



नेशनल सीड्स
कारपोरेशन लिमिटेड
(भारत सरकार का उपक्रम)
बीज भवन, पुसा परिसर
नई दिल्ली-110 012 (भारत)

NATIONAL SEEDS
CORPORATION LTD.
(A Government of India Undertaking)
BEEJ BHAVAN, PUSA COMPLEX
NEW DELHI-110 012 (INDIA)

No. NSC-EPF/EPF-95/2022

23rd Jan, 2023

CIRCULAR

Subject: Higher Pension subsequent to the Judgment dated 04.11.2022 of the Hon'ble Supreme Court of India regarding Employees' Pension Scheme (EPS-95) and further guidelines issued by the EPFO vide Circular No. Pension/2022/54877/15149 dated 29.12.2022...reg.

This has reference to Circular No. Pension/2022/54877/15149 dated 29 Dec.2022 issued by the EPFO Head Office (Copy Attached) in compliance of Order contained in Para 44(ix) read with Para 44(v) & (vi) of the Hon'ble Supreme Court Judgment dated 04.11.2022.

Employees who had exited the Scheme before 01.09.2014 (i.e. attained age of 58 years before 01/09/2014):-

The aforesaid Circular is currently addressing employees who have exited the Scheme (EPS) prior to 1st September, 2014, and had exercised the option for EPS 95 pension on higher salary under Para 11(3) of 1995 Scheme and whose application for higher pension was rejected by EPFO.

As per records available, no ex-employee of the Corporation who had exited the scheme before 01/09/2014 is covered under above provisions. Hence, this Circular does not cover any of our retired employees as per our interpretation.

However, it is hereby informed that if any superannuated/retired ex-employee of NSC who are meeting the criteria specified in EPFO Circulars, if they so desire, may submit their option to the concerned RPFC of EPFO (from where they are drawing Pension under EPS, 1995) as per the procedure alongwith the supporting documents as indicated at Paras 6 & 7 of the EPFO Circular dated 29/12/2022 read with Corrigendum dated 05/01/2023.

Serving employees or employees who have exited the Scheme after 01/09/2014 (i.e. who have attained age of 58 after 01/09/2014):-

As per the Para 44(iv) of the judgment of Hon'ble Supreme Court, time limit of four months has been given to eligible employees to exercise Joint Option for contributions to EPS 95 Scheme on actual salary and consequent determination of higher Pension on which EPFO as per its guidelines dated 29.12.2022 is silent and it is expected that EPFO will issue a separate Circular/Guidelines for these category of employees later.

While detailed modalities for the verdict are awaited from EPFO, the Corporation is in the process of taking the consent and undertaking in this regard from the willing eligible members of the EPS 95.

Therefore, in superannuation of all earlier circular issued in this regards all working/retired/superannuated/resigned/VRS etc employees of the Corporation who are/were members of the EPS 95 Scheme as on 1.9.2014 and are willing to exercise option of contribution on actual wages in pension fund under EPS'95 are hereby required to fill and submit requisite '**Joint Option Form**' and declaration as per Annexure-A to get the benefit of pension on actual salary as per orders of the Hon'ble Supreme Court dated 04.11.2022 subject to approval of EPFO.

1. The Joint Option form shall be subject to acceptance by EPFO as per rules / scheme/guidelines etc.
2. On acceptance of options of the employees by the concerned Regional Provident Commissioner, 8.33% share of employers contributed to PF accounts on such higher salary alongwith interest prescribed will be remitted by the EPF Section to the Pension Fund of EPFO and the employees are liable to pay any shortfall in employer contribution to be remitted on account of opting Joint Option for higher pension under EPS' 95.
3. Eligible Ex-Employees are liable to pay shortfall in employer contribution to be remitted on account of opting Joint Option for higher pension under EPS' 95.
4. Any further methodology/guidelines and obligation prescribed by the EPFO shall be complied by the employees/ex-employees opting option of pension on higher wages.
5. Every Employee/ex-employee who had joined National Seeds Corporation Limited from any other organization in which he /she was member of EPF'95 Scheme should fill annexure-B for every previous organization.
6. **The option exercised is IRREVOCABLE at later date and no change of option shall not be entertained.**
7. The option form in triplicate duly signed in original (hard copies) shall be submitted in envelop earmarked as 'Joint Option EPS 95 to **concerned Regional Office / CSF / HO**, National Seeds Corporation Limited.
8. It may also be ensured that the joint option form duly filled in every manner should be submitted by concerned employee/ex-employee at the offices of concerned Regional/Central State Farms /Head Office **latest by 05.02.2023.**



9. 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.
10. This circular is being issued in anticipation of the said judgment of Hon'ble Supreme Court only to adhere the time limit and is subject to any ratification(s)/guideline(s) that may be issued by EPFO from time to time.
11. Therefore, the joint option submitted by eligible employees/ex-employees does not confer any right to receive or obligation upon National Seeds Corporation Ltd. to pay higher pension to them whatsoever in any manner.


