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EMPLOYEES' PROVIDENT FUND ORGANISATION
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May 23rd, 2019

To,

**Shri Sunil Barthwal, IAS
Central P.F. Commissioner,
Head Office, EPFO,
Bhavishya Nidhi Bhawan,
NEW DELHI 110066**

Subject: Recent critical organisational issues relating to mis-communication on higher wages pension issue and abrupt revision of delegation of financial powers for claims settlement - Regarding

Sir,

As you are aware the EPF Officers' Association (EPFOA) is a service association of Commissioner-cadre officers of EPFO and we take up issues that promote common interests of all members of the Association. Generally speaking, like any other service association in the country, most of the issues that we take up are related to HRM - related matters pertaining to our members. However, sometimes we are faced with such critical issues related to general functioning of the organisation that we cannot help but take up such issues with the management, since ultimately, if left unaddressed, these critical issues may end up damaging the very organic nature of our organisation.

2. It is with above perspective that we request your kind attention towards two critical organisational issues as stated below:-

A. Settlement of higher wages pension cases by field offices per the RC Gupta judgment

3. Sir, as it is not the domain of EPFOA to explore and expound on the technical, legal and financial angles and ramifications of the judgment of Hon'ble Supreme Court in the RC Gupta case related to grant of pension on higher wages, we shall not attempt it. However, the issues that have arisen due to haphazard communication and directions issued in above matter and especially recent uncalled-for open threats issued from the very highest level to EPF officers have forced the EPFOA to request you to address this matter.

4. As you are aware EPFO Head Office had conveyed to all field offices the order to implement the decision of Hon'ble Supreme Court in RC Gupta case vide circular dated 23.03.2017, and thereafter a clarification was issued vide circular dated 31.05.2017 to restrict the benefits arising out of above case to employees of un-exempted establishments. The Pandora's box opened by above resulted in immediate and immense pressure on field offices from pensioners, trade unions, employers, courts, etc. to revise their pension on higher wages. Simultaneously, multiple legal actions were initiated against EPFO by those who were kept out of the pie.

5. Many practical and theoretical issues that arose during implementation of above circular dated 23.03.2017 were forwarded to Head Office by field offices but these were never addressed, instead directions were issued to expedite the settlement and it was conveyed that concerned RPFIC-I/Incharge of the Region will be held responsible for denial / delay in settlement of such cases for eligible members. Issues raised by concerned RPFICs / ACCs in Video Conferences and meetings were brushed aside with generalised statements and unofficial orders were issued to not escalate any issue to HO level. It was never ever clarified as to who is *eligible member* whose pension is to be revised and it was directed to read the orders of Hon'ble Supreme Court and interpret them on their own. In fact HO had issued a circular on 22.01.2019 which clarified some of the major issues being faced by field offices, but unfortunately the entire circular was withdrawn on the plea of contempt of court action, even though a significant part of said circular did not deal with issues involving contempt of court.

6. Ultimately, many offices were forced to work out their individual strategies to address the issue and settle such cases. This was done as much to redress grievances as to avoid contempt of court actions against senior officers such as Secretary (L&E) & CPFC. But a natural consequence of this was that every office had unique approach to same issue. Some offices started settling pension cases on higher wages without seeking

evidence of submission of joint option under paragraph 26(6) of EPF Scheme 1952, others refused to entertain any member without the same. Some offices demanded that pensioners must deposit additional 1.16% Govt. share of contribution on wages exceeding statutory limit along with differential share of contribution, others didn't ask for the same. Some offices even refused to entertain any request for revision of pension on one pretext or the other. This unique situation where every field office had to reinvent the wheel but obviously led to unique solutions for every field office. Thus in same organisation a number of different policies emerged depending upon who spoke to whom for seeking verbal clarifications.

7. Now at this stage there appears to be a rethink at senior levels, but unfortunately, instead of clarifying and clearing this mess it appears that even more unique results shall be created. It has emerged that during the recent conference on pension litigation held at PDNASS, New Delhi on 18.05.2019, it was conveyed through highest level that many of those offices that have revised pension on higher wages have violated the directions of HO and it was threatened that due responsibility shall be fixed against them. And what is of even more significance is that it has been conveyed that without any written or explicit directions from HO, field offices must obtain independent legal opinion at their level on the RC Gupta case and its implementation in their region, and accordingly stop revision of pension on higher wages, and what is even more daunting, recover pension, arrears, etc. already released.

8. Again, I would like to state that although it is not the domain of EPFOA to go into the legal implications of any court order or EPFO's interpretation / implementation or re-interpretation, etc. of the same, it is definitely our domain if such orders are *unofficially* issued and it is expected that they shall be followed based upon open threat of action. If there is indeed a rethink on RC Gupta case, what is stopping EPFO to come out openly and issue clear-cut directions to all field offices. If even then some officers in the field deliberately violate such official orders than nothing stops from due disciplinary action being initiated against them.

