

Circular No – 061 / 2023

Date: 06.05.2023

To
All Members of The Association

ADMIN CHARGES OF 1.16% ON HIGHER CONTRIBUTION TO PF BE ADJUSTED OUT OF EMPLOYERS CONTRIBUTION

1. The Hon'ble Supreme Court vide its judgment dated 04.11.2022 in the case of EPFO Vs. Sunil Kumar.B and Others had held that the requirement of the members to contribute at the rate of 1.16% of their salary exceeding Rs.15,000/- per month as additional contribution as ultra vires the provisions of EPF and MP Act 1952. The Hon'ble Supreme Court had also suspended operation of the above, for a period of 6 months and directed the authorities to make adjustments in the EPF Scheme.
2. The Government of India Ministry of Labour in exercise of the powers conferred by sub clause (i) of clause (b) of sub section 1 of Section 16 of Code on Social Security 2020 has issued the notification no. SO.2061(E) dated 03.05.2023 published in Gazette of India dated 03.05.2023. Copy of the notification is enclosed.
3. The notification inter-alia lays down that members who have exercised joint option for contributing under the provisions of paragraph 11 of the Employee's Pension Scheme 1995 and who are found eligible for higher pension, the employer's contribution shall be nine and forty ninth percent (9.49%) of the basic wages, dearness allowance and retaining allowance of each member by increasing one and sixteenth per cent. (1.16%) from the extant eight and one third per cent. (8.33%) and the increased contribution shall be applicable to basic wages, dearness allowance and retaining allowance to the extent such



basic wages, dearness allowance and retaining allowance exceed fifteen thousand rupees per month.

4. **The notification shall be deemed to have come into force from 01.09.2014. The amount of 1.16% is to be adjusted out of the 12% of the employer's contribution to the provident fund. Accordingly, there is no additional burden on the employer. However, the provident fund accumulation in the account of the employee would stand reduced to the extent of 1.16% of employer's contribution and the same would be diverted to the pension fund. The employees who are opting for higher pension may treat this aspect in view before deciding to exercise their option for higher pension.**
5. KEA has been updating the establishment about the directions issued by the EPFO for implementation of the judgment of the Supreme Court in the case of EPFO Vs. Sunil Kumar.B. The following are the other circulars issued by the KEA. "No. 89/2022 dated 07.11.2022, No. 103/2022 dated 30.12.2022 , No. 17/2023 dated 31.01.2023, No. 20/2023 dated 09.02.2023, No. 26/2023 dated 07.02.2023, No. 30/2023 dated 22.02.2023, No. 32/2023 dated 25.02.2023, No. 48/2023 dated 13.04.2023, No. 49/2023 dated 17.04.2023, No. 51/2023 dated 24.04.2023, No. 55/2023 dated 27.04.2023, No. 59/2023 dated 03.05.2023".

For, KARNATAKA EMPLOYERS' ASSOCIATION

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



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श्रम और रोजगार मंत्रालय

अधिसूचना

नई दिल्ली, 3 मई, 2023

का.आ. 2061(अ).—माननीय उच्चतम न्यायालय ने कर्मचारी भविष्य निधि संगठन और अन्य बनाम सुनील कुमार बी. और अन्य के साथ टैग किए गए अन्य मामलों में वर्ष 2022 की सिविल अपील संख्या 8143-8144 [2019 की एसएलपी(सि) सं. 8658-8659] में तारीख 4 नवंबर, 2022 के अपने निर्णय में यह अभिनिर्धारित किया कि कर्मचारी पेंशन स्कीम, 1995 के पैरा 11 के उप पैरा 4 के उपबंधों के अधीन अतिरिक्त अभिदाय के रूप में सदस्यों की उनके वेतन के 1.16 प्रतिशत की दर से अभिदाय करने की अपेक्षा उस परिमाण तक, जहां ऐसा वेतन प्रतिमास पन्द्रह हजार रुपए से अधिक हो जाता है, कर्मचारी भविष्य-निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) के उपबंधों के अधिकारातीत है ;

और माननीय उच्चतम न्यायालय ने उक्त निर्णय के पूर्वोक्त उल्लिखित भाग के प्रचालन को छह मास की अवधि के लिए निलंबित कर दिया है तथा प्राधिकारियों को उक्त स्कीम में समायोजन करने का निदेश दिया है ;

