Minutes of 40th Meeting of Pension & EDLI Implementation Committee

Date: 24th May, 2017

Venue: Conference Hall, Employees Provident Fund Organisation, Head office, Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi-66.

Present:

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<td>1.</td>
<td>Dr. V.P. Joy, Central Provident Fund Commissioner</td>
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<td>2.</td>
<td>Shri Vinod Kumar, Director (MOL&amp;E)</td>
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<td>3.</td>
<td>Shri Bhagirathi Dhal, Representative on behalf of Shri R.S. Maker, Employers' Representative, CBT (EPF)</td>
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<td>4.</td>
<td>Shri D.L. Sachdev, Employees' Representative, CBT (EPF)</td>
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<td>5.</td>
<td>Shri R.M. Verma, ACC-II (Pension)</td>
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Shri Arun Goel, Additional Secretary & Financial Advisor (MoL&E), Shri R.S. Maker, Employers’ Representative, CBT (EPF), Shri G.P. Srivastava Employers representative, CBT (EPF), Shri Vrijesh Upadhayay Employees’ Representative, CBT (EPF), Shri Rakesh Sharma, Representative of PFRDA and Shri Jayesh D. Pandit, Actuary, could not attend the meeting.

Central P.F. Commissioner welcomed the members of the Pension and EDLI Implementation Committee (PEIC) and introduced the agenda items in brief before the committee for consideration.

**Item No.1 Confirmation of minutes of the 39th meeting of the Pension & EDLI Implementation Committee.**

Decision/Recommendation: The PEIC confirmed the minutes of the 39th meeting as circulated.

**Item No.2 Action Taken Report on the 39th meeting/decision.**

Decision/Recommendation: The PEIC took note of the Action taken report placed before the committee.
Implementation of Supreme Court Orders related to Employees Pension Scheme 1995 in respect of members/pensioners of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of those Establishments.

CPFC informed that in the 38th meeting of PEIC it was decided unanimously that the compliance with the order of Hon’ble Supreme Court in the matter of Sh. R.C. Gupta & Others may be made immediately in respect of Members whose accounts are maintained by EPFO as their details are already available with EPFO and contribution on higher wages has been received by EPFO. In respect of those members of Exempted Provident Fund Trusts whose contribution on higher wages has not been received by EPFO, it was decided that their cases may be examined and the information may be submitted to the committee. Accordingly after receiving approval of the CBT & MOL&E administrative instructions were issued to the field offices vide circular dated 23.03.2017.

The matter was examined in respect of members of exempted trusts and it is proposed that no revision of pension is admissible in their cases if they have not remitted pension contribution on full salary to EPFO, on account of the following.

1. All the appellant employees in the aforesaid case before the Hon‘ble Supreme Court were from unexempted establishment i.e. an establishment making P.F. contributions in the statutory Provident Fund managed by EPFO. The Employer’s contribution of 12% under the Act in respect of the said employees was on actual salary and not on the ceiling limit of either Rs.5,000/- or Rs.6500/-.

2. Employees’ Pension Scheme remittances are being made by the establishments and not by the exempted Trusts. As such, the issue is whether establishments with exempted trusts be allowed to make balance remittances on full salary to the EPS scheme afresh. If this is allowed, the same will have to be considered for unexempted establishments also. It is not contemplated in the judgement.

3. Exercise of option under Para 26 (6) is a precursor to exercise of option under proviso to clause 11 (3) of the pension scheme. The appellant employees in the aforesaid case had exercised option under para 26 (6) of the EPF Scheme.
4. In cases where both the provident fund and pension fund are managed by EPFO and the contribution on higher wages in the provident fund has been received at the appropriate time, adjustment of account can be made, even if option to contribute on higher wages in the Pension Fund is given on a later date.

5. In the case of exempted establishment the Provident Fund and Pension Fund are managed by separate legal entities. The Provident Fund of employees of exempted establishments are managed by Exempted Trusts and Pension Fund is managed by EPFO. As such, adjustment of contribution from Provident Fund Account (maintained by Exempted Trust) to Pension Account (maintained by EPFO) in respect of Employees’ of exempted establishments does not arise.

6. Employees Pension Scheme-1995 being a funded scheme with defined contribution and defined benefits, pension can be sanctioned only on the basis of contribution received in the Pension Fund. Any sanction of pension without receipt of timely contributions will deplete the fund jeopardising payment of pension/benefits to eligible members/pensioners leading to unsustainability of the Employees Pension Scheme.

Shri Bhagirathi Dhal disagreed with the CPFC and requested to record his view as under :-

1. There cannot be two classes of beneficiaries of the pension scheme, one under EPFO & another under exempted trusts.
2. The exemption to the establishments is given on the tacit understanding that the benefits could be either same or better to the employees covered under the exempted trusts.
3. The Supreme Court while delivering its judgement has not made any difference between the two categories of subscribers that is subscribers of exempted trusts and EPFO.
4. The differential amount due to non receipt of funds from the exempted trusts in the pension fund over the ceiling limit may be computed through the financial processes for extending these benefits to the employees of exempted trusts.

Shri D.L. Sachdev while agreeing to the points made by Shri Bhagirathi Dhal clarified that in the 38th meeting of PEIC, the committee had unanimously decided that compliance be made immediately in respect of the members whose accounts are maintained by EPFO and contribution on higher wages has been received by EPFO. He added that the cases of members of exempted trusts may be examined in detail and information be submitted to the committee so that a decision can be taken.

The members also suggested that specific legal opinion may be sought in the matter.
Shri Vinod Kumar while giving his views on the issues (1-4) above, raised by the members, stated:

1. There are no two classes of beneficiaries in the pension scheme, one under EPFO and another under exempted trusts as the pension under EPS 1995 is administered and managed by the EPFO only and there is only one class of beneficiaries.

2. As the exemption is from EPF Scheme 1952, the benefits should be same or better under the exempted trust in respect of the Provident Fund only and not to any other scheme.

3. In the SLP under reference where Hon'ble Supreme Court delivered its Judgement, all the employees who went to court were from un-exempted establishment. CBT has decided to extend the same only to similarly placed persons.

4. The suggestion does not appear technically and financially feasible.

CPFC informed that EPFO is neither legally liable nor financially capable to pay for money not received by EPFO. CPFC further confirmed that the matter will be placed at higher forums after taking detailed legal opinion.

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

(Dr. V.P. Joy)
Central P.F. Commissioner
and Chairman, PEIC, CBT, EPF.
To

All Members,
Pension & EDLI Implementation Committee
CBT, EPF

Sub: Holding of 40th Meeting of the Pension & EDLI Implementation Committee (PEIC) on 24.05.2017 at 03:00 P.M – Regarding.

Sir,

Please arrange to refer letter No.Pension.III/40th PEIC Meeting/2017/3956 dated 18.05.2017 on the cited subject. In continuation of the same please find enclosed the agenda item approved by the CPFC for the 40th Meeting of the PEIC to be held on 24.05.2017 at 3 pm.