9. It is indeed very juvenile to believe that just by pretending that we never issued directions to revise pension of all eligible employees / pensioners of un-exempted establishments in accordance with RC Gupta case, we can put the genie back in the bottle. And neither will blaming EPFO officers for this fiasco help anyone. The implementation of RC Gupta case in the manner that it is being implemented by many offices across the country was a conscious policy decision at the highest level at that time, and due intimations were sent by many offices to HO at that time regarding the manner of its implementation. Furthermore, monthly returns were submitted by such offices in the prescribed manner. Now, suddenly we cannot pretend that all of us had our eyes closed during this entire time. If any field office had wrongly implemented any directions due to lack of any communication or clarification then it should have been duly corrected and clarified at that point of time. Instead it is now being alleged from the

highest level that EPFO officers are involved in some vast and massive conspiracy with the pensioners to revise their pension on higher wages in gross violation of all directions.

10. Therefore, on behalf of all our members, I sincerely urge you to ensure that no further scope is left for alleging misrepresentation / wrong application of directions and clear-cut policy guidelines are issued on this critical issue, whatever they may be.

11. If there is any rethink or new legal interpretation in earlier stand of EPFO, please issue clear-cut directions so that there is no scope of disobedience. This will also ensure uniform application of policy throughout the country and boost the confidence of our officers while performing their duties.

B. Revised delegation of financial powers for settlement of claims

12. Vide circular dated 21.05.2019, the financial powers for settlement of claims has been revised and it has been directed that where the settlement amount is between Rs. 5 Lakhs to Rs. 25 Lakhs the claim shall be approved by APFC/RPFC-II, and where the settlement amount is above Rs. 25 Lakhs the claims shall be settled by RPFC-in-charge of the Region.

13. Since it has not been deemed worthwhile to enlighten the general officer cadre of the organisation as to the reasons behind this sudden development and consider their inputs as part of the policy initiative, we can only presume that the reason behind these directions may be to check frauds in claims settlement. If indeed this is the case behind this initiative our humble submission may kindly be considered as below:-

- a. At present these high value claims are settled by Accounts Officers. The Concurrent Audit Cell flags such high value transactions through email to concerned RPFC almost on a daily basis, and the RPFC is required to verify the authenticity of the settlement process. However, now that the RPFC and other line officers are themselves approval authority in claims settlement, whether any thought has been given to who shall verify the day to day authenticity of the settlement process performed by these officers?
- b. In fact now that all officers and staff of field offices are involved in the claims settlement process, the day to day monitoring of the settlement process conducted by RPFC-in-charge, RPFC-II (F&A) and APFC (Accounts) shall take a back seat to the performance of original task by these officers.
- c. Claims settlement is largely a computerised process with little scope for manual intervention, hence, if frauds are to be prevented a better course of action would have been to further lessen human intervention rather than to simply escalate the claims approving authority.

d. Furthermore, if EPFO does not trust its own staff to settle high value claims, why trust the same staff to settle low value claims? Any analysis of fraudulent settlement in an office may reveal that usually in terms of overall fraud value it is the large number of low value fraudulent claims that are greater, rather than a few high value fraudulent claims. This is so as generally while settling high value claims most of the officials involved in the process are more vigilant and alert.

14. If it is still felt that the solution to prevention of frauds is simply to escalate the approval authority instead of exploring any systemic improvements in the process, it is our humble suggestion that why should we stop at RPFC-in-charge. After all various allegations have already been raised against them in higher wages pension issue as discussed above. In fact, claims involving settlement amounts of Rs. 50 Lakhs to Rs. 1 Crore can be delegated to ACC (Zones), and claims involving settlement amount of over Rs. 1 Crore may be approved at the level of CPFC so as to prevent frauds. Sir, just as this proposal is no real solution to fraudulent settlement, the new delegation of financial powers is also no solution to this important issue.

15. In view of above, it is our humble request that detailed third party study through a reputed consulting firm may be conducted to get to the roots of problem of frauds, and systemic and systematic improvements may be incorporated in the claims settlement process itself so that long-term solutions are achieved, instead of short-term fixes.

16. It is once again requested that above two critical organisational issues may kindly be duly considered and deliberated, as for us career EPF Officers, long-term growth of this organisation is a matter of our survival.

Thanking you.

Yours sincerely,



[Saurabh Swami]
Secretary-General

Copy to:

- 1. Hon'ble Chairman, CBT, EPF / Hon'ble Minister (L&E)**
- 2. Hon'ble Vice Chairman, CBT, EPF / Secretary (L&E)**
- 3. Hon'ble Member, CBT, EPF**