

Circular No – 048 / 2023

Date: 13.04.2023

To
All Members of The Association

**KEA TAKES UP WITH THE CENTRAL PROVIDENT FUND
COMMISSIONER, EPFO TO REVISE THE GUIDELINES AND
DISPENSE WITH PRODUCTION OF PROOF OF DECLARATION
UNDER PARA 26(6) FOR CLAIMING HIGHER PENSION AS
DIRECTED BY THE KERALA HIGH COURT IN ITS ORDER DATED
12.04.2023**

1. KEA had taken up the matter with Central Provident Fund Commissioner to reconsider the EPFO decision for submission of the joint declaration under para 26(6) of EPF Scheme along with application for claiming higher pension in terms of the decision of the Supreme Court in the case of EPFO Vs. Sunil Kumar.B decided on 04.11.2022. Copy of the letter addressed to Central provident Fund Commissioner was circulated to the members vide KEA Circular No.29/2023 dated 21.02.2023.
2. Some of the retired employees who were members of the Employees Pension Fund and unable to produce declaration under para 26(6) filed writ petitions before the High Court of Kerala with a prayer as under:
 - to quash the direction issued by EPFO for submission of declaration under para 26 (6) of EPF Scheme and
 - direct the official respondents of the EPFO to disable the link to the extent not permitting to exercise option under para 26 (6) in

the light of judgment dated 04.11.2022 of the Hon'ble Supreme Court in EPFO Vs Sunil Kumar.

3. The Writ Petitioners were heard on various dates and after further hearing on 10.04.2023, the High Court of Kerala has passed interim orders on 12.04.2023. The operative position of the order reads as under:

“In the light above of the observations, I am inclined to pass an interim order; Accordingly, the Employees Provident Fund Organization and the authorities under the same are directed to make adequate provisions in their online facility to enable the employees/pensioners to furnish the options in tune with the directions of the Honourable Supreme Court, without the production of the copies of option under paragraph 26(6) of the Scheme, 1952 and the details thereof, for the time being. If appropriate modifications cannot be made in the online facility, feasible alternate arrangements, including the permission to submit hard copies of the options, shall be made/granted. The facilities mentioned above shall be made available to all the employees/pensioners within a period of ten days from today.”

4. The Association has again taken up the matter with Central Provident Fund Commissioner to take immediate action for implementation of interim order of the Hon'ble High court of Kerala and issue suitable amendments to the to your Internal Circular dated 29.12.2022 and



also subsequent letter dated 20.02.2023, besides making appropriate changes in the Format for claiming higher pension online mode.

5. Copy of Association Letter of date is attached for the information of members.

For, KARNATAKA EMPLOYERS' ASSOCIATION

**Sd/
[B C Prabhakar]
President**

KARNATAKA EMPLOYERS' ASSOCIATION

NO.74, 2nd FLOOR, SHANKARA ARCADE, VANIVILAS ROAD,
BASAVANAGUDI, BENGALURU - 560 004
Reg. No. TU 507 / 20-3-1962



B.C. Prabhakar, B.A., B.L.,
President

Date: 13.04.2023

The Central Provident Fund Commissioner
Employees' Provident Fund Organization
Bhavishya Nidhi Bhawan
No.14, Bhikaji Cama Place
New Delhi – 110066.

Sir,

**Sub: Implementation of Hon'ble Supreme Court Judgment
on claim for higher pension in the case of EPFO Vs.
Sunil Kumar B, decided on 04.11.2022 in Special
Leave Petition (C) Nos. 8658-8659 of 2019 – Need to
extend the time.**

1. The Provident Fund Organization has released instructions for implementation of judgment of Supreme Court in the case of EPFO vs. Sunil Kumar B. decided on 04.11.1022 vide Internal Circular No. Pension/ 2022/54877/15149 dated 29.12.2022.
2. Further instructions have been issued by the CPFC on the above subject vide Internal Circular No. Pension/2022/56258/16541 dated 20.02.2023 for compliance with the orders contained in Paras 44(iii) and (iv) read with Para 44(v) of the Hon'ble Supreme Court judgment dated 04.11.2022.
3. The Association in its letter dated 21.02.2023 had pointed out various difficulties being faced by the Pensioners as well as the employees who continue on the rolls and who would like to opt for higher pension in terms of the Judgment of Hon'ble Supreme Court

referred to above. The Association had also requested your good office to have the matter reconsidered and revise the instructions by deleting para-5 of the Circular dated 29.12.2022 and direct that the Department shall not insist proof of exercise of option under paragraph 26(6) of the EPF Scheme.

4. The Association had also requested that EPFO may clearly clarify that the benefit of higher pension can be claimed by all such employees who have contributed to the Provident Fund on higher salary/wages, subject to exercise of option as directed by the Hon'ble Supreme Court in the case of Sunil Kumar B. Copy of Association letter dated 21.02.2023 is enclosed for your ready reference.

5. We are now enclosing a copy of the interim order dated 12.04.2023 passed by the Hon'ble High Court of Kerala in W.P. (C) No.8979/2023 and other connected 13 writ petitions.

6. We draw your attention to operative portion of the order dated 12.04.2023 which reads as under:

"In the light above of the observations, I am inclined to pass an interim order; Accordingly, the Employees Provident Fund Organization and the authorities under the same are directed to make adequate provisions in their online facility to enable the employees/pensioners to furnish the options in tune with the directions of the Honourable Supreme Court, without the production of the copies of option under paragraph 26(6) of the Scheme, 1952 and the details thereof, for the time being. If appropriate modifications cannot be made in the online facility, feasible alternate arrangements, including the permission to submit hard copies of the options, shall be made/granted. The facilities mentioned above shall be made available to all the employees/pensioners within a period of ten days from today."

7. The Association, therefore, requests your goodself to take immediate action for implementation of interim order of the Hon'ble High court of Kerala and issue suitable amendments to the to your Internal Circular dated 29.12.2022 and also subsequent letter dated 20.02.2023, besides making appropriate changes in the Format for claiming higher pension online.

8. The last date stipulated by the EPFO for uploading the claims is 03.05.2023. The time available to the Pensioners and other eligible employees spread over across the country is fast approaching. An immediate action in the matter would be of great help to all the concerned.

For Karnataka Employers' Association

B. C. Prabhakar

**B.C. Prabhakar
President**

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CC: Zonal, RPFC, Bengaluru