Yours faithfully,

(R. JVVERMA)
Addl. Central P.F. Commissioner-I (Pension)

Copy to:-

1. PS to CPFC & Chairman of PEIC
2. PS to Additional Secretary & FA, Ministry of Labour & Employment, New Delhi
3. PS to Director (IDAS, EPFO), Ministry of Labour & Employment, New Delhi.
4. RPFC-I (Conference), EPFO, Head Office.
5. RPFC-II (ASD) for kind information and necessary action.
AGENDA ITEMS FOR 40th MEETING OF PENSION AND EDLI IMPLEMENTATION COMMITTEE (PEIC)

Date of Meeting : 24.05.2017

Time : 03:00 P.M

Venue : Conference Hall, 3rd Floor,
Employees Provident Fund
Organisation, Head office,
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi 110066.
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Date of Meeting: 24.05.2017 at 03.00 P.M.

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<td>Action Taken Report On The 39th Meeting/Decision.</td>
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<td>Implementation of Supreme Court Orders related to Employees Pension Scheme 1995 in respect of members/pensioners of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees' Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of that Establishments.</td>
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Item No. 1: Confirmation of minutes of the 39th meeting of the Pension & EDLI Implementation Committee held on 12.04.2017.

The minutes of 39th meeting of Pension & EDLI implementation Committee (Annexure A) is placed for confirmation of the committee.
### Item No. 2: Action Taken Report on the 39th meeting/decision.

In the 39th PEIC meeting the following proposals were approved:

**Action Taken Report**

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<td>3.</td>
<td>Decision on Aadhar identification of beneficiaries of the pension scheme.</td>
<td>The information was noted as contained in the agenda note and noted the actions already taken in this regard for getting digital life certificate from pensioners.</td>
<td>No action was required as circular already issued vide letter No. Pension-I/7(10)/2016-17/Jeevan Praman dated 11.04.2017.</td>
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<td>4.</td>
<td>Amendments in EDLI Scheme 1976 for introducing minimum assurance amount on death in service and loyalty cum life benefit to PF members on superannuation.</td>
<td>The agenda item was deliberated at length. The proposal was welcomed and approved by the committee for placing the same before the CBT for making necessary amendment in the scheme. The members of the committee also suggested that this provision should be made known to all such members of the scheme through wide publicity and written communication after approval of the same by the Government.</td>
<td>A separate agenda item was placed before the CBT in its 217th meeting held on 12.04.2017. The minutes of the said meeting is still awaited.</td>
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Item No. 3: Implementation of Supreme Court Orders related to Employees Pension Scheme 1995 in respect of members/pensioners of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of those Establishments.

In light of the Hon’ble Supreme court order in the matter of R.C Gupta & Others V/s RPFC Shimla & others an agenda item (copy enclosed as annexure ‘A’) was placed in the 38th meeting of PEIC with the following Proposal:-

Proposal:-

It is proposed that the representations/options /grievances received from members of the Employees’ Pension Scheme 1995 in r/o compliance of Hon’ble Supreme Court orders are to be redressed in the following cases and manners:-

a) The member of the Employees Provident Fund Scheme 1952 and/or Employees’ Pension Scheme 1995 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/-.

b) The members of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of that Establishments.

c) Any member either retired or receiving pension under Employees’ Pension Scheme 1995 and who have contributed on wages exceeding the statutory wage ceiling under EPF Scheme 1952 and/or EPS 1995.

In all the above cases, the contribution due to Employees’ Pension Scheme 95 on wages exceeding statutory limit is to be upon a joint application from Employer and Employees either diverted from the contribution in Employees Provident Fund or refunded/ remitted by Employees together with up to date interest as declared under Employees Provident Fund Scheme 1952 from time to time.
In case of the members of exempted Establishment, they have to submit joint application with details of PF contribution and interest credited year wise to the PF Account along with calculation of year wise contribution to the EPS 1995 and interest to be paid by the employer/employees concerned and deposit the amount together with up to date interest.

This will be applicable only in those cases where the members/pensioners have contributed on higher wages than the statutory wage ceiling of Rs.6500/- with or without exercise of option prior to the issue of notification for increase of wage ceiling to Rs.15000/- which is effective from 01.09.2014.

This is for the implementation of Hon’ble Supreme Court order by way of issuing administrative instructions to field offices of the EPFO for compliance in all similar such cases.

The Agenda item was deliberated at length and the Committee unanimously decided to comply with the orders of the Hon’ble Supreme Court in SLP No.33032 – 33033 of 2015 in the matter of Shri R.C. Gupta & Others Vs. RPFC (Shimla) & Others, in respect of all similar cases to avoid further litigation in this regard.

However, it was agreed that compliance may be made immediately in respect of the Provident Fund & Pension Members including superannuated cases whose accounts are maintained by EPFO as their details are already available with EPFO and contribution on higher wages has been received by EPFO. Their pension settlement may be regulated in accordance with the order of the Hon’ble Supreme Court by taking joint option from the employee and the employer and transfer/payment to Pension Fund as per details of payable contributions with interest.

In respect of those members of Exempted Provident Fund Trusts whose contribution on higher wages has not been received by EPFO, it was decided that their cases may be examined on verification of books of record of the exempted establishment and the trust regarding compliance to Provident Fund and Pension Fund as per the provisions of the EPF Scheme 1952 and Employees Pension Scheme 1995 and the information may be submitted to the committee. *(Minutes of the 38th meeting of PEIC enclosed at Annexure ‘B’)*
The above decision taken by PEIC was placed before the CBT in its 215th meeting for consideration and approval. The CBT approved the proposal and recommended to the government. (Copy of the minutes of the CBT meeting is enclosed as Annexure C).

Accordingly, approval was sought from MOL&E vide U.O. Note dated 10.01.2017. (Annexure ‘D’), which was received vide letter dated 16.03.2017. (Annexure ‘E’).

After receipt of the approval from MOL&E administrative instructions were issued vide circular no. Pension-I/12/12/33/EPS Amendment /96/Vol.II dated 23.03.2017 to all the field offices (Annexure ‘F’)

A number of references have been received from field offices as well as exempted establishments seeking clarification regarding applicability of the aforesaid circular dated 23.03.2017 to members/pensioners of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of those Establishments.

The Supreme Court has made the following observation in Para 11 of its order:-

“...in a situation where the deposit of the employer’s share at 12% has been on the actual salary and not the ceiling amount, we do not see how the Provident Fund Commissioner could have been aggrieved to file the L.P.A before the Division Bench of the High Court. All that the Provident Fund Commissioner is required to do in the case is an adjustment of account which is turn would have benefitted some of the employees. At best what the Provident Fund Commissioner could do and which we permit him to do under the present order is to seek a return of all such amounts that the concerned employees may have taken or withdrawn from their provident Fund Account before granting them the benefit of the provision to clause 11(3) of the pension Scheme. Once such a return is made in whichever cases such return is due, consequential benefits in terms of this order will be granted to the said employees.”

