUARY 2006

AT

11:00 AM

VENUE

MINI COMMITTEE ROOM
SHRAM SHAKTI BHAWAN,
MINISTRY OF LABOUR,
NEW DELHI-110 001.
AGENDA ITEMS FOR 22ND MEETING OF PENSION IMPLEMENTATION COMMITTEE

Date of Meeting : 20th January 2006
Time : 11.00 A.M.
Venue : Mini Committee Room,
Shram Shakti Bhawan,
Ministry of Labour,
New Delhi.

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<th>S.No.</th>
<th>Items</th>
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<td>1.</td>
<td>Confirmation of the Minutes of the 21st Meeting held on 8-10-2004</td>
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<td>2.</td>
<td>Action taken report on pending matters relating to decisions taken in earlier meetings.</td>
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<td>3.</td>
<td>8th Annual Valuation of the Employees' Pension Fund for the period 1-4-2003 to 31-3-2004.</td>
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<td>4.</td>
<td>Pension Fund contribution on over and above wage ceiling limit (Deferred item of 21st meeting)</td>
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<td>5.</td>
<td>Proposed amendment to incorporate a provision for limitation period to exercise option for membership in Para-7 of Employees' Pension Scheme,1995.</td>
<td>31 - 33</td>
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<td>Any other issue with the permission of the chair.</td>
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MINUTES OF THE 21ST PENSION IMPLEMENTATION COMMITTEE OF THE CBT (EPF) HELD ON 8-10-2004 IN THE COMMITTEE ROOM OF THE MINISTRY OF LABOUR, NEW DELHI

Date : 08-10-2004
Time : 3.30 p.m.
Venue : Committee Room
Shram Shakti Bhavan
Ministry of Labour
New Delhi.

The 21st meeting of the Pension Implementation Committee was held on 8th October, 2004 under the Chairmanship of Shri Balakshwar Rai, Additional Secretary, Ministry of Labour.

Following members attended the meeting.

(1) Shri Parduman Singh
(2) Shri B.N. Rai
(3) Shri Ashwin Dani
(4) Shri Anirudh Rai
(5) Shri A. Viswanathan
(6) Shri K.C. Jain
(7) Shri Bhudev Chatterjee
(8) Shri M.G. Diwan
(9) Shri Akshay Pandit

Shri A.D. Nagpal, Employees' Representative, Shri R.K. Somany & Sh. N. Rajendran, Employers' Representative could not attend the meeting.

Following officials from EPFO were present:

Shri M. Vijaya Raj, RPFC (I) (Pension)
Smt. Aprajita Jaggi, RPFC (II) (Actuarial & Policy)
Shri Rahul Arya, APFC (Pension)
Shri Bhupinder Singh, APFC (Pension)
Smt. Padma Ramachandran, S.O. (Pension & A&C)

Chairman warmly welcomed all the members of the Pension Implementation Committee especially two new members of the Sub-Committee Sh/Shri Parduman Singh and Ashwin Dani.

The Chairman pointed out the importance of the meeting as several important issues affecting million of workers would be discussed specifically, the
7th valuation report. The Chairman apprised the members about the 5th and 6th Valuation results and the recommendations made by 20th meeting of PIC after threadbare discussion. It was also recalled that though the recommendations of the PIC with regard to earlier valuations were placed to CBT, the recommendations could not be taken up for discussion due to other pressing issues.

The Chairman expressed concerns on the increasing deficit and recent newspapers articles on pension deficits, which may have adverse effect on the confidence of the members. He stressed upon the need to take decision without any further delay on valuation issues so that EPS, which is large social security Scheme, can be managed well. With these words, the agenda was taken up for discussion.

Item No.1: Confirmation of the minutes of the 20th meeting held on 3rd February, 2004.

The Committee approved minutes of the 20th PIC meeting.

Item No.2: Action Taken Report on pending matters relating to decision taken in earlier meetings.

ACC (Pension) apprised the members about the various pending matters and action taken thereon. He informed that on the issue of convening a meeting by the Ministry of Labour with Central Trade Unions to consider the proposal for amendment to para 14, reply has been received from the Government vide its letter dated 16.09.2004 directed that the issue may be taken to CBT for consideration.

Shri Parduman Singh informed the Committee that the proposal to have a meeting with Central Trade Unions was decided by the PIC and CBT. He also pointed out that at the time of introduction of Scheme also meetings with central trade union were held to arrive at consensus. Therefore, the meeting with trade union is very much required to discuss all issues which EPS-95 is facing including proposed para 14 amendment and other changes recommended in para 14.

Shri B.N.Rai also emphasized the need to discuss the policy matters with central trade unions.

Shri K.C.Jain, Director, Ministry of Labour, informed the members that the decision was taken in view of the fact that CBT is a tripartite body having employee, employer and Government representative and as such is the appropriate forum to discuss the issues.
At this point, the Chairman intervened and suggested that a meeting can be held with central trade unions as desired by the members.

Action Taken Report on the payment of pension to dependent parents with retrospective effect was also discussed. Shri Parduman Singh pointed out that the issue is a long pending one and strongly advocated payment of pension to the dependent parents. The ACC (Pension) apprised the Committee that a decision of the Government on this issue is still pending. On this Shri K.C.Jain, Director, Ministry of Labour explained the current status and informed that the Ministry of Labour is seeking certain clarifications from EPFO regarding the financial aspects of this issue. The Chairman assured the member that the issue would be considered appropriately keeping the views of the members etc.

On the issue of action taken on the following recommendations of the 26th PIC, to revise Table B & D, in increase in reduction rate from 3% to 5% in early pension cases, while determining pensionable salary linking corresponding service period to the wage ceiling. Shri Parduman Singh while recording that he was not a member of the 26th PIC meeting stated that he has different views, which would be placed when the 7th Valuation Report discussed.


While introducing the item, ACC (Pension) informed the members that normally pension schemes are either defined contributions scheme or defined benefit scheme. However, Employees Pension Scheme, 1995 is both a defined contribution as well as defined benefit scheme, therefore, it must be ensured that assets and liabilities always match. In order to insulate against such mismatch of assets and liabilities the scheme itself provides for annual valuation by the Central Government under para 32. Further to provide further assurances on the valuation of assets and liabilities, the valuation reports are reviewed by a panel of Actuaries, in every three years. In light of such requirements the valuation reports are to be seen and understood.

With this ACC (Pension) invited Shri Akshay Pandit to present the draft 7th Valuation Report.

Shri Akshay Pandit, Valuer informed the Committee that the draft Valuation Report was submitted on 12-8-2004. For the valuation, data in respect of 41 lakh employees was projected to entire population. He gave details of the various assumptions made for the valuation.

He informed the Committee that the deficit has increased by approximately Rs.2000 crores from the previous valuation deficit figure. He
also pointed out that the valuation deficit is not a cash deficit and there is no cash flow problem for next 30 years however he emphasized that immediate steps are required to wipe out the projected valuation deficit.

Shri Parduman Singh pointed out that this issue of a valuation deficit being different than a cash deficit needs to be immediately brought out before press and general public. He brought to the notice of the Committee that the recent adverse publicity of the valuation deficit in the print media need to be countered strongly and a clarification should be issued to restore the confidence of the workers in the Employees Pension Scheme and to remove unnecessary confusions.

Shri B.N. Rai emphasized that the newspaper reports are sending wrong signals to the workers. He also pointed out that if this scheme does not work, other scheme may also not work. Therefore, there is need to give wide publicity to the actual position.

The Chairman while agreeing with views of the members decided that a clarification may be issued after convening the meeting with Trade Unions.

The valuation results were discussed in detail by the Committee and it was decided that the recommendations of the Valuer and the Consultant Actuary may be deliberated upon one by one.

Accordingly ACC (Pension) brought out the various recommendations of the Valuer and the Consultant Actuary one by one for consideration of the Committee.

The recommendations of the Valuer regarding increasing superannuation age from 58 to 60 years was agreed upon by the members for further recommendation to CBT. Shri K.C. Jain pointed out that the age limit in the scheme is the age for getting the pension. The retirement age need not be the same as that given in the Pension Scheme.

With regard to the recommendations to increase the rate of contributions, the members felt that there is no immediate need to increase the existing contribution rate, as age for vesting pension if raised to, the deficit can be controlled. The Committee, however, agreed with the proposal for making arrangements to investigate the past experience of the Scheme in relation to mortality and withdrawal rates, as suggested by the Valuing Actuary.

On the issue of revision of tables B & D, ACC (Pension) informed the Committee that as on date table B gives an interest rate of 10% which is much higher than the interest being earned in the Public Account, where the money lies invested. Likewise, table ‘D’ was factored when the yield in investments was
well above 12%. Therefore, the Tables ‘B’ & ‘D’ need to be revised to reflect the existing interest rates after providing future risk and also to make the withdrawals un-attractive.

Shri Parduman Singh suggested that the members should not be paid withdrawal benefit immediately on quitting the service but Scheme Certificate should be issued that can be encashed only after 2-3 years.

ACC (Pension) clarified that the PIC has already recommended change in Table B & D in its 20th meeting. He also apprised the Committee of the practical difficulties involved in postponing the payment of withdrawal benefits interalia the administrative cost of issuing Scheme Certificate and thereafter settling withdrawal benefit. He also recalled that violent reaction or public uproar when rumours floated at Bangalore that withdrawal benefits would not be paid. He also emphasized the need to make withdrawal benefit un-attractive so that the basic aim of the EPS i.e. providing old age income support can be achieved. Shri Parduman Singh said that his objections/suggestions as pointed out above on this issue should be considered.

Shri B.N. Rai enquired to know about the trend of withdrawal benefit so far. ACC (Pension) informed that approximately 90% of exits are withdrawal before completion of 10 years of eligible service. He also read out figures for non-pensionable exits from the year 1997-98 to 2002-2003. On this Shri B.N. Rai said it is a quite sensitive issue and needs further discussion with the Central Trade Unions. Shri Parduman Singh also agreed with Shri B.N. Rai.

At this point, CPFC pointed out that in view of the valuation results there is a need to take a pragmatic views and the benefits require to be slightly modified. ACC (Pension) requested the Committee to allow redrafting of Table B & D by the Actuary so that the same can be placed before CBT for consideration. The Committee agreed with the suggestion.

ACC (Pension) informed that the change in reduction in pension for early retirement from 3% to 5% has been recommended by the PIC to the CBT. The CBT has yet to consider the relevant item. Shri Dani, the new member of the PIC was also in favour of raising the reduction rate from 3% to 5% in cases of reduced pension. Shri Parduman Singh voiced his strong objection to this proposal to be recorded in the Minutes. Shri B.N. Rai added that he is also not in agreement with proposal. ACC (Pension) stated the panel of Actuaries who reviewed the 4th valuation were also emphatic the reduction for early Pensionable amounts be enhanced. The Chairman decided that this issue can be considered in the CBT.

