

5-ITPO(2)/E-1/2007 Vol-I
India Trade Promotion Organisation
(Administration Division, E-1)

February 16, 2023

Circular No. Admin/ 9/2023

Subject: Submission of "Joint Option Form under Para 11 (3) and Para 11 (4) of Employees Pension Scheme, 1995 in direction given by Hon'ble Supreme Court vide Order dated 04 November 2022 passed in SLP No. 8658-8659 of 2019 titled EPFO Vs Sunil Kumar B. & ORS, ETC.

As per Para 44 (ii) of the judgement dated 04th November 2022 of Hon'ble Supreme Court passed in SPL no. 8658-8659 of 2019, amendment to the Pension Scheme brought about by the notification no. G.S.R. 609 (E) dated 22nd August 2014 shall apply to the employees of the exempted establishments in the same manner as the employees of the regular establishments.

2. ITPO is an exempted establishment, and the amended EPS-95 is applicable to the existing and retired employees of ITPO, who are eligible as per above cited judgement of the Hon'ble Supreme Court.

3. In partial compliance with the para-44(v) and (vi) of the judgement of the Hon'ble Supreme Court, EPFO has issued Circular No. Pension/2022/54877/15149 dated 29.12.2022 and Corrigendum No. Pension/2022/54877/15238 dated 05.01.2023. Para 5 and 6 of the said EPFO circular specifies that 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.

4. Additional contribution @1.16% of the salary exceeding Rs.15,000-per month w.e.f 01.09.2014 onwards shall be required to be made, which may subsequently be adjusted from employer contribution subject to EPFO notification under subject.

5. The joint option form shall be subject to acceptance by EPFO rules.

6. Every employee/ex-employee who has joined ITPO from any other organisation in which he/she was member of EPS 95 scheme should fill Annexure B for every previous organisation.

7. Every employee/ex-employee who have joined ITPO from any other organisation in which he/she was member of EPS 95 scheme should add their service of previous organisation in current EPS number by filling form 13(Annexure C) .

8. However, it is pertinent to note that as per para 43 read with para 44(iv) of the above judgement of the Hon'ble Supreme Court, all serving and retired employees who were Members of the EPS-95 as of 01.09.2014 i.e. were below 58 years of age and who could not exercise the option, as contemplated in the proviso to paragraph 11(3) of the Pension Scheme to contribute to EPS-95 on actual salary instead of applicable wage ceiling, for getting pension on actual Pensionable

Salary as defined in the EPS-95, would be entitled to exercise option now under paragraph 11(4) EPS-95 within a period of four months from the date of judgement.


9. It is, therefore, expected that EPFO may issue further circular/guidelines specifying the mode and manner of exercising the option, the deposit of the amount and for submission of a joint declaration with employer for implementation of the above-said directions of the Hon'ble Supreme Court, in respect of all eligible employees who were a member of the EPS-95 as on 01.09.2014.

10. Since, as per the Hon'ble Supreme Court judgement, the time to exercise this option by the eligible employees is only for a period of four months from 04.11.2022, it is expedient to obtain the option for higher pension from all eligible employees, both retired and serving, as per Para 11(3) of the pre-amendment rules of EPS, in the format at Annexure A and B respectively.

11. Therefore, all eligible employees mentioned in para 8 above, are requested submit three copies of Option Form (Annexure A or B) duly signed in original (hard copies) to the CPF Unit, ITPO latest by 22.02.2023. The joint option form shall be subject to acceptance by EPFO as per rules.

12. 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.

Disclaimer: All eligible employees may please note that this circular is being issued only as a preparatory measure for implementation of said judgement 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. Therefore, the mere submission of the joint option by eligible employees/ex-employees shall not confer any right to receive or obligation upon ITPO to pay higher pension to them


(Col. Pushpam Kumar, SM)
OSD (Administration)

To

All concerned
Distribution through email, WhatsApp& ITPO Website.

Copy to:

1. All HoDs/ROs
2. Finance Division/CPF Unit/ E-II: for circulating among retired employees
3. E-II: for circulating among retired employees
4. IT Services Division: for uploading on ITPO website

Copy for information to

PSO to CMD
PA to ED

Annexure A

Subject:- Joint Option Form under Para 11(3) and Para 11 (4) of Employees Pension Scheme, 1995 based upon the Hon'ble Supreme Court's order SLP No.8658-8659 of 2019 titled EPFO Vs. Sunil Kumar pronounced on 04.11.2022 - reg.