(Anand Swarup)
DGM (F&A)

Copy to

1. The PS to CMD, NSC Corporate Office, New Delhi-for kind information.
2. The PS to Director (Fin.), NSC – For kind information.
3. The PS to Director (Comm.), NSC – For kind information.
4. The PS/PA to all HoDs at Head office, NSC, New Delhi For kind information.
5. All Regional Manager/ All Head of Farm, CSF , NSC – For necessary action at their end and to collect the Joint Option forms and send to Head Office latest by 12th Feb.2023.
6. The Secretary, National Seeds Corporation Employees Association, Head Office, New Delhi for information.
7. The Asstt.Manager, IT Cell, NSC, New Delhi -for uploading the same on Website of NSC.
8. Notice Board.



ईपीएफओ, मुख्य कार्यालय
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EPFO, HEAD OFFICE

MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA
BHAVISHYA NIDHI BHAWAN, 14, BHIKAJI CAMA PLACE, NEW DELHI 110066

www.epfindia.gov.in

No. Pension/2022/54877

15149

Date:

29 DEC 2022

To,

All Addl. CPFCs, Zonal Offices.
All RPFCS / OICs, Regional Offices.

Sub: Instructions in compliance of orders contained in Para 44 (ix) read with Para 44 (v) & (vi) of Hon'ble Supreme Court judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019.

Madam/Sir,

The above matter was referred to the Central Government for issuing directions. The Central Government vide letter dated 22.12.2022 has directed that requisite action may be taken by EPFO to implement the directions contained in **para 44 (ix) of the judgment dated 04.11.2022** of the Hon'ble Supreme Court within the stipulated timelines. Government has further directed that adequate publicity may be made to the decisions taken by EPFO to implement the said directions.

2. Accordingly, the field offices are directed to implement the directions contained in para 44 (ix) of the judgment dated 04.11.2022 of the Hon'ble Supreme Court within the stipulated timeline and to ensure adequate publicity of the decisions taken by EPFO to implement the said directions.

3. As may be seen, the Hon'ble Supreme Court has pronounced judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019. The relevant directions of the court with respect to above-mentioned subject are as follows.

"44 (v) The employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment.

44 (vi) The employees who have retired before 1st September 2014 upon exercising option under paragraph 11(3) of the 1995 scheme shall be covered by the provisions of the paragraph 11(3) of the pension scheme as it stood prior to the amendment of 2014.

44 (ix) We agree with the view taken by the Division Bench in the case of R.C. Gupta (supra) so far as interpretation of the proviso to paragraph 11(3) (pre-amendment) pension scheme is concerned. The fund authorities shall implement the directives contained in the said judgment within a period of eight weeks, subject to our directions

contained earlier in this paragraph."

4. In this context, factual position as narrated in R.C. Gupta & ors etc. vs Regional Provident Fund Commissioner, Employees' Provident Funds Organisation & ors etc. dated 04.10.2016 is as follows: -

4.1 Paragraph 4 of the above judgement states:

"The appellant-employees on the eve of their retirement i.e. sometime in the year 2005 took the plea that the proviso brought in by the amendment of 1996 was not within their knowledge and, therefore, they may be given the benefit thereof, particularly, when the employer's contribution under the Act has been on actual salary and not on the basis of ceiling limit of either Rs.5,000/- or 6,500/- per month, as the case may be. This plea was negated by the Provident Fund Authority on the ground that the proviso visualized a cut-off date for exercise of option, namely, the date of commencement of Scheme or from the date the salary exceeded the ceiling amount of Rs.5,000/- or 6,500/- per month, as may be. As the request of the appellant-employees was subsequent to either of the said dates, the same cannot be acceded to."

4.2 Relevant portion of Paragraph 8 of the above judgement states:

"... The said dates are not cut off dates to determine the eligibility of employer employee to indicate their option under the proviso to clause 11(3) of the pension scheme".

4.3 Relevant portion of Paragraph 10 of the above judgement states:

"...If both the employer and the employee opt for deposit against the actual salary and not the ceiling amount, the exercise of the option under paragraph 26 of the provident fund scheme is inevitable. Exercise of the option under paragraph 26(6) is a necessary precursor to the exercise of the option to the Clause under 11(3). Exercise of such option, therefore, would not foreclose the exercise of a further option under Clause 11(3) of the pension scheme unless the circumstances warranting such foreclosure are clearly indicated".