While discussing the recommendation of the Actuary regarding simultaneous assessment by the Actuary of any proposal to increase statutory
wage ceiling, the Chairman enquired as to any assessment in impact on EPS was made at the time of increasing the wage ceiling from Rs. 5000/- to Rs. 6500/-. ACC (Pension) clarified that the revision was pending for a very long time and at that stage the EPS being in surplus, Pension Division was not aware about the change and implications of such a change. In fact, after the revision came into force the Consultant Actuary opined that contributions shall be diverted from EPF to Pension Account from back date. The suggestion could not be accepted due to practical problems.

The Committee agreed to the need to take up requisite measures in case of future increase in wage ceiling.

On the issue of Supreme Court Judgment on EPS, 1995 Shri Parduman Singh desired that a report shall be placed on the compliance position in this regard in the next PIC meeting.

On the recommendation regarding flexibility in investment pattern, ACC (Pension) apprised the members that a Consultant is being appointed on the issue. On a specific question from Shri Dani, it was informed that the investments of pension funds are monitored by the Finance & Investment Committee or the Board.

The recommendations of the Consultant Actuary were also discussed. However, the majority view was that if the funding position improves by taking some measures like increase in retirement age and revision in tables there is no need to undertake further changes in the scheme.

With these views, it was decided to place the draft for Valuation Report and the recommendations of the Pension Implementation Committee to the CBT.

Item No. 4: Pension Fund Contribution on over and above salary exceeding prescribed limit.

The item was deferred.

Item No. 5: Grant of disablement pension under para 15 of Employees Pension Scheme, 1995.

Shri Parduman Singh strongly advocated the proposal to grant disablement pension to a disabled member de-linking with percentage. While citing a Court Judgment delivered by Andhra Pradesh High Court Shri Singh said that the percentage of disablement should not be a criteria for considering disablement pension. All the members of Committee were in agreement with Shri Parduman Singh and the proposal was approved.

The meeting ended with a vote of thanks to the Chair.
22nd PIC Meeting

Item No.2: Action taken report on pending matters relating to decision taken in earlier meetings.

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<th>S.No.</th>
<th>Decision of PIC</th>
<th>Action taken/Status</th>
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<tr>
<td>1.</td>
<td>The Chairman suggested that a meeting can be held with Central Trade Unions as desired by the members to discuss the issues which EPS, 1995 is facing including proposed amendment of para 14.</td>
<td>Meetings were held with Central Trade Unions on 21-4-2005, 21-6-2005 and 18-7-2005 to discuss these issues. The views of Central Trade Unions are at Annexure-E. (Page 34-50)</td>
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<td>2.</td>
<td>A decision of the Government on the issue of grant of dependent parent pension with retrospective effect is still pending. On this Shri K.C. Jain, Director, MOL explained the current status and informed that the Ministry of Labour is seeking certain clarification from EPFO regarding the financial aspects of this issue. The Chairman assured the member that the issue would be considered appropriately keeping the views of the members etc.</td>
<td>Government vide letter dated 4-4-2005 has informed that it is not appropriate to make the payment of pension from a date prior to 6-3-1999. Copy at Annexure-F. (Page 51)</td>
</tr>
<tr>
<td>3.</td>
<td>CPFC pointed out that in view of the valuation results there is a need to take a pragmatic views and the benefits require to be slightly modified. ACC (Pension) requested the Committee to allow redrafting of Table B &amp; D by the Actuary so that the same can be placed before CBT for consideration. The committee agreed with the suggestion.</td>
<td>Table 'B' and 'D' have been drafted by the Consultant Actuary and have been placed before CBT but the same are yet to be considered.</td>
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<td>4.</td>
<td>A report on compliance position on account of Supreme Court judgment on Employees' pension scheme, 1995 shall be placed in the next PIC Meeting.</td>
<td>The latest status position received from all RPFCs is placed at Annexure-G. (Page 52-61)</td>
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<tr>
<td>5.</td>
<td>The proposal to grant disablement pension by delinking the percentage of disablement has been approved.</td>
<td>The proposal was forwarded to the Ministry of Labour, Govt. of India. Reply is still awaited.</td>
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</table>
6. **7th Valuation Report (21st Meeting)**

1) A clarification need be issued on valuation deficit to restore the confidence of the workers on EPS to remove unnecessary confusion. This should be issued after convening the meeting with Trade Unions.

2) The recommendation of the valuer regarding increasing Superannuation age from 58 years to 60 years for getting pension under EPS, 1995 was agreed upon by the Committee for further recommendation to CBT.

3) The recommendation to increase rate of contribution was not agreed by the members. However the Committee agreed with the proposal for making arrangement to investigate the past experience of the Scheme in relation to mortality and withdrawal rates as suggested by the Valuing Actuary.

4) The issue for reduction in pension for early retirement (reduced pension) can be considered in the CBT.

5) In case of future increase in wage ceiling requisite measures as to assessment of impact on Employees' Pension Scheme, 1995 should be taken.

6) The Committee recommended that the Valuation report and the recommendation of the PIC to be placed before the CBT, EPF.

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<th>Comprehensive comments have been forwarded to Ministry pointing out the uninformed and unfair criticism of EPS, 1995.</th>
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<tr>
<td></td>
<td>Recommendation has been placed before the CBT.</td>
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<td>Feasibility is being worked out.</td>
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<td></td>
<td>Item has been placed before the CBT.</td>
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<td>Noted for compliance.</td>
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<td></td>
<td>5th and 6th valuation reports and report of Panel of Actuaries on 4th valuation report were placed in the 167th, 170th &amp; 171st meeting of CBT. 7th valuation report was placed before 170th and 171st meeting of CBT.</td>
</tr>
</tbody>
</table>
7) A clarification should be issued on the adverse publicity on valuation deficit appeared in the Newspaper reports after convening the meeting with Central Trade Unions.

Meeting with Central Trade Unions held and minutes of the said meetings are being placed before the CBT. After consideration by CBT, further action will be taken.

Pursuant to Para 32 of Employees’ Pension Scheme, 95, Central Government vide letter R-15011/2/04-SS.II dated 4.2.2004 appointed M/s K.A. Pandit as Valuer to undertake the work of 8th valuation as on 31.3.2004.

2. The Valuer has submitted the draft 8th Valuation Report as on 31st March, 2004. The findings of the Valuation Report are as under:

Valuation Results:

“The valuation has disclosed a deficit of Rs. 22,021 crores as on 31st March 2004. This represents an excess of value of liabilities over the value of assets on that date. This amount is significantly large and calls for corrective action. But if we look at the increment in liability it is 2,730 crores as compared to the last valuation, which was 19,291 crores, which was mainly due to revision in the salary ceiling of Rs. 5,000 p.m to Rs. 6,500 p.m. The deficit this year is mainly due to higher pay out on withdrawal and carried forward losses due to change in salary limit. The measures for corrective action recommended should be considered for implementation.”

3. Apparently, the main reason for further increase in deficit is that the corrective action recommended in earlier reports i.e., 5th, 6th & 7th Valuation Reports is yet to be considered and implemented.

4. In 8th Valuation Report once again, the following corrective measures have been listed by the Valuer to maintain the sufficiency & solvency of the Employees Pension Fund.

The corrective measures listed by the Valuer:

i) There is need to establish a machinery to oversee the operations of the Fund Manager by the PF Authorities. The Government is planning the approval of Fund Managers under the new Pension Regulatory Authority. The flexibility in investment pattern that may be allowed to these Fund Managers should also be extended to the Fund Managers of the EPS, 95.

ii) Whenever there is a proposal to increase the eligibility limit for pension the impact of the same should be assessed actuarially and concurrent steps be taken to implement the recommendations that the Actuary may make. This will ensure that such changes do not lead to enlarging the deficit. The increase in the pension eligibility salary from Rs. 5,000/- to the figure of Rs. 6,500/- made effective from 1st June, 2001 has increased the liability, to the extent of about Rs. 10,000/- crores.

iii) The rate of contribution on salary should be suitably raised for the future from 8.33% to 10.33% as suggested or in the alternatives benefits could be
reduced for the future. This should be done after a proper examination of the scheme benefits by a team consisting of at least three Actuaries among others.

iv) The age of normal retirement should be raised from 58 years to 60 years. Retirement at age 58 should be treated as early retirement. **The three percent deduction made for each year of early retirement needs to be raised to five percent with the upper limit on such deduction being raised to 50% from the present 25%**.

v) Immediate steps should be taken to ensure complete database for the valuation. While it should be our aim to get 100% of the data, at the same time, we must ensure its quality in terms of completeness and accuracy. The expected further improvement in the quality of database for the ninth valuation can lead to more reliable conclusions.

vi) Arrangements should be made in association with a team of Actuaries to investigate the past experience of the Scheme in relation to mortality and withdrawal rates.

vii) The experience of the Scheme so far indicates that there are a large number of withdrawals from the Scheme thus defeating the social security objective of the Scheme. Apparently there is also a sizeable withdrawal from the scheme by persons leave one employment, taking withdrawal benefits and joining the scheme again as a new recruit of another employer. A thorough review of the withdrawal benefits in the scheme is necessary to discourage such tendencies.

viii) **A revision is called for in the Tables B and D under Para 14 to give effect to the changes in interest rates as also to discourage withdrawals.**

ix) Urgent steps should be taken to implement the Supreme Court judgment on EPS, 95. This will bring in a large amount of unpaid contribution immediately.

x) The impact of the Scheme that may be developed by the approved Fund Managers after the New Pensions Regulatory Authority lays down guidelines on the provisions of this Scheme need to be examined and the Scheme should be revised, if necessary.

5. The Annual Valuation of the Pension Fund is an important exercise. Efforts are on to develop the existing Actuarial Cell constituted as part of the Pension Division into full-fledged Actuarial Branch so that the Scheme and the fund may be reviewed from time to time on different parameters. In this regard, work on drafting a mortality table has also been initiated.

6. The 5th & 6th Valuation Reports were first placed before the Pension Implementation Committee in its 19th meeting held on 9.12.2003. The Committee in its 20th meeting held on 3.02.2004 decided to recommend the following proposal before Central Board of Trustees, EPF for consideration and approval.
7. Again, the draft report of 7th Valuation Report was placed before the Pension Implementation Committee in its 21st meeting held on 8.10.2004. After detailed deliberation on comments/recommendations of Valuer/Consultant Actuary, the Committee recommended the following to be placed before Central Board of Trustees, EPF for consideration.

- To increase the superannuation age from 58 to 60 years
- Need to take up requisite measures in case of future increase in wage ceiling.

8. The items were placed in the 167th, 170th and 171st, 172nd and 173rd Meeting of Central Board of Trustees but could not be taken up for discussion, and item was deferred for the next meeting. In the Special Meeting of Central Board of Trustees, EPF held on 28.5.2005, it was decided that the Secretary, Ministry of Labour & Employment would call a meeting of the Central Trade Unions for discussing the various recommendations on Employees' Pension Scheme, 1995.