Reference is invited towards Para 43 and Para 44(iv) of the aforesaid judgment dated 04.11.2022 of Hon'ble Supreme Court of India. In the above cited Civil Appeal wherein the eligible employee and his/her employer are required to submit a joint option under erstwhile Para 11 (3) & para 11 (4) of the EPS' 95 with in 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 in the year 2017 & 2018 while implementing the RC Gupta judgment; in order to comply with the above requirement, we (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 instead of ceiling salary limit of Rs.15,000/-.

In this regard, particulars of the retired employee are as under:

S.No.	Particulars	Details
1	Name	
2	EPS A/c No.	
3	EPS Account Number Previous Organisation (if any)	
4	EPS Account Number Previous Organisation (if any)	
5	EPS Account Number Previous Organisation (if any)	
6	Aadhar No.	
7	UAN No.	
8	PPO Number (if any) attach copy	
9	Date of Leaving Service or attained the age of 58 years which was earlier (if applicable)	
10	Correspondence address and mobile number	

Declaration by Employee/Ex-employee

It is certified that immediately after joining in ITPO., I had been contributing towards the Provident Fund on my actual salary/wages and an equal amount used to be contribution in my Provident Fund by the employer also under Para 26 (6) of EPS Scheme 1952. It is to further clarify that an amount @ 8.33% of the statutory ceiling amount i.e. Rs.15000 (earlier Rs.5000/- or Rs.6500/-) out of the employers' contribution had been remitted every month towards Employees' Pension Scheme 1995 since 16th November 1995 or the date of joining whichever is later onwards.

I, do hereby opt for diverting 8.33% of my actual salary/wages out of employers' contribution towards pension fund (after adjusting the amount already diverted in EPS'95 on ceiling wages) from the date of joining the EPS'95 till my attaining the age of 58 years/VRS/resignation.

I also do hereby agree to contribute @1.16% on my salary (Pay + DA) exceeding Rs.15000/- per month from my/employer share of contribution w.e.f. 01.09.2014 onwards.

(Tick ✓ whichever is applicable)

Since I have already withdrawn entire Provident Fund on my retirement/VRS/resignation, 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 a/c of non-refundable advance, I am ready to pay the differential amount that I had taken/withdrawn;

Thus, making me eligible for drawing pension on the basis of average of last 60 months salary/wages as pensionable salary/wages i.e. based on my actual salary/wages instead of being based on the statutory limit.

That I retired on attaining that 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:-

Seal & Signature of Employer

Signature

Name

Employee No.

UNDERTAKING BY THE EMPLOYER

I, _____ (Name and Designation), being the authorized signatory on behalf of India Trade Promotion Organisation do here by certify that Shri/Smt. _____ was working with us as _____ (Designation) and has retired on attaining age of 58 years/60 years/taken VRS/resigned on _____ (Date). His/her EPF A/c No. is _____. He/she had been contributing towards Provident Fund on his/her actual salary, as per the terms of Para 26(6) of the EPF Scheme 1952. Equal share had been contributed by this establishment too. This establishment has no objection if he/she deposits/returns the due differential amount @ 8.33% of Basic plus DA w.e.f. 16.11.1995 i.e. from the date of commencement of the Scheme or when his/her salary exceeded the statutory limit, along with due interest as declared under EPF Scheme, 1952 from time to time, 1.16% of salary exceeding Rs. 15,000 per month w.e.f 01.09.2014 shall be required to be made which may subsequently be adjusted from employer contribution to EPFO notification on the subject. thus making him/her eligible for drawing pension on the basis of Pensionable salary based on his actual salary, instead of on the statutory limit as per erstwhile Para 11 (3) & Para 11(4) of the EPS'95 Scheme as permitted to do so by the aforesaid judgment of Supreme Court dated 04.11.2022. The method of deposit of such funds will follow through subsequent circulars.

I certify that the particulars furnished above are correct as per the records available in this office.

Date: _____

Place: _____

(Signature of Authorized Signatory with Official Seal)

Annexure-B

Subject:- To be filled by the employee/ex-employee who joined ITPO from any other organization in which they were member of EPS'95 Scheme:

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

Sl. No.	Particulars	Details
1.	Name of the Employee	
2.	Previous Establishment Address	
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.

Signature of the employee/ex-employee

Name of the Employee.....
Employee Code.....