5. Accordingly, the direction of the Hon'ble Supreme Court in R.C. Gupta judgement pertains to such employees who contributed on higher wages under paragraph 26(6) of EPF Scheme, and had further exercised their option under the proviso to erstwhile para 11 (3) prior to their retirement, but their option request under the proviso to paragraph 11(3) was explicitly denied by concerned office of the RPFC and /or contribution on higher salary was refunded / diverted back to provident fund accounts.

6. The following pensioners may apply digitally/ online at www.epfindia.gov.in for validating their options, if any, by the concerned Regional Office:

- i. the pensioners who as employees had contributed under paragraph 26(6) of EPF Scheme on salary exceeding the prevalent wage ceiling of Rs 5000/- or 6500/-; and
- ii. exercised joint option under the proviso to Para 11(3) of the pre-amendment scheme while being members of EPS,95; and
- iii. their exercise of such option was declined by PF authorities,

7. The way such pensioners would apply to the concerned Regional Office is as follows:

- i. The request will be made in such form and manner, as may be specified by the Commissioner.
- ii. The application form for validation will contain the disclaimer as ordered in the aforesaid government notification.
- iii. In case of share requiring adjustment from Provident Fund to Pension Fund and if any, re deposit to the fund, the explicit consent of the pensioner will be given in the application form.
- iv. In case of transfer of funds from exempted provident fund trust to pension fund of EPFO, an undertaking of the trustee shall be submitted. The undertaking shall be to the effect that due contribution along with interest upto the date of payment, will be deposited within the specified period.
- v. The method of deposit of such funds will follow through subsequent circulars.
- vi. Aforesaid application form must contain the following specified documents for evidence and for further processing :-

- a. Proof of joint option under Para 26(6) of the EPF Scheme duly verified by the employer; and
- b. Proof of joint option under the proviso to erstwhile Para 11(3) duly verified by the employer; and
- c. Proof of remittance in Provident Fund on higher wages exceeding the prevalent wage ceiling of ₹5000/6500; and
- d. Proof of remittance in Pension Fund on higher wages exceeding the prevalent wage ceiling of ₹5000/6500, if any; and
- e. Written refusal of APFC or any other higher authority of EPFO to such requests / remittance.

8. The above application forms when received in the specified time period will be dealt with in the following manner by Regional PF Commissioner:

- i. A facility will be provided for which URL will be informed shortly. Once received, the Regional PF Commissioner shall put up adequate notice and banners on the noticeboard for wider public information.
- ii. Each application will be registered and digitally logged. The receipt number will be provided to the applicant.
- iii. The application will land into employer's login whose verification with e-sign will be essential for further processing.
- iv. RPFC will cause each application to be converted into e-file, as far as possible.
- v. The concerning dealing assistant will examine the papers including the note on receipt of due amount in the Pension Fund, and mark the case to Section Supervisor / Account Officer.
- vi. The concerning SS / AO will mark out any discrepancies and send it with the rule position to APFC / RPFC-II who after due examination will put the case to Officer-in charge of RO.
- vii. The OIC shall examine each case of pension on higher salary and dispose it by passing a speaking order that shall be intimated to the applicant through e-mail/post. Efforts will be made to intimate them through telephone/SMS.

9. Officer in-Charge of the concerned Regional office will send a weekly monitoring report to the respective Zonal Office. The monitoring format will be specified by the ACC-HQ Pension. Zonal office will also report the aggregate position of the zones weekly to the Pension Division at Head Office.

10. Any grievance by the applicant can be registered on EPFIGMS after submission of his request form and payment of due contribution, if any. The registration of such grievance shall be under specified category of higher pension with reference to Supreme Court Judgment dated 04.11.2022. All such grievances shall be addressed and disposed of at the level of Nominated Officer. Grievances


will be monitored by the Officer in-Charge of Regional Office and Zonal Office.

11. These directions are issued in compliance of the judgement dated 04.11.2022 of Hon'ble Supreme Court and notification of the MoL&E for immediate implementation.

12. This circular is being issued in supersession of all earlier instructions issued on this subject.

[This issues with the approval of CPFC.]

Yours faithfully,



(Animesh Mishra)

Addl. Central P.F. Commissioner (Pension)

Copy to: -

1. PS to Secretary to the Government of India, Ministry of Labour and Employment.
2. Under Secretary to the Government of India, Ministry of Labour and Employment with reference to letter No. R-15011/03/2022-SS-II dated 22.12.2022.
3. PS to CPFC.
4. All ACCs HQ and ACCs at H.O for information & necessary action. Further for online applications, URL may please be informed to field offices by ISD.
5. Rajbhasha section for providing Version in Hindi.



ईपीएफओ, मुख्य कार्यालय
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EPFO, HEAD OFFICE
MINISTRY OF LABOUR & EMPLOYMENT, GOVERNMENT OF INDIA
BHAVISHYA NIDHI BHAVAN, 14, BHIKAJI KAMA PLACE, NEW DELHI 110066

www.epfindia.gov.in

No. Pension/2022/54877/15238

Date: 05.01.2023

05 JAN 2023

CORRIGENDUM

To,

All Addl. CPFCs, Zonal Offices
All RPFCs / OICs, Regional Offices.