9. The matters were also discussed in the meetings held with the delegates of Central Trade Unions on 21.6.2005. In the meeting held on 18.7.2005, after detailed deliberations on the recommendations of the Valuer, the Central Trade Unions delegates unanimously recommended as follows:

- We desire that the EPS, 95 should be continued as a defined benefit scheme, without any dilution of existing benefits.
- Ways can be explored to increase the contribution by Employer/Government.
- Wherever the retirement age is 60 contributions should be collected beyond 58 years up to 60 years but the benefits currently available for those retiring at 58 years of age should not be adversely changed.
- Concrete proposals on revising Tables ‘B’ & ‘D’ may be taken for discussion.
- Para 14 of the Scheme should not be amended and withdrawal benefits as available now should not be curtailed.
Secretary desired that above being unanimous recommendations, may be placed before Central Board of Trustees, EPF for appropriate decision. Central Trade Unions delegates are of the view that market forces should not have any adverse impact on Social Security Schemes.

10. A proposal for review of the withdrawal benefits under the Scheme to discourage members who leave one employment take withdrawal benefits and join the Scheme again has already been placed before Central Board of Trustees, EPF and as desired by Central Board of Trustees, EPF meetings were convened with Central Trade Unions. The views of the Central Trade Unions are to be placed in the next meeting of Central Board of Trustees, EPF.

11. In the 8th Valuation Report, the Valuer has repeated his earlier recommendations as detailed above which have already been considered and recommended by the Pension Implementation Committee for consideration of Central Board of Trustees, EPF.

12. Employees' Pension Scheme, 95 is a funded Scheme made by the Government and being administered by Central Board of Trustees, EPF. The sustainability and sufficiency of the Employees' Pension Fund needs to be ensured to retain the trust of all of our members and beneficiaries.

13. Placed for consideration of the Committee.

PLEASE NOTE

The Report has not been made public. Therefore the contents may be kept as secret and no access to the Report shall be allowed to any other person. After the meeting Report may also be returned back.
8\textsuperscript{th} Annual Valuation of the Employees’ Pension Fund for the period 1.4.2003 to 31.3.2004 – Draft Report submitted by M/s. K.A. Pandit, Valuer, appointed by the Government.

ANALYSIS OF THE 8\textsuperscript{TH} VALUATION REPORT: COMMENTS OF CONSULTANT ACTUARY AND EPFO.

<table>
<thead>
<tr>
<th>S.N.</th>
<th>Comments/ Recommendations/ Suggestions made by the Valuer</th>
<th>Comments of Consultant Actuary</th>
<th>Comments of EPFO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The valuation has disclosed a deficit of Rs. 22,021 crores as on 31\textsuperscript{st} March, 2004. This represents an excess of value of liabilities over the value of assets on that date.</td>
<td>Accepted that there is a deficit which is increasing.</td>
<td>Recommendations have been made by the Valuer to curb the deficit. The proposal has already been recommended by the Pension Implementation Committee. If all the recommendations made by Valuer is implemented, the deficit could be avoided.</td>
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<tr>
<td>2.</td>
<td>The retirement age for members may be increased from 58 to 60 years.</td>
<td>Fully agree. There has been a demand of increasing Retirement Age from 58 years to 60 years because retirement age in Public Sector Companies has increased and certain Private Sector Companies are also following suit. Benefit as per Rule will not be decreased but instead of being paid from age 58 years benefit will be paid from age 60.</td>
<td>Fully agree. The issue was also discussed in the meeting held with Central Trade Unions delegates. However, the Central Trade Unions’ views on the issue, if implemented, will not generate adequate saving to cover the existing deficit and may in fact increase existing liability under some circumstances.</td>
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<td>3.</td>
<td>Withdrawal under the Scheme need to be controlled. The tables ‘B’ and ‘D’ under Para 14 need to be revised downwards in view of lower interest rate prevailing now.</td>
<td>Agree with the proposed changes in Table ‘B’ and ‘D’.</td>
<td>Yes. It adversely affects the health of the Fund. There is a need to make withdrawal benefit unattractive. In fact, as on date Table ‘B’ is giving rate of return which exceeds the rate being earned in Public Account. The revised Table ‘B’ &amp; ‘D’, as recommended by PIC are placed before CBT &amp; are to be considered whenever the Items for valuations are taken up for discussion.</td>
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<td>4.</td>
<td>The existing contribution rate of 8.33% should be raised suitably or the benefits under the scheme be reduced suitably.</td>
<td>At this stage only reversible changes may be made.</td>
<td>Implementation of the amendments, as proposed by the Valuer and the Consultant Actuary will make the Scheme sustainable. The decision on increase in existing contribution rate, was also taken up with the delegates of the Central Trade Unions and they were of the view that the ways can be explored to increase the Pension contribution by Employer/ Government.</td>
</tr>
<tr>
<td>5.</td>
<td>Any change in the scheme benefits should always be done only after actuarial assessment and the recommendations the Actuary may make should be simultaneously implemented.</td>
<td>Correct.</td>
<td>Fully Agree.</td>
</tr>
<tr>
<td>6.</td>
<td>In future whenever the statutory wage ceiling is increased, there should be a simultaneous assessment by the Actuary so that its implications could be assessed and necessary steps could be suggested and measure could be taken up to ensure long term viability of the fund.</td>
<td>Yes.</td>
<td>Valuer has assessed that raise in wage ceiling from Rs. 5000/- to Rs. 6500/- has resulted in a deficit of Rs. 10,000 crores. The suggestion could not be accepted due to several reasons. As an alternate, the Consultant Actuary suggested that while determining Pensionable salary linking corresponding service period shall be linked to the corresponding wage/wage ceiling for all periods in-between various wage ceilings. The proposal was considered by Pension Implementation Committee and recommended in its 20th meeting to the CBT. CBT has yet to consider the relevant item.</td>
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<td>Arrangements should be made in association with the team of Actuaries to investigate the past experience of the scheme in relation to mortality and withdrawal rates.</td>
<td>Agree.</td>
<td>Fully agree. Feasibility of the study is being examined.</td>
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<td>8.</td>
<td>Urgent steps should be taken to implement the Supreme Court judgment on Employees' Pension Scheme, 1995.</td>
<td>Agree.</td>
<td>Fully agree. In this regard detailed instructions have been sent to the ROs/SROs to take immediate action to secure compliance. A huge amount of unpaid contribution has already been collected. A detail of contribution collection and status position in this regard is being placed separately for consideration of the Committee.</td>
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Item No.4: Pension Fund Contribution on over and above salary exceeding prescribed limit.

The Regional Provident Fund Commissioner, Vishakhapatnam vide his letter dated 6.4.2004 had referred an issue for actions to be initiated for securing compliance under EPS-1995. He has specifically referred an instance where an establishment had sought clarification as to whether the employees who had earlier opted out of EPS-95 can be allowed to contribute to Pension fund on salary exceeding the limit and avail benefits accordingly.

In order to resolve the issue raised by RPFC, Vishakhapatnam, it is necessary to refer to para 3(1), 3(2) of EPS-95 which are extracted here below:

" 3. Employees' Pension Fund (1) From and out of the contributions payable by the employer in each month under Section 6 of the Act or under the rules of the Provident Fund of the establishment which is exempted, either under Clauses (a) and (b) of sub-section (1) of Section 17 of the Act or whose employees are exempted under either paragraph 27 or paragraph 27-A of the Employees' provident Funds Scheme, 1952, a part of contribution representing 8.33 percent of the employees' pay shall be remitted by the employer to the Employees' Pension Fund within 15 days of the close of every month by a separate bank draft or cheque on account of the Employees' Pension Fund contribution in such manner as may be specified in this behalf by the Commissioner. The cost of the remittance, if any, shall be borne by the employer.

(2) The Central Government shall also contribute at the rate of 1.16 percent of the pay of the member of the Employees' Pension Scheme and credit the contribution to the Employees' Pension Fund:

Provided that where the pay of the member exceeds rupees six thousand and five hundred (wage ceiling was Rupees Five thousand upto
1.6.2001) per month the contribution payable by the employer and the Central Government be limited to the amount payable on his pay of rupees five thousand only.

With regard to contributions on wages exceeding the limit prescribed under para 3 of EPS-1995 is governed by para 11(3) of the Scheme which is extracted here below:

11 (3) Determination of Pensionable salary: “The maximum Pensionable salary shall be limited to five thousand rupees per month.

Provided that if at the option of the employer and employee, contribution paid on salary exceeding Rs.5,000 per month from the date of commencement of this Scheme or from the date of salary exceeds Rs.5000, whichever is later, and 8.33 percent share of the employers thereof is remitted into the Pension Fund, Pensionable salary shall be based on such higher salary.”

The proviso to para 11(3) came into effect from 16-3-1996.

At this juncture it is also relevant to bring on record that on notification of Employees Pension Scheme, 1995, several workers' union/establishments filed various writ petitions etc. in several High Courts. While none of the High Courts stayed the operation of Employees Pension Scheme, 1995, the Calcutta High Court ordered status-quo. These interim orders were agitated before the Supreme Court which made the following interim orders:
Interim order dated 25.08.98

"Those workmen who want to take the benefit of the scheme of 1995 will have to adopt the procedure under that scheme and will have to contribute appropriately for availing the benefit of the scheme of 1995. The amount contributed by them will have to be remitted to the Regional Provident Fund Commissioner by the concerned workmen respectively. However those workmen who do not want to adopt the procedure of the scheme of 1995 will be permitted to continue to take the benefit of the earlier scheme of 1971. This will strictly be without prejudice to the rights and contentions of both the sides and awaiting further orders in these IAs."

Interim order dated 10.09.98

"We may make it clear that our earlier order dated 25.8.1998 will have to be read subject to the rider that if the workmen have not opted for the new scheme whatever contributions they had to make under the old scheme will have to be collected and remitted by the employers to the authorities. This clarification about our earlier order will have to be read in continuation of our order dated 25th August, 1998 in all the matters wherein that order applies."

From the above, the Hon'ble Supreme Court had made adequately clear that those workmen who wanted to take the benefit of the EPS Scheme, 1995 will have to adopt the procedure under that Scheme he will have to contribute appropriately (emphasis supplied) for availing the benefit of the Scheme of 1995. Both the interim orders dated 25.8.98 and 10.9.98 enable the workmen to opt in toto under EPS-95 or under erstwhile EFPF Scheme, 1971 subject to final outcome. Thus, the employees of the establishments were at liberty to contribute on wages exceeding the limit and subject to employer agreeing to it could have been implemented, at least immediately after the interim order. Accordingly, those who exercised option to contribute to EPS-95 and also to contribute on wages exceeding the limit in accordance with the provisions entitled to such benefits as envisaged under para 11(3) of
the Scheme. In view of the stated position, RPFC, Vishakhapatnam was instructed as follows:

1. If the employees had contributed on the full salary to EPS from 16.11.95 then benefits are to be based on the said pensionable salary.
2. Due to Supreme Court interim orders if they had elected not to go with EPS, 1995 and to remain in EFPS, 1971, then they are not allowed to contribute to pension and fund over and above the statutory limit.
3. If in the past contribution paid on the wage ceiling and now want to enhance the contribution on higher salary in such cases the members are not allowed to do so.