All the appellant employees in the aforesaid case before the Hon’ble Supreme Court were from unexempted establishment i.e. an establishment making P.F. contributions in the statutory Provident Fund managed by EPFO. The Employer’s contribution of 12 % under the Act in respect of the said
employees was on actual salary and not on the ceiling limit of either Rs.5,000/- or Rs.6500/- as the case may be. The said employees had exercised option under Paragraph-26 (6) of the Employees’ Provident Fund Scheme, 1952 to contribute on wages above the ceiling limit in the Provident Fund but had not exercised option under proviso to clause-11(3) of the Employees’ Pension Scheme-1995 to contribute on higher wages in the pension fund. The Supreme Court accordingly observed that there is no cut off date under the proviso to clause-11(3) of the pension scheme to determine the eligibility of Employers/Employees to indicate their option under proviso to clause-11(3) of the pension scheme. Thus Employees of unexempted establishment who had contributed on actual salary above the ceiling limit to the statutory Provident Fund but had not exercised option to contribute on higher wages to the pension fund can exercise such option later on. In such cases where both the provident fund and pension fund are managed by EPFO and the contribution on higher wages in the provident fund has been received at the appropriate time, adjustment of account can be made, if option to contribute on higher wages in the Pension Fund is given on a later date. In order to extend the benefits to similarly placed employees of unexempted establishments, administrative instructions were issued to the field offices vide Head Office letter No. Pension-I/12/12/33/EPS Amendment /96/Vol.II dated 23.03.2017.

In the case of exempted establishment (exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952), the Provident Fund and Pension Fund are managed by separate agencies. The Provident Fund of employees of exempted establishments are managed by Exempted Trusts and Pension Fund is managed by EPFO. Thus in case of employees of exempted establishments, option under Paragraph 26(6) of the EPF Scheme, 1952 is not available. For these employees to avail pension on full wages, contribution on full wages should have been remitted to EPFO along with the option under the proviso to clause 11(3) of the Pension Scheme. Even if the option period is extended as ordered in the judgement of the Hon’ble Supreme Court, the essential ingredient for payment of pension on higher wages, namely, receipt of contribution on full wages by EPFO cannot be relaxed. As such, adjustment of contribution from Provident Fund Account (maintained by Exempted Trust) to Pension Account (maintained by EPFO) in respect of Employees' of exempted establishments does not arise.

Therefore in case of Employees of exempted establishments, if the contribution on higher wages has been received in the Pension Fund at appropriate time without exercising option to do so, option under the proviso to
clause-11(3) of the Pension Fund can be given without any reference to cut off date. If contribution is not received on higher wages in the Pension Fund there is no liability on EPFO to make payment of pension on higher wages.

It is obvious that the Employees Pension Scheme-1995 being a funded scheme with defined contribution and defined benefits, pension can be sanctioned on the basis of contribution received in the Pension Fund. Any sanction of pension without receipt of timely contributions will deplete the fund jeopardising payment of pension/benefits to eligible members/pensioners leading to unsustainability of the Employees Pension Scheme.

In respect of eligible Employees of unexempted establishments (establishment making Provident Fund contribution to EPFO), contribution on higher wages have been received by EPFO and have been invested at appropriate time in debt instruments yielding long term income for EPFO, enabling it to service their pension requirements. In case of exempted establishments, where P.F. contribution on full wages have been made in the exempted trust, income from such remittance have been received in the past by the Trust which will continue to receive it in future if invested in long term instruments. All assets and liabilities arising out of such receipts have to be borne-discharged by the concerned Trusts for which EPFO cannot take responsibility.

**Proposal:-**

Employees of the exempted establishments who have contributed on higher wages to the exempted PF trust but whose contribution to the Pension Fund has been received on the ceiling amount of Rs. 5,000 or Rs. 6,500 as the case may be, will be eligible for pension only based on the contribution actually made to EPFO. This is so, because the contribution to the PF on higher wages has been made with the exempted trust and was not received by EPFO. Adjustment of Accounts will not be possible in such cases as EPFO will not be able nor liable to bear the opportunity cost of the long term investments made by the Trust. Moreover Para 26(6) of EPS Scheme, 1952 which the Hon'ble Supreme Court in its order termed as precursor to the Para 11(3) of EPS 1995, pertains to members of unexempted establishments only and not to exempted Provident Fund trust members. It is not financially possible to grant pension benefits without receipt of timely contribution by EPFO, as contributions received in the past yield long term returns in future also. Only in case contribution on higher wages has been received periodically in the past by the EPFO in the Employees’ Pension Scheme from members of the Exempted Trusts, pension shall be admissible based on such contribution on higher wages.

Clarification as above may be approved by the committee.
Item No. 3) Implementation of Supreme Court Orders related to Employees Pension Scheme 1995.

The matter of determination of Pensionable salary exceeding the statutory wage ceiling and exercise of option under deleted proviso to Para 11(3) of Employees’ Pension Scheme 1995 was agitated before many High Courts. Hon’ble High Court of Kerala, in particular, had disposed the various petitions on similar line directing the EPFO that “the 8.33% of the employer’s contribution proportionate to the salary of employees in excess of Rs.6500/- shall now be credited to the pension scheme and orders passed in accordance with law. Needless to say the interest accrued in the provident fund account to that extent also will stand transferred to the pension account. The employees shall also submit joint application along with their employer wherever the same has not been done.”

The department had filed more than 10 SLPs before the Hon’ble Supreme Court against the orders passed by Hon’ble High Courts. The same have been dismissed by Hon’ble Supreme Court stating that “We do not find any legal and valid ground for interference, the special leave petitions are dismissed.” It is pertinent to mention that the Hon’ble Supreme Court of India did not deliberate upon the question of law and rules provisions of Act & Schemes in most of the SLPs.

However, in SLP no.33032-33033 of 2015 in the matter of R.C. Gupta & ors Vs RPFC, Shimla and ors, the Hon’ble Supreme Court of India has examined the provisions of EPF Scheme 1952 & Pension Scheme and passed the detailed order. The relevant excerpts of the order was informed which are as under (Annexure B):-

“10. We do not see how exercise of option under Paragraph 26 of the Provident Fund Scheme can be construed to estop the employees from exercising a similar option under Paragraph 11(3). If both the employer and the employee opt for deposit against the actual salary and not the ceiling amount, exercise of option under Paragraph 26 of the Provident Fund Scheme is inevitable. Exercise of option under Paragraph 26(6) is a necessary precursor to exercise of option under clause 11(3). Exercise of such option, therefore, would not foreclose the exercise of further option under clause 11(3) of the pension scheme unless the circumstances warranting such foreclosure are clearly indicated.

