

EMPLOYEES' PROVIDENT FUND ORGANISATION
DRAFT MINUTES OF THE
185th MEETING OF CENTRAL BOARD OF TRUSTEES (EPF)

Meeting: Central Board of Trustees, Employees' Provident Fund

Date: 10.12.2008

Venue : Employees' Provident Fund Organisation,
Conference Hall, 3rd Floor,
Bhavishya Nidhi Bhawan,
Bhikaiji Cama Place, New Delhi-110 066.

The 185th meeting of the Central Board of Trustees (Employees' Provident Fund) was held under the Chairmanship of **Shri Oscar Fernandez**, Hon'ble Minister of State (Independent charge) for Labour and Employment and Chairman, Central Board of Trustees (Employees' Provident Fund).

The following members were present at the Meeting:

<p>Smt. Sudha Pillai, Vice Chairperson, CBT (EPF) & Secretary to Govt. of India, Ministry of Labour & Employment Government of India, New Delhi.</p> <p>Shri S. Krishnan Special Secretary to the Government of India, Ministry of Labour & Employment Government of India, New Delhi.</p> <p>Shri Rajesh Verma JS & FA (L&E), Ministry of Labour & Employment Government of India, New Delhi.</p> <p>Dr. Shashank Saksena, Director (Pension Reforms), Deptt. Of Economic Affairs</p>	<p>Central Government Representatives</p>
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Ministry of Finance, Govt. of India.	
<p>Shri Girish Awasthi</p> <p>Shri A.D. Nagpal</p> <p>Shri W.R. Varada Rajan</p> <p>Shri B.N. Rai</p> <p>Shri M. P. Patwardhan</p> <p>Shri Ashok Singh</p> <p>Shri Sankar Saha</p> <p>Shri D. L. Sachdev</p> <p>Shri Nirmal Ghosh</p>	Employees' Representatives.
<p>Shri Bhanwar Lal, Principal Secretary, L&E, T&F Govt. of Andhra Pradesh</p> <p>Shri K.K. Mittal, Commissioner & Secretary Labour & Employment Govt. of Assam</p> <p>Dr. Ram Murti Agarwal, Chief Medical Officer, ESIC (Representing Labour Secy, Govt. of Uttar Pradesh</p> <p>Shri Vishnu Kumar Sharma, Joint Labour Commissioner, Deptt. of Labour, Alwar, Govt. of Rajasthan. (Representing Principal Secretary Labour, Rajasthan).</p> <p>Dr. T. Pradhan, Resident Commissioner, Govt. of Orissa (Representing Principal Secretary, Orissa)</p> <p>ShrI P.R. Bishnoi, Addl. Labour Commissioner</p>	State Government Representatives

<p>(Representing Principal Secy,) Govt. of Haryana.</p> <p>Shri Trilochan Singh, Principal Secretary, Labour Department Govt. of West Bengal,</p>	
<p>Shri J.P. Chowdhury</p> <p>Dr. Ram Tarneja</p> <p>Shri Ravi Wig</p> <p>Shri Babu Lal Todi</p> <p>Shri Santosh Saraf</p> <p>Shri P. Rajendran</p> <p>Shri U.K. Dikshit</p> <p>Shri B.P. Pant</p> <p>Shri B.S. Hegde Representing Shri Sharad Patil</p>	<p>Employers' Representatives.</p>
<p>Shri A. Viswanathan Central Provident Fund Commissioner</p>	<p>Member Secretary.</p>

The following members could not attend the meeting due to pre-occupation and were granted leave of absence:

<p>Shri S. K. Verma, Director (SS) Ministry of Labour & Employment Government of India, New Delhi.</p>	<p>Central Govt. Representative</p>
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Shri S.S. Rathi	Employers' Representative
Shri T. Prabhakara Rao, Principal Secretary Labour, Govt. of Tamil Nadu	State Govt. Representative

The following members were absent from the meeting:

Dr. G. Sanjeeva Reddy	Employees' Representative
Secretary (Labour) NCT, Delhi	State Government Representatives
Secretary (Labour) Bihar	
Secretary (Labour) Karnataka.	
Secretary (Labour) Maharashtra.	
Secretary(Labour) Punjab	
Secretary(Labour) Madhya Pradesh	
Secretary(Labour) Gujarat	

The list of officers of the Employees' Provident Fund Organisation who attended the meeting is given at **Annexure – 'A'**.

The Chairman, CBT welcomed all the members of the Board to the 185th meeting of the CBT, EPF. He informed that being the third regular meeting of the new Board, it was positive indication that meetings are held in quick succession to consider important agenda and taking decisions on them. A large agenda has been placed before the Board for the reason that many items could not be taken up in the last meeting. He specifically drew attention of the house to three important agenda items that needed special consideration of the Board.

