

प्रोजेक्ट्स एंड डेवलपमेंट इंडिया लिमिटेड

निगमित कार्मिक एवं प्रशासन विभाग : नौएडा

प्रसंग सं. पीडीएन/सी.पी.एंड ए. /EPFO-EPS-95

दिनांक:09.02.2023

Sub – Submission of 'Joint Option Form' under Para 11(3) and Para 11(4) of Employees' Pension Scheme, 1995 as per direction given by Hon'ble Supreme Court vide Order dated 04th November, 2022 passed in SLP No. 8658-8659 of 2019 titled EPFO Vs Sunil Kumar B. & ORS. ETC.

As per para 44(ii) of the Order dated 04th November, 2022 of Hon'ble Supreme Court passed in SPL NO. 8658-8659 of 2019, amendment to the Pension Scheme brought about by the Notification No.G.S.R.609(E) dated 22nd August , 2014 shall apply to the employees of exempted establishments in the same manner as the employees of regular establishments. Therefore, employees of Projects & Development India Ltd. (PDIL) are also eligible for submission of joint option form for availing pension on actual/higher salary.

However, the employees who had attained the age of 58 years prior to 01st September, 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership, hence they would not be entitled of the benefit of this judgement.

Employees who have not attained the age of 58 years as on 01st September, 2014, only are eligible for submission of joint option form under para -11(3) of the EPS'95 Scheme.

All working/retired/superannuated/resigned/VRS employees of the Company who are/were members of the EPS'95 Scheme as on 1st September, 2014 and are willing to exercise contribution on actual wages towards pension fund under EPS'95 are hereby required to fill and submit requisite **'Joint Option Form'** and declaration to get the benefit of pension on actual salary as directed by the Hon'ble Supreme Court. Online option of **'Joint Option Form'** and declaration (**Annexure – A**).

Similarly, retired/superannuated/resigned/VRS employees may submit their option form by hand or through speed post/courier. For non-receipt of option form as mentioned above, PDIL will not be liable for the consequences.

The following may please be noted:

1. On acceptance of Joint option from the employee/ex-employees by the concerned Regional PF Commissioner, 8.33% share of employer's contribution on such higher salary along with interest prescribed will be remitted towards pension fund under EPS 95 to EPFO.
2. Employees/ex-employees are liable to pay any shortfall in employer's contribution to be remitted on account of exercising joint option for higher pension under EPS'95.
3. The joint option form shall be subject to acceptance by EPFO as per rules.
4. Follow up is on also being done with EPFO for providing the guidance & methodology for submission of joint declaration and remittance of balance contribution along with interest. Any formality and obligation prescribed by the EPFO shall be complied by the employees/ex-employed exercising option of pension on higher wages.
5. It is expected that, EPFO may issue separate circular/guidelines specifying the mode and manner of deposit of amount, exercising option and for submission of joint declaration as per the paragraph-43 read with paragraph 44(iv) of the SC Judgement dated 04.11.2022, in respect of employees who were member of the EPS-95 as on 01-09-2014 (Eligible Employees). Employees option for pension on higher wages will have to comply as per the revised requirements as and when indicated by EPFO.
6. Every Employee/Ex-employee who had joined PDIL from any other organizations in which he/she was member of EPS'95 scheme should fill **Annexure-B** for every previous organization.

7. Every Employee/Ex-employee who had joined PDIL from any other organizations in which he/she was member of EPS'95 scheme should add details of their service in every previous organization in current EPS number.
8. The option exercised is irreversible at later date and no change of option shall be entertained under any circumstances.
9. The Joint option form duly filled in every manner should be submitted by concerned employee/ex-employee to the HR Department, handling delivery to the persons officers whose names are mentioned above, latest by 22nd February, 2023.
10. So far guidelines from EPFO are not yet received describing the modalities of exercising the options and further remittance of arrears of pension contribution along with interest if any. But in order to exercise option within time limit i.e. 3rd March, 2023, we are appealing to employees/ex-employees to submit their joint option online as well as in the prescribed format for availing higher pension.
11. In order to provide details of past actual salary on which higher contribution is payable (difference in contribution) and address the discrepancies, queries, etc. raised by employees/ex-employees, a dedicated team has already been formed exclusively to guide the employees.
12. **Employees may please note that this amount is without the interest component and detailed guidelines on the final amount that the employee may have to pay to EPFO are awaited from EPFO.**
13. These instructions are subject to directions/instructions of EPFO and/or decision of Court of Law (if any) issued from time to time in this regard.