11. The above apart, in a situation where the deposit of the employer’s share at 12% has been on the actual salary and not the ceiling amount, we do not see how the Provident Fund Commissioner could have been aggrieved to file the LPA before the Division Bench of the High Court. All that the Provident Fund Commissioner is required to do in the case is an adjustment of accounts which in turn would have
benefitted some of the employees. At best what the Provident commissioner could do and which we permit him to do under the present order is to seek a return of all such amounts that the concerned employees may have taken or withdrawn from their Provident Fund Account before granting them the benefit of the proviso to Clause 11(3) of the Pension Scheme. Once such return is made in whichever cases such return is due, consequential benefits in terms of this order will be granted to the said employee. “

A background note with the draft circular in this regard for compliance of the Hon’ble Supreme Court order was placed before the officers for consideration and opinion in the matter in the meeting held on 23/11/2016. After going through the Supreme Court orders, background note and draft circular for compliance of the orders of the Supreme Court in the respective SLPs filed by the organisation, it was unanimously agreed to recommend to comply with the orders of the Courts, in particular, order of the Hon’ble Supreme Court in SLP no.33032-33033 in the matter of R. C. Gupta & others.

However, considering the wider implication and needing uniform compliance for all such type of cases including the petitioners and also having financial bearing on the Pension Fund, it was decided that the matter may be placed before Pension Implementation Committee, a committee formed by the CBT in respect of policy matters related to Pension and EDLI. (Copy of minutes of meeting is enclosed as Annexure C)

Proposal:-

It is proposed that the representations/options/grievances received from members of the Employees’ Pension Scheme 1995 in r/o compliance of Hon’ble Supreme Court orders are to be redressed in the following cases and manners:-

a) The member of the Employees Provident Fund Scheme 1952 and/or Employees’ Pension Scheme 1995 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/-.

b) The members of exempted trust exempted under section 17(1)(a) of the EPF and MP Act 1952 or relaxed under para 79 or the employees exempted under para 27 or 27A of Employees’ Provident Fund Scheme 1952 who have contributed on higher wages exceeding the statutory wage ceiling of Rs.6500/- in the Provident Fund Trust of that Establishments.

c) Any member either retired or receiving pension under Employees’ Pension Scheme 1995 and who have contributed on wages exceeding the statutory wage ceiling under EPF Scheme 1952 and/or EPS 1995.
In all the above cases, the contribution due to Employees’ Pension Scheme ’95 on wages exceeding statutory limit is to be upon a joint application from Employer and Employees either diverted from the contribution in Employees Provident Fund or refunded: remitted by Employees together with up to date interest as declared under Employees Provident Fund Scheme 1952 from time to time.

In case of the members of exempted establishment, they have to submit joint application with details of PF contribution and interest credited year wise to the PF Account along with calculation of year wise contribution to the EPS ’1995 and interest to be paid by the employer/employees concerned and deposit the amount together with up to date interest.

This will be applicable only in those cases where the members/pensioners have contributed on higher wages than the statutory wage ceiling of Rs.6500/- with or without exercise of option prior to the issue of notification for increase of wage ceiling to Rs.15000/- which is effective from 01.09.2014.

This is for the implementation of Hon’ble Supreme Court order by way of issuing administrative instructions to field offices of the EPFO for compliance in all similar such cases.

The committee is requested to accord approval of the proposal.
Minutes of 38th Meeting of Pension & EDLI Implementation Committee

Dated: 08 December, 2016

Venue: Conference Hall,
Employees Provident Fund Organisation,
Head office, Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place, New Delhi-66.

Present:
1. Dr. V.P. Joy, Central Provident Fund Commissioner - Chairman
2. Shri Vinod Kumar, Director (MoL&E) - Member
3. Shri G.P. Srivastava, Employers' Representative, CBT (EPF) - Member
4. Shri Vrijesh Upadhyay, Employees' Representative, CBT (EPF) - Member
5. Shri D.L. Sachdev, Employees' Representative, CBT (EPF) - Member
7. Dr. S.K. Thakur, ACC-I (Pension) - Convenor

Shri Arun Goel, Additional Secretary & Financial Advisor (MoL&E), Shri R.S. Maker, Employers’ Representative, CBT (EPF) and the representative of PFRDA could not attend the meeting.

Central P.F. Commissioner welcomed the members of the Pension and EDLI Implementation Committee (PEIC) and introduced the agenda items in brief before the committee for consideration.

With these opening remarks he requested ACC-I (Pension) to take up the matters for discussion as per agenda note. Accordingly, the agenda items were placed for consideration of the committee.

**Item No.1 Confirmation of minutes of the 37th meeting of the Pension & EDLI Implementation Committee**
Decision/Recommendation: The PEIC confirmed the minutes of the 37th meeting as circulated.

**Item No.2 Action Taken Report on the 37th meeting/decision.**
Decision/Recommendation: The PEIC took note of the Action taken report placed before the committee.
**Item No.3 Implementation of Supreme Court Orders related to Employees' Pension Scheme 1995.**

The agenda item was deliberated at length and the Committee unanimously decided to comply with the orders of the Hon’ble Supreme Court in SLP No.33032 – 33033 of 2015 in the matter of Shri R.C. Gupta & Others Vs. RPFC (Shimla) & Others, in respect of all similar cases to avoid further litigation in this regard.

However, it was agreed that compliance may be made immediately in respect of the Provident Fund & Pension Members including superannuated cases whose accounts are maintained by EPFO as their details are already available with EPFO and contribution on higher wages has been received by EPFO. Their pension settlement may be regulated in accordance with the order of the Hon’ble Supreme Court by taking joint option from the employee and the employer and transfer/payment to Pension Fund as per details of payable contributions with interest.

In respect of those members of Exempted Provident Fund Trusts whose contribution on higher wages has not been received by EPFO, it was decided that their cases may be examined on verification of books of record of the exempted establishment and the trust regarding compliance to Provident Fund and Pension Fund as per the provisions of the EPF Scheme 1952 and Employees Pension Scheme 1995 and the information may be submitted to the committee.

**Item No.4 Contribution exceeding wage ceiling of Rs.15000/- per month by the existing members of EPS 1995 with additional contribution of 1.16% of the wage from their provident fund account w.e.f. 01.09.2014.**

The proposal was welcomed and approved by the committee for making necessary amendment in the scheme. The members of the committee also suggested that this provision should be made known to all such concerned members of the pension scheme through wide publicity and written communication.

**Item No.5 Increase in Cessation of membership under Employees’ Pension Scheme 1995 from the existing age of 58 years to 60 years.**

The agenda item was approved as contained in the agenda note for amendment in the EPS, 1995.
Shri G.L. Sachdev, Member, suggested that the age of superannuation should be changed in the model standing rules also. The Chairman observed that this aspect is not in the domain of the EPFO and so the member may take up the issue before the appropriate forum.