The first pertained to the draft Annual report of the organisation on work and activities of the organisation during the year 2007-2008 and the second item related to Annual Audited Accounts of the organisation for the year 2007-2008, placed on the table of the house. He informed that these were statutory items in the sense that they have to be taken up by the Board in its meeting to be held on 10th December following the year to which they pertain in accordance with the scheme.

He informed the Board that recently the Parliamentary Committee on papers laid in the house had adversely commented on the delay in submission of the Annual Report and Annual Audited Accounts to the Parliament of India. By adopting both the Annual Report and Annual Accounts together before the deadline mandated by the Scheme for the first time in many years, they can be placed before the Parliament by 20th of December 2008.

The third item which required attention of the Board related to Revised Estimates for the year 2008-09 and Budget Estimates for the year 2009-10.

While concluding his speech, the Chairman made a mention that Shri A. Viswanathan the present CPFC and Member Secretary of the Board is going to superannuate on 31.12.2008. On behalf of all of the members and the organisation, he appreciated his efforts and contributions to EPFO to be placed on record. This was endorsed by voice vote by all present.

Thereafter, he further invited attention of the house to the recent tragic incident at Mumbai and loss of lives. He requested all present to rise and observe silence as a mark of respect for those who had laid down their lives for service of the nation and departed souls, persons who died in Guwahati and also on the demise of former Prime Minister of India, Late Shri V.P. Singh. A silence of one minute was observed and thereafter, the Chairman invited the CPFC to present the agenda before the Board.

Shri W.R. Varada Rajan invited attention of the House that there were many items that could not be taken by the Board in its last meeting. He therefore desired that these items may also be taken up by the Board.

Shri R.A.Wig observed that the item on Amnesty Scheme may be taken up as it was not taken up during the last meeting.

Shri Girish Awasthi invited attention to the item moved by him regarding the grievances of Physical Facility Division. He informed that he had received a letter from the CPFC that the matter would be discussed in the Sub-committee on XLRI and desired to know when the same would be done.

The CPFC with the permission of the chair clarified the action taken on the PFD issue. There were several views on the issue in the last meeting. It was decided that an external expert would be associated from CPWD or DGE&T and then go back to the sub-committee on XLRI. The minutes of the CBT have recently been received and circulated. The matter would be taken up in few days and constitute a sub-committee after identifying the expert.

The Chairman observed that statutory items may be taken up first so that the rest of the items may be taken up depending upon availability of time.

The CPFC thereafter presented the item on draft Annual Report for the year 2007-2008. He mentioned that separate item on the Annual Audited Accounts for the year 2007-2008 has also been placed on table.

Item No.1: Confirmation of the Draft Minutes of the Special meeting of the CBT (EPF) held on 18.09.2008.

The item was not taken up for discussion and was deferred.

Item No. 2: Action Taken Statement in respect of CBT Meetings held upto 18.09.2008.

The item was not placed before the Board.

Item No. 3: Draft Annual Report on the work and Activities of the Employees Provident Fund Organisation.

The CPFC introduced the item to the Board by observing that in accordance with the provisions of para 74 of the Employees Provident Fund Scheme, 1952 provides that the Annual Report on the work and activities of the Central Board and its audited accounts together with the report of Comptroller & Auditor General of India shall be considered by the Executive Committee and shall be placed for adoption at a meeting of the Board to be held before the 10th December following the close of the financial year concerned. The Annual Report and the audited accounts together with the Report of the Comptroller & Auditor General of India, as adopted by the Board, is also required to be submitted to the Central Government not later than 20th of December following the close of the financial year for placing it before the Parliament.

The Draft Annual Report of EPFO for the year 2007-08 was also placed before the Executive Committee, CBT (EPF) in its 64th meeting and the comments of the EC have been placed on the table for consideration of the Central Board of Trustees (EPF). A separate item on adoption of the Annual audited Accounts has been placed before the Board.

The CPFC thereafter made a presentation on the highlights of the achievements made by the organisation during the year 2007-2008. A copy of the powerpoint presentation was also circulated among the members:

- **Coverage of establishments:** Compared to previous year there was an increase a hike of 60,000. The establishment strength had reached 532702 at the end of year 2007-08.
- **Members enrolled:** The figure stood at 4.49 crores at the end of the year. When compared with the growth of establishments, the growth of members was disappointing. This was because of reconciliation with the figures of SAMA with traditional methods of keeping figures. The work of reconciliation has been taken up for two to three Regions.
- **Claims settled during the year:** A total of 56.09 lakh claims were settled and total benefits paid were to the extent of Rs.13,331.57 crores. There has been an improvement in the disposal to the extent of 10% in both the indicators.
- **Annual Statement of Accounts:** During the year nearly 3.93 crores account slips were issued and there was a shortfall as compared to the previous year. The reason for the shortfall was delayed notification of the rate of interest to be credited during the year.
- **Contributions collected:** There was a significant increase in the collection of PF contributions from exempted establishments to the tune of Rs.5884 crores which was 16% more than the previous year. In case of unexempted establishments the % growth was still higher to the extent of 30% and Rs. 18782 crores in actual terms.
- **PF Arrears:** At the end of 2007-08, the total arrear accumulations was Rs.2118 crores for unexempted sector and Rs.728 crores for exempted sector. There was an increase in the arrears to the extent of Rs.245

crores, break up of which was clarified separately. He informed that the trend of percent age of arrears of contribution over the progressive contributions had shown a decline which was a healthy sign. He summarized that for every 100 rupees collected as contributions, only 65 paisa could not be collected which is 0.65% in clear terms.