Based on the decision as above, we have received representations from AITUC, letter from Members, CBT namely Shri G. Sanjeeva Reddy and Shri Praduman Singh calling for re-examination of the issue. Copy of the representations are placed at Annexure A, B and C.

Accordingly, the issue involved were re-examined carefully. The opinion given by the Legal Advisor is placed at Annexure D. The Legal Advisor has stated:

"As such an employee (of course, and his employer) whose salary exceeded the prescribed limit at the time of commencement of this scheme (emphasis supplied) was expected to have opted to have joined this scheme immediately after its commencement. And in the case of those employees whose salary exceeded the prescribed limit thereafter at any stage, he (of course... and his employer) was/is expected to opt to join the scheme in the same month (emphasis supplied) when his salary exceeded that limit. In either of the cases, the duty cast upon the employer under the Proviso to para 11(3) of EPS 1995, is a must to be undertaken along with the payment of appropriate contributions by the employee as has also been upheld by the

The views of the Consultant Actuary is given here below.

1. Provision of the Scheme categorically shows that-

The contribution in excess of salary, exceeding salary limit, is payable from the date of commencement of the scheme or date salary exceeds the limit to an existing members as at 15.11.1995. This is the joining bonus applicable to one who will join the scheme from the date of commencement. This is quite common experience when a new Scheme is floated superseding another Scheme the certain concession are made commonly called Joining Bonus. There is no provision in the rule of the Scheme to allow anybody joining the scheme at the later date to receive such Joining Bonus.

Therefore, unless Scheme provisions are amended, any one joining the Scheme after 15.11.1995, may not avail joining Bonus.

As far as amendment of Scheme is concerned the following two points need to be considered.

1. 1996 valuation has arrived at the actuarial liability after taking into account all such cases. Since Govt. of India is contributing @ 1.16% of the salary limited to limit salary therefore, short fall in contribution between @ 1 & 1.6% of contribution of Salary paid and Limit Salary has been quantified and already funded. Therefore, if a new member is now allowed to avail Joining Bonus there will be further liability in this regard which will remain un-funded. Consequently Fund will be insolvent.

2. The issue of allowing member to contribute at higher salary than Limit Salary has resulted in people earning lower salary subsiding
people earning higher salary. This is repugnant to the context of Scheme and must be done away as soon as possible contribution salary should be limited to Rs.6500/- such that no further strain is created on the fund.

It is further submitted that EPS-1995 is a 'social insurance scheme' by which a cross subsidy takes place. Further the cross subsidy will be from higher wage earners to low wage earners.

It is relevant to bring out the fact that the current Pension Scheme is done at a costing of 9.49% namely 8.33% from the employer's share of contribution and 1.16% from the Government. In respect of the contributors on salary exceeding the wage limit, the Government will not make any contribution. Thus, the contributors while making a lesser rate of contribution would derive higher benefit. This benefit would be at the cost of those persons who are contributing upto the wage limit or those who earn even the below wage limit. Therefore, it results in a situation of high earning workers get subsidy from low wage earners. Such a situation is socially iniquitous and against the social insurance concept.

EPS-1995 has a huge valuation deficit. Adding further load in respect of persons electing to contribute on wages exceeding the limit is required to be considered carefully.

In view of the foregoing, it is submitted that request for belated option to contribute on wages exceeding the wage limit, may not be agreed to.

This item was placed in 21st PIC meeting held on 8-10-2004 but could not be taken up for consideration. Meanwhile, on a representation received from M/s Visakha Steel Employees Congress, the Ministry of Labour sought comments of EPFO. Therefore, the position was informed to the Government with request to take decision in the matter. Reply enclosed from the Govt. is enclosed.

For consideration.
Dear Sir,

We wish to bring to your kind notice that the following problems faced by the employees of Visakhapatnam Steel Plant / Rashtriya Ispat Nigam Ltd., in connection with EPS'95 Scheme:

1) Number of employees retired over a year ago and have not received pension from your office under EPS'95 scheme, despite representations.

2) Four retired employees who contributed based on salary exceeding Rs.5,000/- have received pension considering salary of Rs.5,000/-. Some of the employees have retired way back in November 2000.

3) VSP is not in a position to remit the contributions under EPS'95 Scheme in respect of those employees who have opted for the scheme. It appears that your office advised them to remit the contributions considering salary only Rs.6,500/- per month. It may kindly be noted that the employees mostly have opted for the scheme under sub-paragraph (3) of Para-11 of the scheme i.e., considering salary exceeding Rs.6,500/- per month. Restricting the contributions to Rs.6,500/- is against the option. It may kindly be noted that delaying the remittances will only cause unnecessary hardship to the employees as they will be forced to contribute the arrears at a later date after your clarification. Employees have been making permanent withdrawals from the PF accumulations for house building purpose and they will not be in a position to pay from their pockets to make up for the deficit, if any, in future.

4) The dependants of the deceased members may also face problems due to non-sanction of pension as per the scheme in vogue.

5) VSP Management also is stating that contributions in respect of employees who have actually attained 58 years of age have not been remitted as clarification on the salary ceiling definition is awaited from you.

All the above points need your immediate attention.

Date: 30/11/2001

Visakhapatnam Steel Workers Union
(Affiliated to AITUC)
Regd. No. D 533/81
Recognised Union
Water Sump, Sector I, B Hardanagiri, Visakhapatnam - 530 022
Phone: Fax: 8212, 6067, P & T 836276, 2010777

To
The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Sub-Regional Office, UIIDA Layout,
Marripalem, NAD (Post),
VISAHKAPATNAM - 530 009

Ref.
We request you to put up an end to the travails of VSP employees as far as EPS'95 is concerned. We also request you to sanction the pensions on the full salary as opted by the members as it is as per the scheme only and no clarification on this is required. Your attention is drawn to Sub-Para (3) of Paragraph 11.

There is no point in trying to seek clarification from another office of yours, as the scheme is absolutely clear about the provisions.

We request you not to cause any hardship to the employees by unnecessary interpreting the provisions, which will only delay the remittances and lead to further interpretations on remittance.

We also request you to sanction pension to the retired employees who are patiently have been waiting for the past one year.

Thanking you,

Yours truly,

For Visakha Steel Workers Union

[Signature]

Cc:
1) Regional PF Commissioner, Regional office, Hyderabad.
2) Central PF Commissioner, New Delhi.
Dear Shri Ajai Singh,

I am enclosing herewith a copy of the fax message received by me regarding the problem emanated from the implementation of pension scheme 1995 in the Rashtriya Ispat Nigam Ltd. Visakhapatnam. The complication was created due to the section of employees' rushing to Court and since the Supreme Court delivered its judgement in Nov. 2003 the implementation of the scheme can be effected now. I would request you to examine this issue and ensure that the implementation of the Pension Scheme 1995 is made in Rashtriya Ispat Nigam Ltd. Visakhapatnam.

With regards,

Yours sincerely,

(G. Sanjeeva Reddy)
President

Shri Ajai Singh
Employees Provident Fund Commissioner (C)
14, Bhikaji Cama Place,
New Delhi
1. EPS 95 was challenged by the employees of VSP and was kept in abeyance by the interim orders of Supreme came in 1998. Court. The final orders of the Supreme Court came in November 2003.

2. The implementation of the Scheme resulted in problem relating to options of the employees to join the scheme. The provisions of the Scheme are very clear that employees can join with full salary whereas the RPFC of Visakhapatnam is giving clarification in July 2004 that employees cannot join the scheme with full salary. The clarification is given after almost nine months of Supreme Court’s final judgment.

3. The implementation of the Employees Pension Scheme 1995 (EPS’95) was stayed in the Hon’ble Calcutta High Court during February-March 1996 until further orders against separate writ petitions filed by Steel Executives’ Association of India (SEFI) and Steel Workers’ Federation of India (SWFI).

4. Subsequently in an order dated 2.12.1996 passed, the Hon’ble Calcutta High Court lifted the stay. However, the Hon’ble Court allowed time till 20.12.1996 for compliance of EPS’95 and restrained the authorities from taking penal action until that date. The date was subsequently extended upto 31.01.1997.

5. However, on 19.02.1997, the Hon’ble Calcutta High Court passed judgement in APO/T/No.623 of 1996 filed by SWFI directing to maintain status quo with regard to the implementation of EPS’95 pending disposal of the writ petitions. Based on the court order, the Regional Provident Fund Commissioner, Visakhapatnam (RPFC) was requested to refund the amount deposited with them.

6. Subsequently, all the cases filed before various courts on the implementation of the EPS’95 were transferred to Hon’ble Supreme Court.

7. The Hon’ble Supreme Court in its order dated 19.03.1997, on the special leave petitions filed by the Union of India against the status quo orders, clarified that despite order under appeal whatever benefits were available to workmen under the EPS’95 shall remain available to them. Copy of the interim orders enclosed.

8. The Hon’ble Supreme Court further clarified on 15.03.1998 that those workmen who want to take the benefit of EPS’95 will have to contribute appropriately for availing the benefit of EPS’95 and those workmen who do not want to get the benefit of EPS’95 will certainly not have to contribute under EPS’95 and they would remain under Family Pension Scheme 1971.

9. In line with the interim orders RINL started issuing circulars to employees to enable them to exercise option for EPS 95.

10. RINL forwarding all the options in original to RPFC requesting them to enroll the opted employees under EPS’95 Scheme.

11. RPFC had written a letter dt. 21.05.2001 clarifying the Order and directed to remit contributions on full salary whenever so opted.
12. RINL started remitting the contributions of the employees as and when options were exercised, together with interest from 16.11.1995 at the rates at which interest was being credited to the members.

13. RINL also started sending the pension applications (Form 10D) of employees from Feb 2001 who have attained 58 years of age. The RPFC initially sanctioned pension restricting the pensionable salary to Rs.5000/- though the member opted for total salary and contributed on total salary. The RPFC agreed in Feb 2002 to sanction on higher salary and accordingly started sanctioning pensions as per the option of employees.

14. After initial hiccups in implementation of the Scheme and after receiving necessary clarifications, RINL started doing the following routine:
   i) Send the option letter to RPFC as and when exercised and received in RINL.
   ii) Commence regular monthly contribution in the following month.
   iii) Calculate arrears of contribution along with interest up to remittance and remit the same as and when the employee attained 58 years, form 10-D is sent for sanctioning pension.

15. In a few cases of FPS members, options exercised even after 58 years were entertained and pensions were sanctioned.

16. Hon’ble Supreme Court of India gave its final judgment in November 2003 upholding the Scheme.

17. Since a provision existed the Scheme for the employees to contribute on full salary, about 5,500 employees opted to join the Scheme with full salary.

18. RPFC, Visakhapatnam gave a notice to RINL to comply with the provisions of the Act and initiated proceedings u/s 7A of the Scheme.

19. In fact the Company wrote a letter to the RPFC immediately after Supreme Court judgment i.e. in December 2003 stating that some of the employees are joining the scheme with full salary and accordingly remittance would be made. The Company also sought time from the RPFC in December 2003 itself for the employees to exercise option to join the Scheme with full salary. A letter was written by the Executive Director of the Company to the EPFO at New Delhi asking time for the employees to join the Scheme with full salary.