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

(Dr. V.P. Joy)
Central P.F. Commissioner
and Chairman, PEIC, CBT, EPF.
EMPLOYEES' PROVIDENT FUND ORGANISATION
MINUTES OF THE 215th CBT MEETING
(BENGALURU: 19th December 2016: 1000 AM)

The 215th meeting of the Central Board (EPF) was held under the Chairmanship of Shri Bandaru Dattatreya, Chairman Central Board (EPF) and Union Minister of Labour & Employment. Following members attended the meeting:-

1. Smt M Sathiavathy, Secretary (L&E)
2. Shri Arun Goel, AS&FA (L&E)
3. Sh RK Gupta, JS (SS) (L&E)
4. Shri KV Shekhar Raju
5. Shri B Kamarasu
6. Dr UD Choubey
7. Shri GP Srivastava
8. Shri Sushanta Sen
9. Dr. SS Patil
10. Shri DU Menon (vice Shri RS Maker)
11. Dr G Sanjeeva Reddy
12. Shri M Jagadishwara Rao
13. Shri Virijesh Upadhyay
14. Shri PJ Banasure
15. Shri Ashok Singh
16. Shri KN Umesh (vice Sh AK Padmanabhan)
17. Shri Ram Kishore Tripathy (vice Sh AD Nagpal)
18. Shri DL Sachdev
19. Shri Sankar Saha
20. Shri Ramen Pandey
21. Shri Sanjiv Kumar, Karnataka
22. Shri MP Beri, Punjab

23. Shri RH Vasava, Gujarat

24. Dr Anuradha Lambaa, Haryana

25. Dr VP Joy, Central PF Commissioner

Following members could not attend and were granted leave of absence:-

1. Additional Secretary (L&E)
2. DG Labour Welfare
3. Joint Secretary (Min of Finance)

4. Shri BP Pant
5. Shri Ravi Wig
6. Shri J.P. Chowdhary
7. Shri RS Maker

8. Principal Secretary (Labour), Andhra Pradesh
9. Principal Secretary (Labour), Chhattisgarh
10. Principal Secretary (Labour), Himachal Pradesh
11. Principal Secretary (Labour), Madhya Pradesh
12. Principal Secretary (Labour), Maharashtra
13. Principal Secretary (Labour), Kerala
14. Principal Secretary (Labour), Rajasthan
15. Principal Secretary (Labour), Tamil Nadu
16. Principal Secretary (Labour), Uttar Pradesh
17. Principal Secretary (Labour), West Bengal
18. Principal Secretary (Labour), Delhi

The list of officers who attended the meeting is appended as Annexure A to the minutes. CPFC initiated the proceedings and welcomed Chairman, Vice Chairperson and all
other members to the 215th meeting of the Board. CPFC welcomed Secretary (L&E) and AS F&A (L&E) to their first meeting of the Board. CPFC then requested the Chairman to give the opening address.

Chairman informed the Board that the approval of the Organisational restructuring of EPFO has attained finality and he expected that its implementation will further improve EPFO services substantially.

Chairman stated that other important issues on agenda is declaration of rate of interest on PF balances for the year 2016-17; campaign for enrolment of new Provident Fund members among other important issues.

He then requested CPFC to take up the listed agenda items.

With the permission of Chairman, Shri Virijesh Upadhyay stated that the agenda items being brought before the Board are mostly administrative in nature and the real issues related to workers' welfare are not being deliberated by CBT. He informed that the erstwhile Labour & Employment Minister, Shri Narendra Tomar had called a meeting of employers' and employees' representatives to discuss and decide on the issues which could be placed as an agenda for CBT meetings. Certain issues which required to be discussed were reducing the threshold limit for coverage to ten employees, the coverage of Aanganwadi, Asha workers, self-employed persons to bring under the Social Security Net of EPFO, informalization of employment and the resultant adverse impact on social security; enhancement of minimum pension, extension of medical coverage to pensioners etc. Dr. G. Sanjeeva Reddy stated that all the agenda items are prepared and brought by EPFO, Head Office. Members may be allowed to send any item to be included in agenda. Chairman stated that a special meeting of Board will be called for discussing these and other issues. He also requested the members to send in writing the issues which could be taken up by the Board for consideration. Thereafter, agenda items were taken up for discussion.

Item No. 1- Confirmation of the Minutes of 214th meeting of CBT, EPF held on 26-07-2016.

Shri Jagdishwara Rao stated that he submitted observations on the minutes of 214th CBT meeting. But his observations have been enclosed but not incorporated in the minutes. Vice-Chairman stated that the observations of member may be incorporated in the minutes after discussion and approval. The Board confirmed the minutes as placed before it.

Item No. 2: Action Taken Statement in respect of decisions taken in the CBT meetings held upto 26-07-2016 (214th CBT meeting).

Shri S Sen wanted to know the details of inoperative accounts after the recent amendments in EPF Scheme. CPFC assured that the requisite details would be provided. Dr Reddy advised that a separate agenda item on Workers' Bank be brought before the Board for consideration. Shri Sekhar Raju stated that he sent letter regarding notice for Executive Committee meeting and later on being asked not to attend the meeting, as the Executive Committee reconstitution was not notified at that time. Reply may be sent for this.

The Board noted the action taken status with these observations.
Item No. 3: Minutes of meetings of sub-Committees of the Board – for information

The Board took note of the minutes placed before it.

Item No. 4: Information to be placed before the Central Board in accordance with para 23 of the EPF Scheme

The Board took note of the information placed before it.

Item No. 5: Draft 63rd Annual Report on the work and activities of the Employees' Provident Fund Organisation for the year 2015-16

The Board adopted the Annual Report and recommended that it be sent to the Government for placing before the Parliament.

Item No. 6: Amendment to Condition No. 25 of Appendix ‘A’ to para 27AA of the Employees’ Provident Funds Scheme, 1952 for grant of exemption to establishments under Section 17(1)(a) of the Employees’ Provident Funds & Miscellaneous Provisions Act, 1952 and Para 27A of the Employees’ Provident Funds Scheme, 1952 by Appropriate Government

The Board did not agree to the proposed amendment.

The Board decided that the existing provisions in the scheme need not be amended and if any specific sector/industry requires any assistance/deviations, then it can be dealt on case to case basis and be brought before the Board.

Item No. 7: Proposal for streamlining cases of Surrender of Exemption granted to Establishments

The proposal as contained in the agenda was approved by the Board. Shri S Sen wanted to know how many PF exempted establishments have surrendered their exemption. CPF assured that the information would be provided to the member.

Item No. 8: Implementation of Supreme Court Orders related to Employees’ Pension Scheme, 1995

It was noted that the proposal was examined by the Pension Implementation Committee and recommended. The proposal as contained in the agenda was approved and recommended by the Board to the Government.

Item No. 9: Merger of the two Sub Committees of the Central Board of Trustees on Coverage of Construction Workers and Contract Workers.

The Board did not agree to the proposal.