Seal & Signature of Employer

UNDERTAKING BY THE EMPLOYER

I, _____(Name and Designation), being the authorized signatory on behalf of India Trade Promotion Organisation do here by certify that Shri/Smt. _____ is working with us. His/her EPF A/c No. is _____. He/she had been contributing towards Provident Fund on his/her actual salary, as per the terms of Para 26(6) of the EPF Scheme 1952. Equal share had been contributed by this establishment too. This establishment has no objection (in view of his/her option) regarding the transfer of the due differential amount @ 8.33% of Basic plus DA w.e.f. 16.11.1995 i.e. from the date of commencement of the Scheme or when his/her salary exceeded the statutory limit, along with due interest as declared under EPF Scheme, 1952 from time to time, from his/her PF Account to EPS Account thus making him/her eligible for drawing pension on the basis of Pensionable salary based on his actual salary, instead of on the statutory limit as per erstwhile Para 11 (3) & Para 11(4) of the EPS'95 Scheme as permitted to do so by the aforesaid judgment of the Hon'ble Supreme Court dated 04.11.2022. The said Differential Amount shall be transferred by the establishment (i.e. India Trade Promotion Organisation) to EPFO, on the aforesaid undertaking of the employee. 1.16% of salary excluding Rs.15,000 per month w.e.f 01.09.2014 shall be required to be made which may subsequently adjusted from employer contribution to EPFO subject to notification. The method of deposit of such funds will follow through subsequent circulars.

I certify that the particulars furnished above are correct as per the records available in this office.

Date: _____

Place: _____

(Signature of Authorized Signatory with Official Seal)

TRANSFER CLAIM FORM
FORM 13 (REVISED)

CLAIM ID
For EPFO Use only

EMPLOYEES' PROVIDENT FUND SCHEME, 1952
(PARA 57)

To

The Regional Provident Fund Commissioner
Office Name:
Office Address: _____

Trust Name:
Trust Address :

(Please see instruction 3) (In case the PF A/c is with Exempted Establishment)

Sir,

I request that my provident fund balance along with my pension service details may please be transferred to my present account under intimation to me. My details are as under:

PART A: PERSONAL INFORMATION

1. Name
2. Father's/Husband's Name
3. Mobile Number: 4. E.Mail ID:
5. Bank A/c Number: 6. IFSC Code of Bank branch:.....

PART B: DETAILS OF PREVIOUS ACCOUNT (WHICH IS TO BE TRANSFERRED)

1. *PF Account No.:.....
In case the previous establishment is exempted under Employees' Provident Fund Scheme, 1952
Pension Fund Account No.....
2. *Name and Address of the previous establishment
3. *PF Account is held by (Name of EPF Office/PF Trust).....
4. *Date of Birth:.....(dd/mm/yy)
5. *Date of Joining:.....(dd/mm/yy)
6. *Date of leaving:.....(dd/mm/yy)

PART C: DETAILS OF PRESENT ACCOUNT

1. *PF Account No.:.....
In case the present establishment is exempted under Employees' Provident Fund Scheme, 1952
Pension Fund Account No.....
2. *Name and Address of the present establishment
3. Account is held by (Name of EPF Office/PF Trust).....
4. *Date of Joining:.....(dd/mm/yy)

5. *Name of Trust (to whom funds are to be paid in case of present establishment being exempted under EPF Scheme 1952):.....
6. #Employee code under the Trust:

(*indicates mandatory fields)

(#strike off if not applicable)

I, certify that all the information given above is true to the best of my knowledge and I have ensured the correctness of my present and previous account numbers.

Signature of the Member

Date:.....

IMPORTANT: Members has the option to get the claim form attested by present or previous employer. In case of attestation by the previous employer, time taken in settlement will be relatively less.

Certified that I have verified the data in Part B in respect of the member mentioned in Part A of this form and the signature of the member.

Signature of Previous Employer

Seal of the Establishment

Date.....

OR

Certified that I have verified the data in Part C in respect of member mentioned in Part A of this form.

Signature of Present Employer

Seal of the Establishment

Date.....

INSTRUCTIONS AND GUIDELINES

1. The Bank A/c details are for verification purpose even if the Fund is transferred to the EPFO Office/Trust maintaining the present account number.
2. In case the Previous Account was maintained by PF Trust of the exempted establishment, the member should submit a Transfer Claim Form (Form -13(Revised) to the PF Office for transferring the service details under the Pension Fund to the new account.
3. The Form should be submitted to that PF Office under which previous or the present account is maintained, depending upon as to which employer has attested the claim. (In case the claim is attested by the present employer, claim should be submitted with the PF Office under which the present account is maintained, and so on).
4. The mobile number (wherever provided) of the member would be used for sending an SMS alert informing him/her the processing of his/her claim and is non-mandatory for Physical form.