Please note that the option form in prescribed format must reach PDIL by 22nd February 2023 either by hand or through speed post in a hard copy. The following officers are authorized to sign the Joint option form on behalf of PDIL:

1. Sri Narain Singh, Dy. Manager-Finance, Noida Unit
2. Sri Santanu Chatterjee, Dy. Manager-Finance, Noida Unit

In case, if you are not opting higher pension option the same may be appropriately communicated to HOD, P&A Department of Noida/Vadodara Unit. Non-receipt of any communication will be treated as not exercising the option for higher pension and PDIL will not be responsible for such consequences.

It may be noted that this Circular is being issued for implementation of the Hon'ble Supreme Court Judgement only to adhere to the time limit and is subject to any ratification(s)/guidelines(s) that may be issued by EPFO from time to time and/or any judicial pronouncements/statutory amendments. Therefore, mere submission of the Joint Option Form by employees/ex-employees does not confer any right to receive or obligation on PDIL to pay higher pension to them.

Please adhere to the deadline to submit Joint Application Form if interested to exercise option for higher Pension. Those who have already submitted the filled in Joint Application Form need not submit again.


(संदीप कुमार पुथल)

अपर-महाप्रबंधक एवं विभागाध्यक्ष (मा.सं.- निगमित)

To,
All concerned

प्रतिलिपि,

अध्यक्ष एवं प्रबंध निदेशक सचिवालय /निदेशक (वित्त) सचिवालय
महाप्रबंधक, नौएडा
विभागाध्यक्ष- नौएडा/वडोदरा, विभागाध्यक्ष (का. एवं प्रशा.)- नौएडा/वडोदरा
विभागाध्यक्ष (वित्त)-नौएडा/वडोदरा, विभागाध्यक्ष (कंप्यूटर) -नौएडा
कार्यकारी अधिकारी, भविष्य निधि ट्रस्ट-नौएडा

Joint Option under Erstwhile Para 11 (3) & Para 11 (4) of EPS'95

To,

The Regional P.F. Commissioner,
Bhhgirathi complex,
Karma Toli Road, Near Circuit House,
Karmatoli, Ranchi, Jharkhand-834001

Sub: Joint Option under Para 11 (3) and Para 11 (4) of Employees Pension Scheme, 1995 based upon the Hon'ble Supreme Court's order in SLP No. 8658-8659 year 2019 Titled EPFO Vs Sunil Kumar pronounced on 04th November 2022— Reg.

Reference is invited towards Para 43 and Para 44 (ii) & (iv) of the aforesaid Order dated 04th November 2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal wherein the eligible employees/ex-employees and his/her employer are required to submit a joint option under erstwhile Para 11 (3) & 11 (4) of the EPS'95 within a period of 4 months from the date of judgement.

Since no format for the joint option has been provided by EPFO (also not available on EPFO's website), based on similar formats issued by various ROs in the year 2017 & 2018 while implementing the R C Gupta judgement; in order to comply with the above requirement, we (employee/ex-employee and employer) are, hereby submitting the joint option form as required under erstwhile Para 11 (3) & Para 11 (4) of employees' Pension Scheme- 1995 for claiming pension on actual salary instead of ceiling salary limit of Rs. 15000/-.

Particulars of the employee are as under: -

Sl	Particular	Details
1	Name	
2	EPS Account Number	
3	EPS Account Number Previous organization (if any)	
4	EPS Account Number Previous organization (if any)	
5	EPS Account Number Previous organization (if any)	
6	Aadhaar Number	
7	UAN No.	
8	PPO Number (If any) attach copy	
9	Date of Leaving service or attained the age of 58 years which was earlier (if applicable)	
10	Correspondence Address and Mobile Number	

Declaration by Employee/ Ex-employee

It is certified that immediately after joining in PDIL, I had been contributing towards the Provident Fund on my actual salary / wages and an equal amount used to be contributed in my PF by the employer also as provided under Para 26 (6) of EPS Scheme 1952. It is to further certify that an amount @ 8.33% of the statutory ceiling amount i.e. Rs. 15000 (earlier Rs. 5000/- or Rs. 6500/-) out of the employers contribution had been remitted every month towards Employees' Pension Scheme 1995 since 16th November 1995 or the date of joining whichever is later onwards.

