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KARNATAKA EMPLOYERS' ASSOCIATION

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Reg. No. TU 507 / 20-3-1962

Date : 21-11-2010

CIRCULAR No.69/2010

To
All Members of the Association

Sub: Amendments to EPF Scheme covering International Workers.

1. The Members have been informed vide KEA Circular No. 63/2008 dated 30.10.2008 and 3/2009 dated 20.1.2009 about the extending Application of Employees' Provident Fund Scheme and Employees' Pension Funds Scheme to International Workers (IW). The Guidelines issued by the Employees' Provident Fund Organisation were circulated vide Circular No. 14/2009 dated 4.3.2009.

2. The Ministry of Labour has now introduced further amendments to the above Schemes which have been notified as the Employees' Provident Funds (Amendment) Scheme, 2010 and the Employees' Pension (Amendment) Scheme, 2010. The Amendments have been notified in the Gazette of India dated 11.9.2010.

3. The most note-worthy change is that International Workers will now only be permitted to withdraw the accumulated balance to their credit in the fund, if they retire from the service in the Establishment after attaining the age of 58 years. This amendment is a major deviation from the earlier position wherein IWs were entitled to withdraw the accumulated balance at the end of their employment in India, ie., on migration from India for permanent settlement abroad or taking up employment abroad.

4. Withdrawals are permitted only under the following circumstances:-

   - On retirement from service in the establishment after attaining 58 years of age.

   - On retirement on account of permanent and total incapacity to work due to bodily or mental infirmity as certified by the prescribed medical officer / registered practitioner.

   - On suffering from tuberculosis, leprosy or cancer, even if contracted after leaving the service on the grounds of illness but before payment has been authorised.

- Upon satisfying the conditions specified in the Social Security Agreement (SSA) entered into between the Government of India and the other country in respect of a member covered under such agreement.

- Where salary is paid in foreign currency, to covert the salary into INR, the scheme now provides for the use of telegraphic transfer buying rate (“TT buying rate”) offered by the State Bank of India as on the last working day of the month for which the salary is due.

5. **Payment of Provident Fund (“PF”)**

- If the IW is covered under a SSA, the payment of PF is to done in the manner and as per the terms specified in the relevant SSA.

- In all other cases, the amount shall be payable to the credit of the IWs bank account in India.

6. **Employees’ Pension Fund Scheme**:

- The definition of ‘pensionable service’ has been amended to include the period of coverage earned in another country under the relevant SSA.

- Under the existing provisions of the Scheme, a part of the employer contributions ie., 8.33% of the Pay (for this purpose Pay is limited to Rs. 6,500/- per month) is remitted to the Pension Fund and the Central Government makes additional contribution @ 1.16% on Rs. 6,500/-. Under the new amendment, there will not be any contribution by the Central Government to the account of IWs. Members from countries with whom India does not have an SSA were entitled to withdrawal of pensions based on the principle of reciprocity as available to Indian employees in such country. This provision has now been withdrawn, thereby restricting the availability of benefits under EPS to members only from SSA countries.

- The pensionable salary is to be determined on the average monthly pay drawn during the contributory period of service.

- An IW who is covered under a SSA, and leaves service before being eligible for a monthly pension, shall be entitled to a totalisation benefit. This may be provided by the applicable SSA. Furthermore, where the IW was not rendered the eligible service even after including the totalisation benefit, as may be provided by the relevant SSA, the benefit can be withdrawn as per Table “D” provided in Employees’ Pension Scheme, 1995.

- Where the beneficiary under the scheme is covered under a SSA, the pension and other benefits shall be disbursed in the manner and as per the terms and conditions specified in the SSA.

7. A comparative table containing the key provisions as notified in the previous and the current amendments, respectively, is given below:

Sl. No.	Particulars	2008 Amendment	2010 Amendment
1.	Right of with-drawal of accumulated balance	No change from the existing Scheme for Indian employees. IW can withdraw the accumulated balance at the end of their employment at the time of repatriation.	IW can only withdraw upon retirement from service in the establishment after attaining 58 years of age (subject to certain exceptions).
2.	Exchange rate for salary paid in foreign currency.	No specific provision for IW.	SBI TT Buying Rate to be used on last working day of the month.
3.	Bank Account– for credit of accumulated balance at the time of withdrawal.	No specific provision for IW.	To be credited to IW's Indian Bank account only.
4.	Contribution to Pension.	No change from the existing Scheme for Indian employment.	Govt. of India will no longer contribute to IW's Pension Fund.
5.	Withdrawal of Pension	Allowed for IW from both SSA & non-SSA countries.	Not allowed for IW from non-SSA countries.

8. The Gazette of India dated 11.9.2010 can be down-loaded from the Official Website of the Government of India (http://labour.nic.in).

for KARNATAKA EMPLOYERS' ASSOCIATION

B.C. Prabhakar

(B.C. PRABHAKAR)
PRESIDENT