और तदनुसार, माननीय उच्चतम न्यायालय के उक्त निदेशों का अनुपालन करने के लिए तथा चूंकि कर्मचारी भविष्य-निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) को सामाजिक सुरक्षा संहिता, 2020 (2020 का 36) में सम्मिलित कर लिया गया है, केंद्रीय सरकार ने उक्त संहिता के सुसंगत उपबंधों को प्रवृत्त करने का विनिश्चय किया है ;

अतः, अब, केंद्रीय सरकार, सामाजिक सुरक्षा संहिता, 2020 (2020 का 36) की धारा 16 की उपधारा (1) के खंड (ख) के उपखंड (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित को अधिसूचित करती है, अर्थात् :--

- (i) उन सदस्यों के संबंध में, जिन्होंने कर्मचारी पेंशन स्कीम, 1995 के पैरा 11 के उपबंधों के अधीन अभिदाय करने के संयुक्त विकल्प का प्रयोग किया है और जिन्हें पात्र पाया गया है, नियोक्ता का अभिदाय, प्रत्येक सदस्य की आधारभूत मजदूरी, महंगाई भत्ते और प्रतिधारण भत्ते का विद्यमान 8.33 प्रतिशत, 1.16 प्रतिशत से बढ़ाकर 9.49 प्रतिशत हो जाएगा ; और
- (ii) बढ़ा हुआ अभिदाय आधारभूत मजदूरी, महंगाई भत्ता तथा प्रतिधारण भत्ते को उस परिमाण तक, जिस तक आधारभूत मजदूरी, महंगाई भत्ता और प्रतिधारण भत्ता पन्द्रह हजार रुपए प्रतिमास से अधिक हो जाता है, के संबंध में लागू होगा ।

2. यह अधिसूचना 1 सितंबर, 2014 को प्रवृत्त हुई समझी जाएगी ।

[फा. सं. आर-15011/02/2023-एसएस -II]

विभा भल्ला, संयुक्त सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION**

New Delhi, the 3rd May, 2023

S.O. 2061(E).—Whereas the Hon'ble Supreme Court had *vide* its Judgment, dated the 4th November, 2022, in Civil Appeal No. 8143-8144 of 2022 [SLP(C) Nos. 8658-8659 of 2019] in the matter of the Employees' Provident Fund Organisation and others *versus* Sunil Kumar B. and others, along with other tagged matters, held the requirement of the members to contribute at the rate of 1.16 per cent. of their salary to the extent such salary exceeds fifteen thousand rupees per month as an additional contribution under the provisions of sub-paragraph (4) of paragraph 11 of the Employees' Pension Scheme, 1995 to be *ultra vires* the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

And whereas, the Hon'ble Supreme Court suspended the operation of the aforementioned part of the said Judgment for a period of six months and directed the authorities to make adjustments in the said Scheme;

And whereas, accordingly, to comply with the said directions of the Hon'ble Supreme Court and since the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) has been subsumed in the Code on Social Security, 2020 (36 of 2020), the Central Government has decided to bring into force the relevant provisions of the said Code;

Now, therefore, in exercise of the powers conferred by sub-clause (i) of clause (b) of sub-section (1) of section 16 of the Code on Social Security, 2020 (36 of 2020), the Central Government hereby notifies the following, namely:-

- (i) in respect of members who have exercised joint option for contributing under the provisions of paragraph 11 of the Employees' Pension Scheme, 1995 and who are found eligible, the employer's contribution shall be nine and forty-ninth per cent. **(9.49%)** of the basic wages, dearness allowance and retaining allowance of each member by increasing one and sixteenth per cent. **(1.16%)** from the extant eight and one-third per cent. **(8.33%)**; and
- (ii) the increased contribution shall be applicable to basic wages, dearness allowance and retaining allowance to the extent such basic wages, dearness allowance and retaining allowance exceed fifteen thousand rupees per month.

2. This notification shall be deemed to have come into force on the 1st day of September, 2014.

[F. No. R-15011/02/2023-SS-II]

VIBHA BHALLA, Jt. Secy.