I, do hereby opt for diverting 8.33% of my actual salary/wages out of employers contribution towards pension fund (after adjusting the amount already diverted in EPS'95 on ceiling wages) from the date of joining the EPS' 95 till my attaining the age of 58 years/VRS/resignation.

(Tick whichever is applicable)

Since I have already withdrawn entire Provident Fund on my retirement/VRS/resignation, I am ready to pay the differential amount that I had taken/withdrawn after my exit/retirement;

In case my Provident Fund amount (Employer) becomes short on a/c of non refundable advance, I am ready to pay the differential amount that I had taken / withdrawn;

thus making me eligible for drawing pension on the basis of average of last 60 months salary / wages as pensionable salary / wages i.e. based on my Actual salary / wages instead of being based on the statutory limit.

That I retired on attaining the age of 58 years for the purpose of EPS 1995 after 01.09.2014 on(strike out if not applicable)

It may not be out of place to mention that joint option Form submitted in October 2020 by some employees were rejected by EPFO, Regional Office, Ranchi Jharkhand vide their letter No. JH/RO/RNC/Ex.Compl./ 2182/ 2021/543-A/8011 Dated 07.01.2021 on the ground that PROJECTS & DEVELOPMENT INDIA LTD is an exempted establishment under 17(1)(a) of the EPF & MP Act.1952.

(Attached)

This notion of EPFO for denial higher pension to exempted establishment has been nullified by Hon'ble Supreme Court vide para 44(ii) of its order dated 04.11.2022 in the matter between the EPFO & Anr. Etc. Vs. Sunil Kumar B . & Ors. , SLP (C) Nos. 8658-8659 of 2019.

I also undertake that if any other legal formality is required in this regard, I am ready to do accordingly.

Place: -

Date:

Signature:-

Name:-

Emp. No:-

Undertaking by the Employer

I, (Name and Designation) being the authorized signatory of M/s Projects & Development India Limited do hereby certify that Mr / an employee of this establishment with PF A/c No. **JH/RAN/2182/2544**

During his/her service, we being the employer has been deducting & contributing towards Provident Fund on his actual salary/higher wages, as per the terms of Para 26(6) of the EPF Scheme 1952.

I further undertake that the direction given by Hon'ble Supreme Court of India in para 44 (vii) of its order dated 04.11.2022 in the matter between the EPFO & Anr. Etc. Vs. Sunil Kumar B . & Ors. , SLP (C) Nos. 8658-8659 of 2019 will be complied on receipt of specific direction from Govt. This establishment has no objection if an amount of 8.33% on his actual/higher wages is diverted from his Provident fund account (employer's share) towards his Pension Fund-1995 account w.e.f. 16.11.1995 i.e. from the date of commencement of the Employees Pension Scheme or when his salary exceeded the statutory limit whichever is later along with interest as declared under EPF Scheme, 1952 from time to time making him eligible for drawing higher pension on the basis of Pensionable salary based on his actual/higher wages instead of on statutory limit as per Para 11(3) of the EPS'95 Scheme.

The amount to be transferred from the **Projects & Development India Limited, EPF trust in respect of member employee submitting this joint option form may please be communicated to us at the earliest.**

The details of monthly contribution made by the employee since his joining which is even prior to / after 16.11.1995 i.e. for the services rendered in this organisation is available with us.

I hereby certify that the particulars furnished are correct as per the records of the personal file, the documents presented by the employees and declared thereof for verification.

Place

Date:

(Signature with official seal)

Encl: Aadhar Card

NB: This application forthwith to be submitted to concerned PFC/APFC through email, speed post and physically.



To be filled by the employee/ex-employee who were joined PDIL from any other organization in which they were member of EPS'95 Scheme: -

(Separate Sheet should be filled for every previous organization in which employee was member of EPS'95)

S. No.	Particular	Details
1	Name of Employee	
2	Previous Establishments Name	
3	Previous Establishments Address	
4	Previous Establishments PF Code	
5	PF account is held by: (Name of EPF Office /PF trust)	
6	Date of Joining EPS' 95 in Previous Establishment	
7	Date of Exit EPS'95 in Previous Establishment	
8	EPS number of Previous Establishment	
9	UAN of previous Establishment	

- Supporting PF Slip indicating EPS number should be attached.

The above particulars are correct, and I am liable to bear any consequence arises based on the above declared facts.

Signature of the employee/ex-employee Name of the

Employee.....

Employee Code.....