Sub: Instructions in compliance of orders contained in Para 44 (ix) read with Para 44 (v) & (vi) of Hon'ble Supreme Court judgement dated 04.11.2022 in the matter of Special Leave Petition (C) Nos. 8658-8659 of 2019.

Madam/Sir,

This refers to the Head Office Circular No. Pension/2022/54877/15149 dated 29.12.2022 on the above cited subject.

Sub para ii of Para 7 of the above mentioned circular may be read as:

"ii. The application form for validation will contain the disclaimer as may be specified therein."

Further, Para 11 of the above mentioned circular may be read as:

"11. These directions are issued with reference to communication of MoLE as referred above and for implementation of the judgement dated 04.11.2022 of Hon'ble Supreme Court."

[This issues with the approval of CPFC.]

Yours faithfully,

(Animesh Mishra)

Addl. Central P.F. Commissioner (Pension)

Copy to: -

1. PS to Secretary to the Government of India, Ministry of Labour and Employment.
2. Under Secretary to the Government of India, Ministry of Labour and Employment with reference to letter No. R-15011/03/2022-SS-II dated 22.12.2022 & letter no. R-15011/3/2022-SS-II dated 04.01.2023
3. PS to CPFC
4. All ACCs HQ and ACCs at H.O for information & necessary action. Further for online applications. URL may please be informed to field offices by ISD without further delay.
5. Rajbhasha section for providing Version in Hindi

JOINT OPTION FORM UNDER ERSTWHILE PARA 11(3),11(4) OF EMPLOYEES' PENSIONSCHEME 1995 & PARA 26(6) OF EPF SCHEME 1995

To

The Regional Provident Fund Commissioner (Pension),

Employees Provident Fund Organization,
Regional Office, Delhi (North)
28, Community Centre,
Wazirpur Industrial Area, Delhi - 52

Sub.: Joint option under erstwhile Para 11(3),11(4) and 26(6) of Employees' Pension Scheme, 1995 based upon the Hon'ble Supreme Court's Judgment in SLP (C) Nos.8658- 8659 of 2019 pronounced on 04-11-2022 reg....

Reference is invited towards Para 43 and Para 44(iv) of the aforesaid judgment dt. 04-11-2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal wherein the eligible employee and his employer are required to submit a joint option under erstwhile Para 11(3) & 11(4) of the EPS'95 and Para 26(6) of EPF Scheme, 1952 within a period of 4 months from the date of judgment.

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/EPFO in the years 2017 & 2018 while implementing the RC Gupta judgment; 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/wages instead of ceiling salary limit of Rs. 15,000/-.

Particulars of the retired employee(s)/ex-employee(s) are as under:

1.	Name & Designation of employee /ex-employees	
2.	EPF A/c No.	
3.	EPS Account No/UAN No	
4.	PPO No.	
5.	Mobile No.	
6.	Aadhar No.	
7.	Date of birth	
8.	Date of Retirement (on attaining 58 yrs)	

Declaration by Employee/Ex-employee

It is certified that immediately after joining **National Seeds Corporation Ltd.**, 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 EPF Scheme, 1952. It is to further certify that an amount @8.33% of the statutory ceiling limit i.e., Rs. 15,000 (earlier Rs. 5,000/ 6,500) out of the Employer's contribution had been remitted by my employer every month towards Employees' Pension Scheme, 1995 since 16-11-1995 or the date of joining whichever is later. I do hereby authorizing for diverting 8.33% of my actual salary/wages out of employer contribution towards pension fund(after adjusting the amount already diverting in EPS's 1995 on ceiling wages) alongwith applicable interest from the date of joining the EPS'95 till my attaining the age of 58 years/VRS/Resignation etc.

(Tick whichever is applicable)

Since I have already withdrawn entire Provident fund on my retirement/VRS/resignation etc., 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 account of non-refundable advance, I am ready to pay the differential amount that I had taken /withdrawn from my PF.

Thus making me eligible for drawing pension on the basis of 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)

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

Place:

Date:

Signature

Name

ANNEXURE-B

(To be filled by the employee/ex-employee who joined National Seeds Corporation Ltd. from any other organization in which they were member of EPS'95 Scheme)

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

S.No.	Particulars	Details
1.	Name of the Employee	
2.	Previous Establishment name	
3.	Previous Establishment address	
4.	Previous Establishment 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.

I, further declare that I will get the previous service transferred for EPS 95 at the earliest.

Signature of the employee/ex-employee

Name of the Employee.....

Employee Code.....