20. To comply with the Act, RINL started remitting the contributions. The contributions are being paid at full salary for those who opted to join with full salary and for others at ceiling salary of Rs.6,500/- per month. The arrears of contribution from 16.11.1995 together with interest are calculated on the same basis and remittance is being made as and when the money is available. As of July 2004, only a small amount is left out to be paid on account of arrears.

21. The APFC, Visakhapatnam, now in July 2004, is giving clarification that no employee can join with full salary unless he opted so before the judgment and after the Supreme Court interim judgment.

22. The following points are relevant:

Final judgment of Supreme Court made the Scheme to compulsory to all the employees. For the employees to avail the benefits of the Scheme sometime is necessarily be given to exercise the options.
It may be noted that Supreme Court judgement never dealt with full salary and hence full salary option cannot be linked with the interim judgment. The interim judgment was only to join optionally the scheme.

RPFC itself sanctioned pensions on full salary subsequent interim judgment for the employees who opted and paid the contributions w.e.f. 16.11.1995. After final judgment, similar action needs to be taken by the RPFC i.e. whoever opts to join the with fully salary and contributes w.e.f. 16.11.1995 have to be enrolled in the Scheme with fully salary.

RINL already filed the Returns for the year 2003-04 with the RPFC disclosing the contributions made employee-wise. The Returns clearly shows the employees who contributed with full salary and those contributed with ceiling salary.

The arrears of contributions which are lying in the PF accounts of the employees have been diverted to the U.S Scheme. If sufficient amount is not available in PF Accounts, employees have deposited the shortfalls with the Management for joining the Scheme with full salary.

It may be noted that when the Scheme commenced on 16.11.1965, Government itself gave permission for the employees who separated even from 1993 to avail the benefits. How RPFC can now decide that no time can be given after judgement to avail the benefits under the Scheme.

RINL is a huge Public Sector making profit @ Rs. 5 Crores per day and Rs. 20 Crores worth of production per day. The delayed clarification of the RPFC throws out of gear the entire process and will on y cause industrial unrest leading to serious loss to the Nation.

RINL is fully justified in remitting the contribution on full salary for the employees who so opted

2) Shri A. Vishwanathan, Addl. C.P.F.C. (Pension), New Delhi.

Shrimanji,

Please refer to my telephonic talk with both of you on 22 July 2004 regarding coverage of employees of Visakhapatnam Steel Plant as per option exercised by them under Para 11(3) of the Employees' Pension Scheme 1995 immediately after the Supreme Court judgement delivered in November 2003, although there was no time limit prescribed for this purpose in the judgement. The management of the establishment also agreed and forwarded the options exercised by the workers to the S.R.O., E.P.F.O., Visakhapatnam.

In view of the above, I see no reason as to why the option exercised by the workers is not accepted by the E.P.F.O. authorities.

In view of the assurance given by you on telephone that a favourable view will be taken and the matter will be placed before the Pension Implementation Committee and then before the C.B.T.

In my opinion it is not necessary in this case in view of our contention before the Supreme Court that the Scheme covers all employees covered under the Employees Family Pension Scheme. Our contention has been upheld by the Supreme Court. Therefore, employees of establishments whose case was pending before the Supreme Court because they had challenged the validity of E.P.S. ipso facto are members of E.P.S. when they exercised the option under para 11(3) immediately after the Supreme Court judgement.

Please inform me as to the action taken in this regard at the earliest.

Yours sincerely,

(Pandurang Singh)
Vice President A.I.T.U.C. and Member C.B.T., E.P.F.
Legal Opinion.

This matter has been discussed in detail with the worthy ACPC, RPFC and AC (P) on 20.6.2004.

The position emerges that the crucial point in the whole of the issue at hand is that as to at point of time an existing member should opt to join the E.P.F.S.1995. There being no specific provision of limitation in this regard in the proviso to para 11 (3) of EPS 1995, we shall have to fall back on the proviso to the EPS scheme 1992, as provided under para 38 of the EPS 1995. Para 38 of EPS scheme 1992 provides a period of 15 days of the close of every month, for the employer to make the payment of all the due contributions to the Fund. This provision plus the constructive interpretation of the intention of the framers of EPS 1995 in the 'Proviso' under para 11(3) of this scheme that......"contribution paid on salary exceeding Rs. 5000/- (or Rs. 6500/-) per month from the date of commencement of this scheme or from the date salary exceeds Rs. 5000/- (or Rs.6500/-) whichever is later........." go a long way to substantiate the view taken by the RPFC (pension) in his note at prepage. According to a foot note at page 345 of the book EMPLOYEES' PROVIDENT, PENSION 7 INSURANCE - FUNDS by S.Krishnamurthi 2002 Edition, "prior to 1.6.2001, the maximum pension was limited to Rs. 5000/- ? The enforcement of the limit to Rs. 6500/- was effected by Employees' Pension (third Amendment) Scheme, 2001, dated 8.10.2001 w.e.f. 1.6.2001."

As such an employee (of course ..and his employer) whose salary exceeded the prescribed limit at the time of commencement of this scheme was expected to have opted to have joined this scheme immediately after its commencement. And in the case of those employees whose salary exceeded the prescribed limit thereafter at any stage, he (of course.... and his employer) was/is expected to opt to join the scheme in the same month when his salary exceeded that limit. In either of the cases, the duty cast upon the employer under the proviso to para 11(3) of EPS 1995, is a must to be undertaken along with the payment of appropriate contributions by the employee as has also been upheld by the Hon'ble Supreme Court of India in its two interim orders dated 25.8.98 and 10.9.98, quoted in EPS head office letter No. Pen-1/3.C.J./Exemp/2003/81794 dated 5.2.2004.

TC GUPTA
Legal Advisor.

RPFC (Pension)
Item No.5 : Proposed amendment to incorporate a provision for limitation period to exercise option for membership in Para-7 of EPS'95

Para 6 and 7 of Employees' Pension Scheme, 1995 are as under :-

Para 6. Membership of the Employees' Pension Scheme- Subject to sub-paragraph (3) of paragraph 1, the Scheme shall apply to every employee-

(a) who on or after the 16th November, 1995, becomes a member of the Employees' Provident Fund Scheme, 1952, or of the Provident Funds of the factories and other establishments exempted by the appropriate Government under section 17 of the Act, or in whose case exemption has been granted under paragraph 27 or 27-A of the Employees' Provident Fund Scheme, 1952, from the date of such membership;

(b) who has been a member of the ceased Employees' Family Pension Scheme, 1971 before the commencement of this Scheme from 16th November, 1995;

(c) who ceased to be a member of the Employees' Family Pension Scheme, 1971 between 1st April, 1993 and 15th November, 1995 and opts to exercise his option under Paragraph 7;

(d) who has been a member of the Employees' Provident Fund or of Provident Funds of factories and other establishments exempted by the appropriate Government under section 17 of the Act or in whose case exemption has been granted under Paragraph 27 or 27A of the Employees' Provident Fund Scheme, 1952, on 15th November, 1995 but not being a member of the ceased Employees' Family Pension Scheme, 1971 opts to exercise his option under paragraph 7].

Para 7. Option for joining the Scheme- (1) Members referred to under sub-para (c) of Paragraph 6 who have died between 1st April, 1993 and 15th November, 1995 shall be deemed to have exercised the option of joining the Scheme on the date of his death.

(2) Members referred to in sub-paragraph (c) of paragraph 6 who are alive shall have the option to join the Scheme as per the provisions of paragraph 17 from the date of exit from the employment.

(3) Member referred to in sub-paragraph (d) of paragraph 6 shall have the option to join the Scheme as per the provisions of Paragraph 17 from 16th November, 1995.
Further, a provision was incorporated in the erstwhile EFPS’1971 under sub-para 2(E) of Para 4 which provides that:

"The employee referred to in sub-paragraph (1), who had not earlier exercised their option to join the Scheme may now exercise their option to join the Scheme at any time during their membership of the Employees’ Provident Fund.

Provided that the member pays contribution which would have been diverted from the Provident Fund to the family Pension Fund under sub-paragraph (1) of paragraph 9 for the past period with effect from the 1st March, 1971 together with interest thereon at the rate specified in sub-paragraph (2) of paragraph 22 of the Scheme."

From the provisions of Para 6 (c) and (d) of EPS’95 and sub-para 2 (E) of para 4 of the erstwhile EFPS 1971 it is clear that there is no time limit for exercising option for membership under EFPS 1971/EPS’95 provided other conditions are fulfilled. A Provident Fund member can exercise option for membership under EFPS 1971/EPS’95 at any time during his PF membership period. It means that a PF member after leaving his job if not ceased his PF membership can exercise his option till he withdraws his PF. Likewise the FPF member who ceased their FPF membership between 1.4.1993 and 15.11.1995 can also exercise their option for membership under EPS 95 at any time by remitting the withdrawal benefit availed with interest.

The EPS’ 95 has completed 10 years in 11/05. After completion of nearly 10 years from its introduction the option for membership is open to all PF members who were non FPF members and to the FPF members who ceased their FPF membership between 1.4.1993 to 15.11.1995.

If the option is kept opened without any time limit, the PF members have the liberty to exercise the option for membership under EPS’95 even after 10 years of its introduction. In order to limit such period of option, the proposal is for amendment in EPS’95 to incorporate clause of limitation for optional membership in EPS’95.

Such an amendment can be made as provided for in para 2 of Schedule III (Section 6A (5) :-

"The time within which the employees who are not members of the Family Pension Scheme under section 6A as it stood before the commencement of the Employees’ Provident Funds and Miscellaneous Provisions (Amendment) Act, 1996 (hereinafter, in this Schedule, referred to as the amending Act) shall opt for the Pension Scheme".

The Amendment is necessary since the payments to be made vide Para 17(2) & (3) on exercise of option under Para 7 (2) & (3) in the form of returning the amount of withdrawal benefit received, together with interest or remittances of past period contribution with interest thereon are for LESSER than the benefits that would accrue through the membership of E.P.S’ 95 and hence shall
erode the fund, if the option is kept open indefinitely. Infact this sort of selection, which is adverse to the Employees Pension Fund, is a continuous strain. The adverse selection is facilitated by the existing provision because such options are made when the benefit accrued i.e. arrears of pension & commutation becomes almost equal to or more than the amount required to be deposited for exercising option. Clearly such optees get benefit from the fact that option can be exercised at any time. Fixation of the limitation period will also ensure that the Actuarial liability & financial implication of such options are arrived at. If limitation period is not fixed the resulting Actuarial liability & financial implication will remain unknown for a longer period of time.

Therefore it is necessary to have a cut off date for exercising option. The date can be well publicized to ensure that the options are made within a time. For this purpose the proposed clause after sub Para (3) of Para 7 shall be as below:

"Provided that the option under sub-para (2) & (3) above shall be kept open only upto 16.11.2006"

And further

"Provided that the pension shall be payable only from the date of exercise of such option under sub-para (2) & (3) of Para 7".