CPFC explained the agenda item and informed that this is a short term three month campaign, expandable by further three months if required, designed to bring more workers in the coverage fold. CPFC also stated that the proposal is to bring the undeclared employees under the Social Security Net of EPFO to enable them to get social security benefits under the provisions. Employees’ representatives suggested to make the employer pay the employees’ contribution even in cases where the employees’ share was not recovered. Members welcomed the proposal and suggested that a sub-Committee of the Board be formed to suggest long term policy measures for same. Chairman stated that it can be considered once the outcome of the three months campaign is gathered. The Board thereafter, approved the proposal as contained in the agenda.

Shri Ashok Singh informed the Board that China has received the ISSA outstanding award for innovation in the field of social security by extending the insurance, pension and medical coverage to more than 90% of its population. Shri Singh stated that this needs to be emulated by EPFO also and urged the Government to look into it. He also raised the issue of extending social security coverage to about 20,000 coolies of Indian Railway by registering them with EPFO. He informed the Board that the contributions could be funded by levying a cess of only 10 paise on each railway ticket sold by the Indian Railways. Chairman assured to look into the matter.

Item No. 11: Determining the rate of Adm. Charges payable by the employers under EPF Scheme, 1952 and EDLI Scheme, 1976.

Shri G.P. Srivastava stated that the proposal may be approved as there is surplus in administrative fund. The administrative charges to be levied must be dynamic. In case of deficit, CBT can enhance the administrative charges. Shri B. Kamarasu and Shri Shekhar Raju supported Shri G.P. Srivastava. CPFC suggested that last sentence of para 17 of the agenda may be read as “All administrative expenses of EDLI may be met from interest of EDLI Administration Fund corpus.”

After discussions the Board agreed to the proposal as contained in the agenda.

Item No. 12: Extension of tenure of Custodian of EPFO Securities M/s Standard Chartered Bank (SCB) upto 31/03/2017 after their performance evaluation for the period 01.07.2015 to 31.03.2016

The Board agreed to the proposal as contained in the agenda.


The Board agreed to the proposal as contained in the agenda.
Item No. 14: Revised Estimates for the year 2016-17 and Budget estimates for the year 2017-18 for EPFO and Schemes administered by EPFO

The Board agreed to the proposal as contained in the agenda.

Item No. 15: Recommendation of rate of Interest to be credited to EPF member’s accounts for the year 2016-17

CPFC explained the proposal through a presentation and requested the Board to take a view in the matter. Dr GS Reddy and all other employees’ representatives desired to know, why the income from ETF investments is not shown as income in the proposal. CPFC informed that the gains on ETF investments are only notional gains and C&AG has advised that notional income cannot be used for upgradation till the time the investments are liquidated and gains credited to EPF accounts. CPFC also informed that the matter has been studied by ICAI, which also recommended the same. Further, FA &CAO of EPFO is meeting with IIM Bangalore to finalise the issue of accounting gains in ETF investments and the developments would be informed to the Board. Employees’ representatives wanted to declare 8.70% interest rate by taking notional ETF gains in income.

Chairman stated that for sustaining long term health of the Fund, we need to be conservative and accordingly rate of interest of 8.65% would be desirable.

After deliberations the Board decided to recommend the rate of interest of 8.65% for the EPF balances in 2016-17.

Item No. 16: Performance Evaluation of Portfolio Managers for the period 01-07-2015 to 30-06-2016

The Board took note of the information placed before it.

Item No. 17: CBLO borrowing transactions by the Portfolio Managers during the period 01-04-2016 to 30-09-2016

The Board took note of the information placed before it.

Item No. 18: Enhancement of investment in Exchange Traded Fund from existing 5% to 10%

The employees’ representatives registered their displeasure at EPFO going ahead with ETF investments even after Board’s reservations in the matter. The employees’ representatives stated that as per the Act, the Fund vests in and is administered by the Board and Government is unilaterally taking decisions in the matter.

CPFC informed the Board that the total ETF investments so far are just over 1% of total investment corpus of EPFO. Moreover, G-Sec investments are currently giving a yield of less than 6.75%. It would be desirable to explore more investment options but with highest level of security. Employees’ representatives stated that they support lower returns on investments than risk a possibility of wiping out the corpus completely. Employees’ representatives wanted to have copy of the EPFO letter dated 08.09.2016 to Ministry. CPFC agreed to provide copy of the said letter sent to Ministry of Labour and Employment.
Chairman suggested to the Board to continue with the present rate of investments in ETF as the same are recommended by the Kaul Committee and approved by the Government. He also agreed to the suggestion of members to devise a protocol of sale of ETF investments periodically.

With these observations the Board took note of the proposal as contained in the agenda.

**Item No. 19: Selection of Impact Assessment Study agency for publicity needs of EPFO**

The Board agreed to the proposal as contained in the agenda.

**Item No. 20: Social Media management plan/engagement of agency**

The Board took note of the information placed before it.

**Item No. 21: Temporary deployment of funds by EPFO Portfolio Managers on the fixed income side to invest in Liquid Mutual Funds for liquidity management**

The Board agreed to the proposal as contained in the agenda.

**Item No. 22: Request for waiver of damages under section 14B of the Act to M/s. Kusum Products Ltd., (WB/642).**

The Board agreed to the proposal as contained in the agenda.

**Item No. 23: List of ineligible cases for waiver of damages rejected by Central Provident Fund Commissioner**

The Board took note of the information placed before it.

**Item No. 24: Selection of External Concurrent Auditor (ECA) for the audit of investments done by Employees’ Provident Fund Organization’s Portfolio Managers**

The Board agreed to the proposal as contained in the agenda.

**Item No. 25: Organizational Restructuring of EPFO**

Vice-Chairperson informed the Board that the restructuring has been agreed to by the Ministry of Finance and implementation of the same shall be done quickly. Members stated that the implementation be done quickly as the matter has been pending since long.

Chairman announced that promotion orders be issued as a New Year Gift to staff and officers. Vice-Chairperson assured Chairman and the Board that promotion will be issued as a New Year Gift.

CPF to ensure implementation of this decision as provided under para 22(2) of EPF Scheme and report compliance.

Shri Kamarsu brought the attention of Board to allegations which have appeared in the press against the Central Board (EPF). He further stated that unfortunately this allegation has not been countered either by EPFO or by the Ministry of Labour & Employment. He urged that a time bound enquiry be conducted in the matter by the Ministry and action taken against the complainant if false and unsubstantiated allegations against the Board have been made.
S/Shri GP Srivastava, PJ Banasure and KV Shekhar Raju strongly demanded that enquiry be conducted in the matter and strong action be taken against anyone found culpable.

Vice Chairperson assured the Board that the Ministry will enquire into the matter and take requisite action.

She assured the Board that the approval of restructuring has been fair, transparent and objective. In fact delays in approval has been because the Ministry has conducted thorough examination of the matter. Vice Chairperson assured the Board that the restructuring would be implemented as soon as orders are issued by the Government.

With the observations, the proposal as contained in the agenda was approved.

Item No. 26: Renewal of Agreement with State Bank of India for collection of dues and payments to beneficiaries

The Board took note of the information placed before it.

