



कर्मचारी भविष्य निधि संगठन
EMPLOYEES' PROVIDENT FUND ORGANISATION

(श्रम मंत्रालय, भारत सरकार)
(MINISTRY OF LABOUR GOVT. OF INDIA)
(उप क्षेत्रीय कार्यालय)
(SUB-REGIONAL OFFICE)

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VUDA Layout, N.A.D.Post, Marrisalem, Visakhapatnam-530 009 (A.P.)

सं. No. AP/6986/CC/Exem/2004/ 1074.

दिनांक : 08.07.2004
Date :

To
The Manager (F & A)
M/s Visakhapatnam Steel Plant,
Pay & P.F. Sections,
Behind ED (Works) Building,
Visakhapatnam - 530 031.

Sub: EPF & MP Act, 1952 - Acceptance of options
to contribute on higher wages in respect of
employees of Visakhapatnam Steel Plant,
under EPS' 1995 - Regarding.
Ref: Your letter No. VSP/FIN/EPS/2004-05/
dated 7.6.2004. - - -

Sir,

Please refer to your letter under reference,
wherein you had sought clarification regarding " whether
the employees who had earlier opted out of Employees'
Pension Scheme, 1995 can be allowed to contribute to the
pension Fund Over and above the statutory limit of
Rs. 6,500/- and avail benefits accordingly.

Clarification has been received from the Head
Office vide their letter No. Pen-4(2)96/SLP/Vol.v/16598
dated 22.6.2004 and the matter is as under.

1. If the employees had contributed on the full salary to EPS from 15.11.95 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 EPFS, 1971, then they are not allowed to contribute to pension 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.

Hence, you are, advised to comply accordingly and furnish the details of the investments and interest earned on the investments out of EPS contributions.

Yours faithfully,



(K.SUBRAHMANYAM)
ASST. P.F. COMMISSIONER
VISAKHAPATNAM.

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कर्मचारी भविष्य निधि संगठन
(बन संघलय, भारत सरकार)
Employees' Provident Fund Organisation

(Ministry of Labour, Govt. Of India)

मुख्य कार्यालय/ Head Office

भविष्य निधि भवन, 14-भिकाजी कामा प्लेस, नई दिल्ली-110066

Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066

No Pension/Misc./2005 / 65836

Dated 22-11-2006

22 NOV 2006

To

All Regional Provident Fund Commissioners
Regional Offices/ Sub Regional Offices

Subject- Contribution on salary exceeding the statutory limit (Para 11(3)) of
EPS'95

Attention is invited to the following circulars:-

1. Circular No Pen/4(2)96/SLP/Vol.V/16598 dated 26.6.2004.
2. Letter No. Pen 4 (38).96/WB/59867 dated 1.12.2004.
3. Circular No.Pen/Misc/2006/Vol.I dated 25.4.2006.

Instructions have already been issued by this office on the issue of contributing on a pay exceeding the statutory limit under Para 11(3) of the Employees' Pension Scheme, 1995. However, the field offices are finding it difficult to take decisions. As a result this office has been receiving a number of references from field offices, not to speak of the volley of grievances being aired by the members through various channels. Therefore it has become necessary for this office to issue guidelines in a more clear term.

While deciding the issue the following provisions may be kept in mind:

- 1) Under EPS there is no contribution payable separately. Under Para 3 of the EPS, from and out of the contributions payable by the employer in each month under Section 6 of the Act, the employer shall remit a part of contribution representing 8.33 percent of the Employees pay to the EPS. Therefore, it is only the employer's share of contribution payable under Employees Provident Fund Scheme, 1952 that is being diverted to EPS to the extent as aforesaid.
- 2) Accordingly, the option to contribute on a pay exceeding statutory limit is available to a member only under Para 26(6) of the Employees Provident Fund Scheme, 1952 and not under Para 11(3) of the EPS.

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3) In fact Para 11(3) clarifies the methodology of determination of pensionable salary only.

4) Since opting to contribute on higher pay to EPS means a contribution on higher pay to Provident Fund as well, Para 11(3) provision will apply to only such of those employees who have been contributing on a higher pay under Para 26(6) of the Employees Provident Fund Scheme, 1952.

Accordingly the grievances may be classified into the following categories and the issues be decided.

1. In all such cases where the employee has contributed over and above the statutory limit either from 16.3.1996 or from the month in which his salary exceeded the limit after having exercised his option and the same having been accepted by the Office, the pensionable salary will be based on such salary.

2. If the option was not exercised at the time of salary crossing the statutory limit or on 16.3.1996, as the case may be and the contribution was deposited on salary exceeding the limit after receiving instructions from the Office before the date of issue of circular dated 22.6.2004, the department has the vicarious liability (restricted to the specific case only) of honouring such a commitment and hence the pensionable salary shall be on the actual salary i.e. on the salary (exceeding the statutory limit) on which the contribution was paid. However, this is subject to i) a satisfactory explanation to be obtained and taken on record from the officer who made such a commitment. ii) the employee having remitted the administration charges and other contributions on such higher salary.

3. In the cases where no option was given or no commitment was made by the concerned Office, but the contribution on higher pay was deposited by the establishment/ employee, on their own such excess contributions will be considered as erroneous contributions and the pensionable salary will be restricted to the statutory ceiling existing from time to time.

So all field offices are requested to consider the grievances voiced under Para 11(3) in accordance with the above clarification and decide the issues at their level without referring them to the Head Office unnecessarily.

(This issues with the approval of CPFC)

Yours faithfully,

(RAJESH BANSAL)
ADDL. CENTRAL P.F. COMMISSIONER (PENSION)

17/11/2016