This shall ensure that such options does not affect the interest of other contributing members/beneficiaries

For consideration of the Committee, please.
Minutes of the meeting held with the union delegates

on 21st April, 2005 at 12.30 p.m. in the Conference Room, 3rd Floor,
Bhavishyanidhi Bhavan (EPFO), 14, Bhikaiji Cama Place, New Delhi.

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The meeting was held under the chairmanship of Shri K.M. Sahani, Secretary,
Ministry of Labour & Employment, Govt. of India.

The following officers and delegates attended the meeting

1. Sh. J.P. Singh  Addl. Secretary  Ministry of L&E
2. Sh. J.P. Pati  Joint Secretary  Ministry of L&E
3. Sh. Anirudh Rai  C.P.F.C.  EPFO
4. Sh. M.L. Meena  Addl. CPFC (Pension)  EPFO
5. Sh. A. Viswanathan  Addl. CPFC (West Zone)  EPFO
6. Sh. M.L. Meena  Addl. CPFC (HRM)  EPFO
7. Sh. S.K. Khanna  Addl. CPFC (Compliance)  EPFO
9. Sh. Bhudev Chatterjee  Consultant Actuary
10. Sh. M.G. Diwan  Valuer Actuary

Central Trade Union Delegates

11. Sh. D.L. Sachdeva  AITUC
12. Sh. G.L. Dhar  AITUC
13. Sh. K. Lakshma Reddy  BMS
14. Sh. Keshual Phuke  BMS
15. Sh. Kali Ghosh  CITU
16. Sh. Bishnu Mohanty  CITU
17. Sh. A. Subramaniam  HMS
18. Sh. A.D. Nagpal  HMS
19. Sh. Ashok Singh  INTUC
20. Sh. Ramen Pandey  INTUC
21. Sh. O.P. Verma  NF ITU
22. Sh. Krishna Chakraborty  UTUC (LS)
23. Sh. Sankar Saha  UTUC (LS)
24. Sh. Rajiv Dimri  AICCTU

Chairman welcomed all the participants and requested Joint Secretary (SS),
Ministry of Labour & Employment to explain the objective of holding this meeting.

Joint Secretary (SS) stated that the meeting of the union representative was
called to discuss the amendment in Para 14 of the EPS, 1995, as per the decision of the
CBT. He requested CPFC to explain the salient features of Para 14 and the need to
amend it.
CITU delegate requested that a circular issued by EPFO on stopping withdrawal in cases where service was less than six months should also be discussed. Chairman agreed to his request.

CPFC explained the provisions contained in Para 14 of the EPS, 1995. He also mentioned about the major changes taking place in economy and labour market in India. He explained that there was increased mobility in workforce due to VRS, retrenchment, modernization etc. This has increased the number of exit cases. Para 14 of EPS, 1995 provides two alternatives to the members on exit, one is a scheme certificate and other is withdrawal benefit. The analysis of the data for exit cases has revealed that there are over 85% non-pensionable exits. Through such large number of withdrawals, the very purpose of the Scheme is defeated because member is not able to accumulate 10 years of service and become eligible for pension. This withdrawal is also a strain on the pension fund as rate of return is very high therefore it needs to be checked. This was also pointed out by Actuary in his valuation reports. This issue was discussed in PIC and CBT and as per their decision this meeting is convened. CPFC requested Consultant Actuary to explain the logic behind withdrawal benefit.

Sh. Bhudev Chatterjee, Consultant Actuary stated that withdrawal benefit was introduced in the Scheme to provide benefits to those members who are unable to become eligible for pension by putting in 10 years of service. In such cases a lumpsum amount alongside interest will be paid to members. This was linked to the period of service put in by the member and not to the actual contribution made by him. The method is to give withdrawal benefit through Table-D. Earlier the interest rate was very high so that interest factor for Table-D was fixed at 10%. This was based on the principle of discounting 2% less than provident fund interest rates. This 2% was discounted for mortality factor. So Table-D was designed at interest rate factor of 10%, as at that time provident fund interest rate was 12%. Now the provident fund rate has come down so Table-D needs to be revised. He also observed that a large number of members had been taking withdrawal benefit and joining new service later. This was also explained through the Table in the agenda item for the meeting.

He suggested two methods to check this large number of withdrawals - One through an administrative measure by amending Para 14 and restricting withdrawals only attaining the age of superannuation. Other method is to revise the Table and make withdrawal benefit un-attractive.

Sh. M.G. Dewan, Valuer Actuary agreed with the Consultant Actuary and stressed that administrative mechanism would be much better to check this trend of frequent withdrawals.

BMS delegate thanked the Chairman for holding this meeting. He said that meeting had been called on a very short notice and agenda item was also not exhaustive. He wanted that other related issues like stopping withdrawal for service...
less than six months and recent news item in the press of allowing 5% EPF corpus investment in equity should also be discussed.

AITUC delegate said that decisions of such meetings are not taken seriously by the Government. He mentioned that AITUC has in all forums including CBT has opposed the investment of EPF money in equity. But recently Hon'ble Minister for Labour & Employment had announced to allow investment of provident fund money in equity.

INTUC delegate clarified that LEM had denied this and told him that any such decision would be taken by the CBT (EPF).

AITUC delegate requested government to clarify this.

Chairman said that Hon'ble Minister for Labour & Employment had been misquoted by the press and any such decision would be taken only after holding discussions with all concerned.

Joint Secretary (SS) added that investments guidelines issued by Ministry of Finance are to be re-notified to allow such investment in equity. But there is no change in the pattern of investment so no deviation is possible.

AITUC delegate said that besides Para 14 other views of Actuary on EPS should also be discussed. As mentioned recently in the press that there was a deficit of more than Rs. 17000 crores in EPS Fund. Though it is not a cash loss, the EPFO/Ministry of Labour had not clarified the position.

UTUC (LS) stated that a comprehensive discussion on all aspects of EPS be done.

Joint Secretary (SS) clarified that this discussion on Para 14 of EPS with representative of Trade Union has been done at the instance of CBT. CBT has specifically directed to discuss provision of Para 14 amendment with Central Trade Unions. Other issues relating to EPS are still under consideration. Therefore members were requested to give their views on this issue so that this could be placed before the CBT for its consideration and decision.

NF ITF delegate said that with new changes in economy leading to globalization, privatization, etc. security of employment has considerably decreased. Therefore in such scenario, where job is not secure than why member should wait till 58 years to get his withdrawal benefit. Therefore they opposed this proposal to stop withdrawal benefit before 58. They also wanted comprehensive discussion on all issues of EPS.

CITU delegate opposed any move to curtail benefits given to the members.

.....4/-
Consultant Actuary clarified that the proposal would not bring about any drastic change in Scheme and benefits would not be reduced. This move was only to balance the equations. As the current PF interest rate had come down therefore withdrawal rate should also be revised.

HMS delegate stated that comprehensive discussion on all the issues should be taken together as there had been some dispute on other issues also e.g. the issue of quantum of pension under Para 12 of EPS being challenged in the court of law. Therefore, we may wait for the final verdict of court and then discuss all the issues together.

INTUC delegate said that in their opinion provisions of scheme, rules and amendments thereof, are for the betterment of working class and that is why they support this move. If the members are not understanding the impact of such amendment and not willing to support the move, it seems that there was lack of awareness among the members of Pension Scheme. Another delegate of INTUC requested to confine the discussion to the agenda only. He stated that the objective of the EPS is to provide social security to workers at the time of old age and death. He stated that we should look for the long-term interest of the workers and therefore INTUC supports this proposal.

BMS delegate said that withdrawal benefit is taken by the member for his survival and also under compulsion. This aspect has to be realized and holistic approach is required to be taken.

Chairman stated that outcome of the discussion is that none of the Trade Unions except INTUC are ready to give their views on this issue. All participants wanted comprehensive discussion on other related issues of EPS.

HMS delegate requested that Ministry of Finance should also be involved in this discussion.

Joint Secretary (SS) clarified to the members that through this proposal none of the basic benefits are to be curtailed. None of the pensionary benefits would be changed. This proposal was deliberated upon to ensure that viability of the fund is maintained. The continuous evaluation and amendments in the Pension Scheme(s) is the normal practice everywhere in the world including in the advance countries.

He also stated that EPS, 1995 is a very beneficial and liberal scheme. ILO had also raised queries on this aspect of EPS. In order to ensure the viability of EPS timely measures are to be taken. The proposal to issue Scheme Certificate to the Member would enable member to add different spells of his employment and thereby enable him to avail pensionary benefits. This would also help to build confidence among workers in this scheme. Therefore amendment of Para 14 to check withdrawal benefit would be a step in the right direction.
BMS delegate requested to conduct sample survey of withdrawal benefit cases.

Chairman requested Consultant Actuary to do this sample survey within 3 months. Consultant Actuary agreed to do this sample survey. Regarding time frame he said that he would communicate it to the Chairman later.

CITU raised the issue of stopping withdrawal benefit in cases where service rendered was less than six months. CPFC explained that this had been done in accordance with the provisions of EPS and as per government directions. ACC (West Zone) also explained in detail about EPS provisions.

Chairman stated that next meeting would be held once the sample survey done by Consultant Actuary is ready.

The meeting ended with a vote of thanks to the Chair.
Minutes of the meeting held with the union delegates on 21st June, 2005 at 12.30 p.m. in the Conference Room, 3rd Floor, Bhavishyanidhi Bhavan (EPFO), 14, Bhikaiji Cama Place, New Delhi.

The meeting was held under the chairmanship of Shri K.M. Sahani, Secretary, Ministry of Labour & Employment, Govt. of India.

The following officers and delegates attended the meeting:

1. Sh. J.P. Singh  
2. Sh. K.C. Jain  
3. Sh. Anirudh Rai  
4. Sh. M.L. Meena  
5. Sh. Kalyan Chand  
6. Sh. S.K. Khanna  
7. Lt. Col. S.S. Dhankhar  
8. Sh. M. Vijaya Raj  
9. Sh. S.S. Nair  
10. Sh. Bhudev Chatterjee

Central Trade Union Delegates

11. Sh. D.L. Sachdev  
12. Sh. Hasubhai Dave  
13. Sh. K. Lakshma Reddy  
14. Sh. Kali Ghosh  
15. Sh. W.R. Varada Rajan  
16. Sh. Umraomal Purohit  
17. Sh. A.D. Nagpal  
18. Sh. Ashok Singh  
19. Sh. K.K. Verma  
20. Sh. Krishna Chakraborty  
21. Sh. Sankar Saha  
22. Sh. Abani Roy

Chairman welcomed all the participants and requested CPFC to give brief background of the meeting.

CPFC introduced the agenda items relating to Para 14 and relating to the proposed changes in EPS, 1995, as recommended by the Valuer in 5th, 6th & 7th valuation reports.
CPFC explained that in EPS, 1995 two main factors i.e. contributions and benefits are pre-determined and well defined. However, the balance between those two depends on multiple factors, which are dynamic like interest rate. Therefore Annual Valuation is necessary to review the position of Employees’ Pension Fund so as to maintain balance between the various factors.