Shri MJ Rao stated that even though EPFO has stopped the use of revenue stamps on claim forms, some PF exempt establishments continue to insist on same. CPFC assured that necessary action in the matter will be taken.

Chairman thanked the members for their cooperation.

The meeting ended with vote of thanks to the Chair.
## LIST OF OFFICERS OF EPFO WHO ATTENDED THE 215<sup>th</sup> MEETING OF CENTRAL BOARD (EPF) ON 19-12-2016 AT BENGALURU

<table>
<thead>
<tr>
<th>Sl No.</th>
<th>Name</th>
<th>Designation</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>1.</td>
<td>Shri Manish Gupta</td>
<td>FA &amp; CAO</td>
<td>Employees' PF Organisation</td>
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<td>2.</td>
<td>Shri Rajesh Bansal</td>
<td>ACC(HQ)</td>
<td>Employees' PF Organisation</td>
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<td>3.</td>
<td>Shri M Narayanappa</td>
<td>ACC</td>
<td>Employees' PF Organisation</td>
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<td>4.</td>
<td>Shri V Vijay Kumar</td>
<td>ACC</td>
<td>Employees' PF Organisation</td>
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<td>5.</td>
<td>Dr SK Thakur</td>
<td>ACC</td>
<td>Employees' PF Organisation</td>
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<td>6.</td>
<td>Shri KL Goyal</td>
<td>ACC</td>
<td>Employees' PF Organisation</td>
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<td>7.</td>
<td>Shri SC Goyal</td>
<td>ACC</td>
<td>Employees' PF Organisation</td>
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<td>8.</td>
<td>Shri Sanjay Kumar</td>
<td>RPFC</td>
<td>Employees' PF Organisation</td>
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<td>9.</td>
<td>Shri Maneesh Agnihotri</td>
<td>RPFC</td>
<td>Employees' PF Organisation</td>
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<td>10.</td>
<td>Shri Navendu Rai</td>
<td>RPFC</td>
<td>Employees' PF Organisation</td>
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<td>11.</td>
<td>Shri Uttam Prakash</td>
<td>RPFC</td>
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<td>12.</td>
<td>Shri Nilendu Mishra</td>
<td>RPFC</td>
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<td>13.</td>
<td>Shri Mihir Kumar</td>
<td>RPFC</td>
<td>Employees' PF Organisation</td>
</tr>
<tr>
<td>14.</td>
<td>Shri Prthi Chand</td>
<td>Section Officer</td>
<td>Employees' PF Organisation</td>
</tr>
</tbody>
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Sub: Allowing members of the Employees’ Pension Scheme 1995 the benefit of the actual salary in the Pension Fund exceeding wage limit of either Rs.5000/- or Rs. 6500/- per month from the effective date respectively as per the Hon’ble SC order in the matter of R.C. Gupta & others vs RPFC, Shimla in SLP No. 33032-33033 of 2015- Regarding.

The matter of determination of Pensionable salary exceeding the statutory wage ceiling and exercise of option under deleted proviso to Para 11(3) of Employees’ Pension Scheme 1995 was agitated before many High Courts. Hon’ble High Court of Kerala, in particular, had disposed the various petitions on similar line directing the EPFO that “the 8.33% of the employer’s contribution proportionate to the salary of employees in excess of Rs.6500/- shall now be credited to the pension scheme and orders passed in accordance with law. Needless to say the interest accrued in the provident fund account to that extent also will stand transferred to the pension account. The employees shall also submit joint application along with their employer wherever the same has not been done.”

The department had filed more than 10 SLPs before the Hon’ble Supreme Court against the orders passed by Hon’ble High Courts. The same have been dismissed by Hon’ble Supreme Court stating that “We do not find any legal and valid ground for interference; the special leave petitions are dismissed.”

2. However, in SLP no.33032-33033 of 2015 in the matter of R.C. Gupta & ors vs RPFC, Shimla and ors, the Hon’ble Supreme Court of India has examined the provisions of EPF Scheme 1952 & Pension Scheme and passed the detailed order. The relevant excerpts of the order (copy enclosed as Annexure-‘A’) are as under-

“...The reference to the date of commencement of the Scheme or the date on which the salary exceeds the ceiling limit are dates from which the option exercised are to be reckoned with for calculation of pensionable salary. The said dates are not cut-off dates to determine the eligibility of the employer-employee to indicate their option under the proviso to clause 11(3) of the pension Scheme ...

A beneficial scheme, in our considered view ought not to be allowed to be defeated by reference to a cut-off date, particularly, in a situation where (as in the present case) the employer had deposited 12% of the actual salary and not 12% of the ceiling limit of Rs.5,000/- or Rs. 6,500/- per month, as the case may be.

We do not see how exercise of option under paragraph 26 of the Provident Fund Scheme can be construed to estop the employees from exercising a similar option under Paragraph 11(3). If both the employer and the employee opt for deposit against the actual salary and not the ceiling amount, exercise of option under Paragraph 26 of the Provident Fund Sch. ne is inevitable. Exercise of option under Paragraph 26(4) is a necessary precursor to exercise of option under clause 11(3). Exercise of such option, therefore, would not foreclose the exercise of further option under clause 11(3) of the Pension Scheme unless the circumstances warranting such foreclosure are clearly indicated.
The above apart, in a situation where the deposit of the employer's share at 12% has been on the actual salary and not the ceiling amount, we do not see how the Provident Fund Commissioner could have been aggrieved to file the LPA before the Division bench of the High Court. All that the Provident Fund Commissioner is required to do in the case is an adjustment of accounts which in turn would have benefitted some of the employees. At best what the Provident Commissioner could do and which we permit him to do under the present order is to seek a return of all such amounts that the concerned employees may have taken or withdrawn from their Provident Fund Account before granting them the benefit of the proviso to Clause 11(3) of the Pension Scheme. Once such return is made in whichever cases such return is due, consequential benefits in terms of this order will be granted to the said employee.

3. A background note for compliance of the Hon'ble Court orders was placed before Senior Officers of Head Office, EPFO for consideration and opinion in the matter. After going through the Supreme Court orders and background note, it was unanimously agreed to recommend to comply with the orders of the Courts, in particular, order of the Hon'ble Supreme Court in SLP No.33032-33033 in the matter of R.C. Gupta & others.

