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KARNATAKA EMPLOYERS' ASSOCIATION

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

Date : 28-01-2019

CIRCULAR No.09/2019

To
All Members of the Association

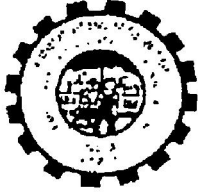
Additional Pension on the basis of PF Contribution over and above Wage Limit of either Rs.5,000/- or Rs.6,500/- per Month

1. The implications of the judgment of the Hon'ble Supreme Court in the case of R.C.Gupta and Others Vs Regional Provident Fund Commissioner, Employees Provident Fund Organization in Civil Appeal No.10013-10014/2016 decided on 4.10.2016 (reported in 2017 (3)LLN-548) have been circulated vide KEA Circular No.-2 of 2019 dated 02.01.2019.
2. The enclosed is the latest guidelines issued by the PF Organisation with regard to processing of the claims for additional pensions by the members of the Pension Scheme who have contributed to the PF/Pension Fund over and above the statutory wage limit applicable prior to 01.09.2014 (Internal Circular No.-Pen-1/12/33/96/Amendment/Vol.IV/16762 dated 22.01.2019).
3. Under EPF Scheme 1952, contribution on wages higher than the statutory wage limit is dealt under paragraph 26 (6). As per the said paragraph for PF contribution on higher wages, joint option of the employee and the employer is to be submitted and the same is required to be accepted by the EPFO.
4. Similarly, as per proviso 11 (3) of EPS, 1995 (as it stood prior to amendment of EPS 1995 w.e.f. 1.9.2014) joint option of the employee and employer was required for remittance of contribution on wages higher than the statutory wage limit for treating such higher salary for the purpose of pensionable salary.
5. The EPFO have revised their guidelines in the matter and the enclosed internal circular instructs the implement the authorities to process the claim for additional payment without insisting for such joint declaration and approval of the PF Department provided the pension contribution on higher wages was already remitted to the pension fund at the relevant period of contribution prior to 01.09.2014.

6. The above directions of PF department will enable the members who have retired from the service prior to 01.09.2014 and had contributed to the pension fund over and above the statutory wage limit to claim for higher pension.
7. The member establishments are requested to circulate KEA Circular No.- 2/2019 dated 02.01.2019 as well as this Circular to their employees who have retired prior to 1.09.2014 and had contributed to the pension fund over and above the statutory wage limit to enable them to claim for additional pension.

for KARNATAKA EMPLOYERS' ASSOCIATION

**sd/-
(B.C. PRABHAKAR)
PRESIDENT**



कर्मचारी भविष्य निधि संगठन
Employees' Provident Fund Organisation
श्रम एवं रोजगार मंत्रालय, भारत सरकार
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No. Pen-I/12/33/96/Amendment/Vol.IV /16762

Dated 22 JAN 2019

To

All Regional P.F. Commissioners (in-Charge of Regions)

Subject: Allowing members of EPS 95 the benefits of pension on actual salary as per the orders of-Hon'ble Supreme Court of India in the matter of R.C. Gupta & ors. Vs RPFC, EPFO & Ors. In SLP No. 33032-33033 of 2015 – regarding.

Sir,

Under the EPF Scheme 1952, contribution on wages higher than the statutory wage limit is dealt under Para 26(6). As per this Para, for provident fund contribution on higher wages, joint option of employee and employer is to be submitted and the same is required to be accepted by EPFO.

2. However, if an employer and employee have contributed under the EPF Scheme, 1952 on wages higher than the statutory wage limit, without joint option of employee & employer, and the EPF Account of the concerned employee has been updated by EPFO on the basis of such contribution received, then by action of employee, employer and EPFO, it can be inferred that joint option of employee and employer has been exercised and accepted by EPFO. Therefore, in such cases, for implementing the directions issued vide Head Office Circular Pension-I/12/33/EPS Amendment/96/Vol.II/34007 dated 23-03-2017, formal joint option of employee and employer should not be insisted.

3. As per the Proviso to Para 11(3) of EPS, 1995 (as it stood prior to amendment of EPS, 1995 w.e.f. 01-09-2014) joint option of employee and employer was required for remittance of contribution on wages higher than the statutory wage limit for treating such higher salary for the purpose of pensionable salary. Therefore, to implement the directions given under H.O circular dated 23-3-2017, joint option of employee and employer for remitting contribution under EPS, 1995 on wages higher than the statutory wage limit is required. However, it has come to the notice of Head Office that in respect of some establishments, pension contribution on higher wages was already remitted in to the Pension Fund at the relevant period of contribution prior to 01-09-2014. in such cases joint option of employer and employee need not be insisted for.

4. With effect from 01-09-2014, the proviso to Para 11(3) of EPS, 1995 has been deleted and Para 11(4) has been added to EPS, 1995. Para 11(4) provides an option to those members of EPS 1995 who were already contributing to the Pension Scheme on actual salary to submit fresh option, within prescribed time limit, to continue to contribute on actual salary. It also specifies that such members shall have to deposit an additional contribution into the Pension Fund at the rate of 1.16% of salary exceeding Rs.15000, from and out of contributions payable by the employees for each month. However, for period prior to 01-09-2014, there is no such provision in EPS 1995 which requires the employees who opt to deposit contribution at actual salary to deposit any additional contribution as specified above.

5. All concerned are directed to accordingly process the applications received for revision of pension on higher wages.

Yours faithfully,


08/01/2017
(Rajesh Bansal)

Additional Central P.F. Commissioner (HQ) - Pension

Copy to:

All Additional Central PF Commissioners — for information
(in-Charge of Zones)