He pointed out that earlier the interest rates were high and the first four Valuation Reports revealed surplus, which was used to provide additional relief to the existing pensioners, but from 2000 onwards change in two dynamic factors has significantly affected the Employees’ Pension Fund, first of all increase in statutory wage ceiling from Rs. 5000/- to Rs. 6500/-which alone caused the valuation deficit of approximately Rs. 10,000/- crores. The second factor was decline in interest rate on investments. This also contributed decisively in further raising the deficit.

In 5th, 6th & 7th Valuation Reports Valuers have made recommendations to improve the solvency and sufficiency of the Pension Fund. The PIC of CBT, EPF has deliberated on these reports and decided to place certain recommendations before the CBT. CBT in turn decided that this issue should also be discussed with Central Trade Unions along with Para 14. CPFC requested all the delegates to consider the proposed changes, which were necessary to make EPS, 95 financially sustainable and to express their opinion in the matter so that proposed amendments in the EPS, 95 may be carried out.

Shri Varadarajan stated that Shri Parduman Singh, PIC member had informed him that it was decided in the 21st meeting of the PIC, that by raising the superannuation age from 58 to 60, entire deficit would be wiped out.

CPFC clarified that PIC has noted the views of Sh. Parduman Singh and then made all these recommendations to the CBT as given in the agenda item. To substantiate, copies of minutes of 20th & 21st Meeting of Pension Implementation Committee were distributed among the delegates.

Shri Shankar Sah referred to the agenda item relating to the high incidence of non-Pensionable exits and requested the Consultant Actuary to explain the real picture.
Shri Purohit wanted to know how the raising of superannuation age from 58 to 60 would help in reducing the deficit. He also referred to the agenda item on Table B & D and wanted to know about the proposed revision of the tables.

Shri Lakshma Reddy pointed out that there were differences of opinions expressed by the Actuaries and a consensus among them was required to deliberate on these issues.

Shri Varada Rajan pointed out that no status note on EPS'95 had been included in the agenda. Regarding para 14 he stated that almost all Central Trade Unions have disagreed to stoppage of the withdrawal benefits. As far as agenda 2, he mentioned that the first Four Valuations were carried out by the Consulting Actuary and subsequent valuations have been done by another Valuer through different methods. He said that starting from 1st Valuation to 4th Valuation the emphasis was on investment and yield but subsequent Valuations were more like balance sheets. He drew attention of the delegates to the fact that the Panel of Actuaries had given new formats for Valuation of assets and liabilities separately for pre scheme and post scheme liabilities. He further opined that apparently the data were not truly representative and the liabilities may have been over estimated.

Shri Dave brought to the notice of the delegates the fact that the solvency and sufficiency of EPS,95 cannot be compromised. He opined that decisions are to be taken in a time bound manner. He suggested that the opinions of the Central Trade Unions should be recorded and placed before the CBT for consideration. He suggested a pragmatic and practical stand on the proposed changes, which alone can really help in the matter. He extended his support to recommendations, which aim to make the EPS, 95 viable in the long run.

Shri Ashok Singh agreed with the views of Shri Dave. He also suggested that the delegates need to consider all the proposed changes so as to take decisions keeping in mind the long-term viability of EPS, 1995.

Shri Abani Roy suggested that concrete decisions should be taken for the benefit of EPS members and pensioners. If raising the superannuation age from 58 to 60 wipes out the deficit then other suggestions of the Valuer could be considered at a later date. He disagreed to stoppage of withdrawal benefit and suggested that 2 to 3 years lock-in period can be considered before allowing withdrawal benefit. He also disagreed to raising the reduction factor from 3% to
5%. As far as Table B & D are concerned, he agreed to reduce it by 2% less than the provident fund interest rate.

Shri Kali Ghosh stated that the EPS, 95 was a Scheme of Government of India and the Government should ensure the viability of the scheme by suitably introducing measures like increase in the rate of interest on Special Deposit Scheme and by increasing government contribution towards the Pension Fund.

The Chairman noted the observations of the delegates and requested CPFC to reply to the various points raised at the meeting.

The CPFC informed the delegates that only relevant information had been provided in the agenda to make it simple and to the point. He informed that all the recommendations made by the panel of actuaries were already placed before the CBT for its consideration. He also pointed out that all said and done the proposed changes were necessary to make the Pension Fund sustainable. He brought to the notice of the delegates the prevailing international practices being followed in Pension Schemes of other countries. He highlighted that the reduction factor for early retirement world over was 6% whereas the proposal was to increase reduction factor in EPS to only 5%. Similarly the specified age for full pension in USA, Germany or in Japan was already either equivalent to or more than 60 years.

The Chairman said that most of the points raised by the delegates can be better explained by Sh. Bhudev Chatterjee, Consultant Actuary and asked him to elaborate on the implications of the proposed changes.

The Consultant Actuary briefed the members about the various major factors, which acted as building block in design of any scheme. In defined contribution system whatever amount is accumulated during the contributory period is converted into the benefit. Therefore, any changes in the basic factors of interest rate, mortality rate, morbidity and administration cost of the fund immediately affect either the accumulations or the benefits without changing the Scheme parameters. However, in defined benefit system the Pension Scheme has to be continuously monitored specially the movement in the above four factors and based upon the movement in these factors the Scheme requires continuous adjustments.

He pointed out that the original EPS draft prepared by him provided for five year average for determining Pensionable salary, and
early pension reduction factor of 6%, widow pension limited to 50% of the member pension and no Table ‘B’. But keeping in view the strong opposition of the Trade Unions the Scheme was amended to liberalize these benefits, which added to the funds liability.

He stated that the past experience of non-pensionable exit itself was so high that change was required in Table ‘B’ & ‘D’. He emphasized that the valuation deficit could be tackled only if decisions were taken immediately and delay in decisions would jeopardize the Pension Scheme and erode the Pension Fund.

He stated that such benefits which were not earned by the members e.g. two years bonus service to the members who have completed 20 years of Pensionable service, should not be continued.

The Actuary informed that the change in wage ceiling could be tackled only either by diverting provident fund accumulations to the Pension Fund or by linking wage/wage ceiling to the corresponding contribution period while calculating Pensionable salary. He suggested that implementation of the proposed recommendations was immediately required to make the Pension Fund fully sustainable.

Shri Shankar Saha wanted to know whether raising the superannuation age from 58 to 60 would help to wipe out the deficit. Actuary clarified that it was possible in 2001. Increasing the superannuation age at present would not erase the whole deficit. Actuary suggested that pension scheme should be able to give additional relief on a timely manner to ensure that subscribers have faith in the scheme. Unfortunately for the last three Valuations this could not be done.

Shri Vardarajan agreed to raise the superannuation age from 58 to 60. For other recommendations he wanted more discussions.

CPFC made it clear that if the scheme was to be made viable, the suggestions made by the Actuary must be implemented. CPFC clarified that there were only three options available, namely, the modification in the benefits to the members the enhancement of contribution to EPS, 95 to about 14% of monthly wages or to convert the present Pension Scheme to Defined Contribution Scheme. He requested the delegates to give serious thought to the available alternatives.
Chairman observed that everyone agrees EPS, 95 needs to be continued and supported. He desired that the delegates must come up with their views so that the issues may be decided in time. He assured the delegates that the next meeting shall be held shortly and advised CPFC to provide the available data to all the members in time before the next meeting.

Members authorized Chairman to fix the date of next meeting.

The meeting ended with a vote of thanks to the Chair.

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Minutes of the meeting held with the union delegates on 18\textsuperscript{th} July, 2005 at 11.30 p.m. in the Conference Room, 3\textsuperscript{rd} Floor, Bhavishyanidhi Bhavan (EPFO), 14, Bhikaiji Cama Place, New Delhi.

The meeting was held under the chairmanship of Shri K.M. Sahani, Secretary, Ministry of Labour & Employment, Govt. of India.

The following officers and delegates attended the meeting

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<td>Joint Secretary of L&amp;E</td>
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<td>8.</td>
<td>Sh. Bhudev Chatterjee</td>
<td>Consultant Actuary</td>
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<td>9.</td>
<td>Sh. Akshay Pandit</td>
<td>Valuer Actuary</td>
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<td>11.</td>
<td>Sh. K. Lakshma Reddy</td>
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<td>12.</td>
<td>Sh. Kali Ghosh</td>
<td>CITU</td>
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<td>13.</td>
<td>Sh. W.R. Varada Rajan</td>
<td>CITU</td>
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<td>14.</td>
<td>Sh. T. Thomas</td>
<td>HMS</td>
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<td>15.</td>
<td>Sh. A.D. Nagpal</td>
<td>HMS</td>
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<tr>
<td>16.</td>
<td>Sh. Ashok Singh</td>
<td>INTUC</td>
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<td>17.</td>
<td>Sh. O.P. Verma</td>
<td>NF ITU</td>
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<tr>
<td>18.</td>
<td>Sh. Krishna Chakrvorty</td>
<td>UTUC (LS)</td>
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<tr>
<td>19.</td>
<td>Sh. Sankar Saha</td>
<td>UTUC (LS)</td>
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Central Trade Union Delegates

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<td>10.</td>
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<td>BMS</td>
</tr>
<tr>
<td>11.</td>
<td>Sh. K. Lakshma Reddy</td>
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<tr>
<td>19.</td>
<td>Sh. Sankar Saha</td>
<td>UTUC (LS)</td>
</tr>
</tbody>
</table>

Secretary welcomed all the delegates of Central Trade Unions and enquired about the status of the last meeting.

Shri A.D. Nagpal said that the financial data provided to the delegates was not as per requirement even after assurance in the last meeting. He said that there was no use of such assurances.

The CPFC welcomed all the delegates and briefed the gathering on the discussions held during the first two meetings. He informed that the relevant data as desired by the Central Trade Unions has already been circulated. He added that the impact of the recommendations of the Valuer shall be elaborated by the Valuer and
the Consultant Actuary who were present in the meeting. He pointed out that the 7th Valuation Report pertained to the period ending March, 2003 and even after two years action was pending on the recommendations. The deficit, which was Rs. 19300 Crores at that point of time, had since grown further and the funding gap was widening day by day. Unless the leakages are stopped, sustainability of the EPS cannot be ensured.

He made it clear that the recommendations of increasing the superannuation age from 58 to 60 years and the reduction rate from 3% to 5% would take care of the valuation deficit as on 31-3-2003. Therefore, in addition to these two recommendations, Tables B & D also need to be revised. Implementation of these three recommendations will reduce liability by approximately 28,000/- crores. The deficit had already increased to around 22,000/- crores as on March, 2004 as revealed in the 8th Valuation Report which was submitted by the Valuer to the Ministry of Labour & Employment. Its expected that the valuation deficit as on March, 2005 would further increase by approximately 4000/- crores. In view of the facts only full approval of all the three recommendations of the Valuer would make EPS financially sustainable scheme.