4. However, considering the wider implication and needing uniform compliance for all such type of cases including the petitioners and also having financial bearing on the Pension Fund, it was decided that the matter may be placed before the Pension and EDLI Implementation Committee, a committee formed by the CBT in respect of policy matters related to Pension and EDLI. (Copy of the minutes of the Minutes enclosed as Annexure ‘B’)

5. Accordingly, the matter was placed as a separate agenda(Item No.3) before the Pension & EDLI Implementation Committee in its meeting held on 08.12.2016. The agenda item was deliberated at length and the Committee unanimously decided to comply with the orders of the Hon'ble Supreme Court in SLP No.33032-33033 of 2015 in the matter of Shri R.C. Gupta & Others Vs. RPFC (Shimla) & Others, in respect of all similar cases to avoid further litigation in this regard. (Copy of the minutes of the Minutes enclosed as Annexure ‘C’)

6. However, it was agreed that compliance may be made immediately in respect of the Provident Fund & Pension Members including superannuated cases whose accounts are maintained by EPFO as their details are already available with EPFO and contribution on higher wages has been received by EPFO. Their pension settlement may be regulated in accordance with the order of the Hon'ble Supreme Court by taking joint option from the employee and the employer and transfer/payment to Pension Fund as per details of payable contributions with interest as applicable.

7. In respect of those members of Exempted Provident Fund Trusts whose contribution on higher wages has not been received by EPFO, it was decided that their cases may be examined on verification of books of record of the exempted establishment and the trust regarding compliance to Provident Fund and Pension Fund as per the provisions of the EPF Scheme 1952 and Employees Pension Scheme 1995 and the information may be submitted to the committee.

8. As the matter is having financial bearing on the Pension Fund and as per the recommendation of the Pension and EDLI Implementation Committee it was placed as a separate agenda item in the 215th meeting of CBT held on 19.12.2016 in Bengaluru. The CBT approved the proposal contained in the agenda with.
recommendation to the government. (Minutes of the CBT meeting enclosed as Annexure 'D') for implementation.

9. Under the circumstances mentioned as above, it is proposed that administrative instructions may be allowed to be issued by EPFO to allow members of the Employees' Pension Scheme 1995 who had contributed on higher wages exceeding the statutory wage ceiling of Rs. 6500/- in the Provident Fund to divert 8.33% of the salary exceeding Rs. 6500/- to the Pension Fund with up-to-date interest as declared under EPF Scheme, 1952 from time to time to get the benefit of pension on higher salary on receipt of joint option of the Employer and Employee. This will avoid unnecessary litigation in future. The financial liability in implementing the Hon'ble Supreme Court order will be met from the Pension Fund.

10. Since amendment for contribution under EPS' 95 exceeding wage ceiling of Rs. 15,000/- per month has been effected from 01.09.2014 the option on contribution exceeding wage ceiling of Rs. 5000/- or Rs. 6500/- will be restricted accordingly for the period up 31.08.2014.

[This issues with the approval of the CPFC].

(S.K. THAKUR)
Additional P.F. Commissioner-I(Pension)

Sh. R.K. Gupta, Joint Secretary

U.O. No. Pension-I/12/33/EPF Amendment/96/Vol.II/ Dated: 5/1/17
No R-15011/01/2017-SS.II
Government of India
Ministry of Labour & Employment
Shram Shakti Bhawan, Rafi Marg

New Delhi dated the 16 March, 2017

To,
The Central Provident Fund Commissioner,
Employees Provident Fund Organisation,
Bhashyaya Nilghii Bhawan,
4, Bhikaji Cama Place,
New Delhi-110066.

Subject:- Allowing members of the Employees’ Pension Scheme, 1995 the benefit of the actual salary in the Pension Fund exceeding wage limit of either Rs. 5000/- or Rs. 6500/- per month from the effective date respectively as per the Hon’ble Supreme Court’s Order in the matter of R.C. Gupta & others v/s RPFC, Shimla in SLP No.33032-33033 of 2015 – Reg.

Sir,

I am directed to refer to EPFO’s U.O. No. Pension-I/12/33/EPS Amendment/96/II/1839 dated 10.01.2017 on the above mentioned subject and to convey the approval of the competent authority to allow EPFO to issue administrative instructions to allow members of the Employees’ Pension Scheme, 1995 who had contributed on higher wages exceeding the statutory wage ceiling of Rs. 6500/- in the Provident Fund to divert 8.33% of the salary exceeding Rs. 6500/- to the Pension Fund with up to date interest as declared under EPF Scheme, 1952 from time to time to get the benefit of pension on higher salary on receipt of joint option of the Employer and Employee.

2. EPFO is also directed to ensure that the instructions (to be issued) are in accordance with the Hon’ble Supreme Court’s order in SLP No.33032-33033 of 2015 and as per the provisions of the EPF & MP Act, 1952 and Schemes framed thereunder.

3. This approval is subject to the condition that it will not have any financial liability on the part of Government of India.

This issues with the approval of Hon’ble Minister of State (Independent Charge) for Labour and Employment.

Yours faithfully,

(Navil Kapur)
Under Secretary to the Government of India
Telefax: 23766938
Minutes of 39th Meeting of Pension & EDLI Implementation Committee

Date: 12th April, 2017

Venue: Conference Hall,
Employees Provident Fund Organisation,
Head office, Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place, New Delhi-66.

Present:

1. Dr. V.P. Joy, Central Provident Fund Commissioner
   Chairman
2. Shri Subhash Kumar, U.S. (MoL&E)
   Member
3. Shri G.P. Srivastava, Employers’ Representative, CBT (EPF)
   Member
4. Shri Vrijesh Upadhyay, Employees’ Representative, CBT (EPF)
   Member
5. Shri D.L. Sachdev, Employees’ Representative, CBT (EPF)
   Member
6. Dr. S.K. Thakur, ACC-HQ (Gujarat)
   Special invitee
7. Shri R.M. Verma, ACC-II (Pension)
   Convenor

Shri Arun Goel, Additional Secretary & Financial Advisor (MoL&E). Shri R.S. Maker, Employers’ Representative, CBT (EPF), the representative of PFRDA and Shri Jayesh D. Pandit, Actuary could not attend the meeting.

Central P.F. Commissioner welcomed the members of the Pension and EDLI Implementation Committee (PEIC) and introduced the agenda items in brief before the committee for consideration.

With these opening remarks he requested ACC-II (Pension) to take up the matters for discussion as per agenda note. Accordingly, the agenda items were placed for consideration of the committee.
Item No.1 Confirmation of minutes of the 38th meeting of the Pension & EDLI Implementation Committee.

Decision/Recommendation: The PEIC confirmed the minutes of the 38th meeting as circulated.

Item No.2 Action Taken Report on the 38th meeting/decision.

Decision/Recommendation: The PEIC took note of the Action taken report placed before the committee.

Item No.3 Decision on Aadhar identification of beneficiaries of the pension scheme.

The information was noted as contained in the agenda note and noted the actions already taken in this regard for getting digital life certificate from pensioners.

Item No.4 Amendments in EDLI Scheme 1976 for introducing minimum assurance amount on death in service and loyalty cum life benefit to PF members on superannuation.

The agenda item was deliberated at length. The proposal was welcomed and approved by the committee for placing the same before the CBT for making necessary amendment in the scheme. The members of the committee also suggested that this provision should be made known to all such members of the scheme through wide publicity and written communication after approval of the same by the Government.

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

(Dr. V.P. Joy)
Central P.F. Commissioner
and Chairman, PEIC, CBT, EPF.