He pointed out that deferring the decision was injustice to the members of the Pension Scheme and fine-tuning of the Scheme should not be ignored further. He also mentioned that such fine-tuning was not exceptional and throughout the world such fine-tuning was followed.

The Secretary enquired from the Consultant Actuary as to whether the situation was becoming more and more critical.

The Consultant Actuary Sh. Bhudev Chatterjee agreed that the liability was going up and there was no other choice but to fine tune the benefits.

Shri W.R. Varadarajan pointed out that even after assurance, complete data had not been circulated. He emphasized that addressing the problem was necessary but for this other available means should be explored.

Mr. N.T. Thomas raised the issue of legal propriety. He felt that in a Social Security Scheme the benefits should be increased and should not be reduced. He agreed to the need to take up action to
make the EPS sustainable but desired that other alternatives might also be explored.

Sh. Bhudev Chatterjee clarified that the fine-tuning was necessary in view of fall in interest rates. He did not find the proposal discriminatory and explicitly supported the recommendations.

Sh. Kali Ghosh also expressed his reservations on the proposed amendment and said that the committed defined benefits must be paid.

Sh. Bhudev Chatterjee clarified that the status quo cannot be maintained and if interest earning was cut down the benefits had to be curtailed.

The Secretary desired to know as to where was the basic area of discrimination.

CPFC explained that no Scheme could be financially sustainable without periodical adjustments. Either benefits need to be fine-tuned or contributions need to be increased. He invited the attention of the delegates of the fact that the contribution in European countries had grown up to as high as 40% of the average salary. He requested Central Trade Unions to provide solution for tackling the valuation deficit and making the Pension Scheme financially viable.

Secretary noted that both Consultant Actuary and CPFC had clearly stated that the only solution is either to increase the contribution or to curtail the benefits. He invited alternative solutions from the delegates.

Sh. Laxma Reddy enquired whether any legal opinion had been taken on this issue.

CPFC explained that the provision for review of rate of contribution and benefits already existed in Para 32 of the EPS, 95 and there was no need for any legal opinion.

Sh. W.R. Varadarajan drew attention of the gathering to the fact that the Supreme Court Judgment dated 11-11-2003 upholding the EPS, 95 was based on the benefit package given at present. Any change can attract further legal scrutiny. He also pointed out that Para 32 was incorporated with an intention to give further benefits to the members and pensioners and was not intended to curtail the benefits.
That is why the provision contained the word 'permits' and not 'demand'.

Sh. Sankar Saha pointed out that the non-pensionable exits as compared to Pensionable exits were very very high, which should not be viewed in isolation and the entire Scheme should be reviewed, as the above situation was the result of economic policies of the Government. The example of European countries should not be viewed only to view the contribution rate but also to view the kind of benefits they provide from childhood to death compared to which benefits provided under EPS, 95 were negligible. He suggested that Ministry of Finance should be approached to finance the deficit and otherwise the EPS, 95 should be dissolved and the entire contribution including 1-1/6% contributed by the Government should be diverted back to the individual Provident Fund Account.

The CPFC read a letter addressed to the Union Minister Labour & Employment by the Union Finance Minister on the issue of funding gap in EPS, 95. The Union Finance Minister had expressed deep concern on the widening funding gap and had requested Union Minister, Labour & Employment to ensure that the recommendations of the Valuer were implemented expeditiously.

Sh. W.R. Varadarajan presented a written note in the meeting. He highlighted the fact that as per the 4th Valuation Report number of establishments not contributing the EPS, 95 as on 31-3-2000 was more than 14,000. He wanted to know the compliance position of these establishments as on date. He also pointed out that 100% data had not been supplied to the Valuer and valuation results based on random sample of few lakhs could not be relied upon. He added that it was not clear how the proposal to allow withdrawal benefit only at 58 would be beneficial to the Fund. He pointed out that EPFO was only administering the Employees Pension Scheme, 95. The Scheme had been made by the Central Government and it's the duty of the Central Government to ensure exact and smooth implementation of the Scheme. The Secretary questioned the Consulting Actuary as to the reliability of the valuation based upon inadequate data.

Sh. Bhudev Chatterjee said that since the data given was correct therefore even if 100% data was not given the valuation results would be reliable.

Sh. W.R. Varadarajan observed that the difference between membership under Employees Pension Scheme, 95 and Employees
Provident Fund differs by 1.2 crores. He wanted to know why these 1.2 crores PF members had not been made Employees’ Pension Scheme Members. CPFC clarified that this increase of 1.2 crores of members was on account of a special drive of the EPFO whereby non-complying establishments were converted into complying establishments.

Sh. Sankar Saha stated that most of the Public Sector Enterprises were not contributing towards EPS on account of Court Cases filed. Even after upholding of the Scheme by Supreme Court apparently they are not contributing to the Pension Fund.

Sh. Kali Ghosh informed that certain data like total number of accounts, code number issued are not available at Regional Office level.

Sh. W.R. Varadarajan enquired the feasibility of diverting 8.33% from the employer contribution to the Employees’ Pension Fund directly in respect of establishments who were not complying earlier.

Sh. Bhudev Chatterjee replied that it might be theoretical possible but the practical problems were more important in such issues.

The Secretary decided that the delegates of Central Trade Unions may be given some time to discuss the proposals among themselves so that a consolidated view point may be obtained.

The Central Trade Union delegates thereafter discussed the issue among themselves for about 20 minutes, and then the meeting was resumed.

Sh. W.R. Varadarajan presented their consolidated views as follows:

> We desire that the EPS, 95 should be continued as a defined benefit scheme, without any dilution of existing benefits.

> Ways can be explored to increase the contribution by employer/government.

> Wherever the retirement age is 60 contributions should be collected beyond 58 years upto 60 years but the benefits
currently available for those retiring at 58 years of age should not be adversely changed.

- The minutes of the three meetings with the Central Unions should be circulated to all participants.

- All the information/figures/reports sought in the three meetings should be compiled and placed before the CBT and furnished to the Central Trade Unions.

- Concrete proposals on revising Tables B & D may be taken for discussion.

- Para 14 of the Scheme should not be amended and withdrawal benefits as available now should not be curtailed.

Secretary noted that the above, being unanimous recommendations, would be placed before CBT for appropriate decision.

Sh. Bhudev Chatterjee sought some time to submit his report on the suggestions of Trade Union Representatives.

The Secretary summed up the sentiments of the Trade Union Representatives who were unanimous on the view that market forces should not have any adverse impact on Social Security Schemes.

The meeting ended with a vote of thanks to the Chair.

*******
To
The CPFC,
14, Bhikaji Cama Place,
Employees Provident Fund Organisation,
New Delhi.

Subject – Effective date for payment of dependant parent pension.

Sir,

I am directed to refer to your letter no. Pen/2/24/97/1684 dated 2.2.2005 on the subject mentioned above and to say that the issue was examined and decided that it is not appropriate to make the payment of pension from a date prior to 6.3.1999.

Yours faithfully,

(Sanjukta Ray)
Under Secretary
Compliance position in respect of establishments involved in court cases challenging validity of Employees’ Pension Scheme-1995.

In the 21st meeting of the Pension Implementation Committee (PIC) held on 8th October, 2004 it was decided that a report on the compliance position under Employees’ Pension Scheme’ 95 in respect of establishments involved in court cases challenging validity of E.P.S 95 shall be placed before the next meeting of Pension Implementation Committee (PIC).

Employees’ Pension Scheme 1995 came into force w.e.f. 16.11.1995. Many establishments/trade Unions challenged the validity of Employees’ Pension Scheme’ 95 in different High Courts.

All petitions were clubbed together and matter came before Hon’ble Supreme Court for decision. The Hon’ble Supreme Court of India through its interim order dated 25/08/98 and 10/09/98 permitted continuity of benefits admissible under Pension Scheme of 1995 and compliance by the employers either under the Scheme of 1995 or the old Scheme of 1971 in accordance with the choice of the members and subject to the final decision of the court.

After considering all petitions and relevant details, the Hon’ble Supreme Court upheld the validity of Employees’ Pension Scheme, 1995 through its final judgment dated 11/11/2003.

The compliance (Status) position of such establishments under Employees’ Pension Scheme’ 1995 is as under:-

No of establishments fully complying 96
No of establishment, partly complying 33
No of establishments yet to be assessed 9
No of establishment not furnished information 8

A detailed compliance position as intimated by field offices of different establishment may be seen at Annexure- ‘A’, ‘B’, ‘C’ & ‘D’.
### Compliance position under EPS 95 as per Supreme Court order (assessed fully/paid)

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<th>Amount (in crores) fully received</th>
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|   |                            |                      | KN/22640
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|   | Corporation Ltd.  
|   | MH/1178, MH/2851  
|   | Philips India Ltd.  
|   | MH/5105  
|   | Siemens Ltd.  
|   | MH/4520  
|   | Forbs Gokak Ltd.  
|   | MH/3946  
|   | Indian Oil Corporation Ltd. (Refineries Division)  
|   | MH/7693  
|   | Indian Oil Corporation Ltd.  
|   | MH/5279  
|   | Ingersoll Rand India Ltd.  
|   | MH/4099  
|   | Mafatlal Dyes & Chemical Ltd.  
|   | The Tata Power Company Ltd.  
|   | MH/9080  
|   | Press Trust of India  
|   | MH/1204  
|   | V.S.N.L  
|   | MH/39799
|   | Recovery up to date
|   | Recovery up to date
|   | 10.5
|   | 10.5
|   | 0.78
|   | 0.78
|   | 0.2
|   | 0.2
|   | 0.3
|   | 0.3
|   | 70.89
|   | 70.89
|   | 0.20
|   | 0.20
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<td>Exude Industries Ltd. WB/367</td>
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## ANNEXURE-B

**Compliance position under EPS 95 as per Supreme Court order (complying partly)**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Region</th>
<th>Name of the establishment and Code No.</th>
<th>Amount (in crores) due and assessed</th>
<th>Amount (in crores) fully received</th>
<th>Remarks</th>
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<td>1.</td>
<td>AP</td>
<td>NTPC Ltd. Ramagundam, Karimnagar AP/WGL/19557</td>
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<td>CH</td>
<td>NMDC (Kriandul) CG/2279 (MP KN CH)</td>
<td>6.86</td>
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<td>Amount remitted in AP/3676</td>
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<td>DL</td>
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<td>Indian Oil Corporation Ltd. DL/E/2058</td>
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<td>GJ</td>
<td>Indian Oil Corporation Ltd. GJ/BD/4951</td>
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<td>HR</td>
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<td>Research &amp; Development Center for Iron Steel (SAIL Unit) JH/935</td>
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<td>Kiriburu Iron Ore Mines, Jamshedpur JH/2497</td>
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<td>Gour Grameen Bank WB/163/03</td>
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<td>7A initiated and kept in abeyance due to interim stay granted by Hon'ble High Court of Kolkata</td>
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<td>N.H.P.C. Ltd. HR/9115 HMT (Pinjore) HR/1061</td>
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<td>Burn Standard Company (Mugma) JH/230</td>
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## Compliance position under EPS 95 as per Supreme Court order (Information yet to be received)

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