- **Prosecution cases:** During the year 4854 cases were filed as compared to 3739 cases in the previous year. The number of challans filed in the courts had also increased from 3 in the previous year to 89 in the current year.
- **Recovery Certificates:** During the year 55742 recovery certificates were executed which was lower than the previous year but as explained the amount of damages has gone up during the current year.
- **Investments:** At the end of the year an amount of Rs.25191 crores was invested as compared to Rs.21973 crores in the previous year.
- **Administration Account:** A sum of Rs.1587 crores was collected during the last year and there was a surplus of Rs.1043 crores at the end of the year.

Shri J.P. Chowdhary desired to know how many members are still active in terms of contributions received during last year. He also desired to know whether breakup of the figures of noncontributing accounts for the last three years can be given.

The CPFC replied that there are similar observations from other members also and the matter will be taken up separately.

Shri B.N Rai observed that in the last meeting of the Board for considering the Annual Report, he had observed that out of the total number of accounts many accounts are with very less contribution or without any contribution. There is a need to look into the matter very cautiously.

The CPFC again reiterated that as explained, there is a gap in the number of subscribers in the traditional method of keeping the records and when the numbers are generated by System Assisted Membership Audit (SAMA). The issue of reconciling the difference is a very important area and priority has been accorded to reconcile the figures.

Dr. Ram Tarneja desired that the exercise of reconciliation should have a time frame and the office should make efforts to complete it by January 2009.

The CPFC clarified that the task is not only onerous but requires due diligence. Thus by fixing a time frame will not be proper to hurry with the exercise.

Dr. Ram Tarneja observed that if the Office takes such a view, still it will be necessary to complete task by 31st March 2009. On the expenditure front, Dr. Tarneja desired to know the reasons for sharp decline in the expenditure during the year 2007-08 as compared to the previous year.

The CPFC clarified that during the year 2006-07 a sum of Rs.490 crores was diverted from the Administrative Account to the Staff Pension Fund.

Shri W.R. Varda Rajan observed that he had pointed out in the last meeting of the Board in which the annual Report was taken up that the report is becoming opaque as many important areas are being left out. He referred back to the 49th Report which had lot of detailed facts and figures. The practice had stopped from the 51st annual Report and thereafter he has been raising the need

to have more facts and figures and to bring in the practice again. Regarding the performance highlights he made the following observations:

- Establishment & membership: The report shows only the gross and net figures and no data is given on the members who had ceased.
- EPS 1995: The figures have again been shown as composite figures discontinuing the figures relating to pensionable and non-pensionable exists. The members of EPS 1995 for the State of Tamil Nadu as indicated in Table II at page 76, varies to a large extent by members indicated in Table II of Chapter IV. The reasons need to be given for this variation for the reasons that the figures for Jharkhand and Goa are identical at both the places.
- Investments: The figures relating to the Investments given in Chapter IV also includes investments of EPS contributions. These figures should be indicated in the Chapter on EPS.
- Court Cases: There are many cases which are instituted by EPFO or cases filed by EPFO in appeal. These have not been indicated alongwith pendency.
- EPF Appellate Tribunal: Earlier the pending Tribunal cases were indicated regionwise which has not been done. There are majority of cases pending in the Southern Region which justifies setting up of Additional Bench for Southern Region.
- Exempted Establishments: He pointed out that the membership in exempted establishments has gone down whereas the number of establishments has gone up. This needs to be looked into.
- Settlement of Pension Claims: At page 81 and 82 it has been indicated that nearly 21 lakhs claims have been settled. The monthly claims settled are very less and non pensionable exits are more. No figures have been indicated on ceased membership and

cases transferred to widow pension and relating to scheme certificates. The data on commutation of pension and return of capital has also not been given.

- Vigilance: There are many cases pending and due to vacant posts in the Division there are constraints in Vigilance.

Shri A.D. Nagpal observed that he has been raising the issue of enhancement of benefits payable under Employees' Deposit Linked Insurance Scheme as it is evident from three successive Annual reports for the year 2005-06 onwards, that the fund is increasing every year and there being a corresponding decline in the claims. He further observed that a report has been submitted by the Actuary appointed for the purpose and it is necessary that the benefits under EDLI Scheme are enhanced in the interest of workers. He desired to know the latest position in the matter. The other observations made by Shri A.D. Nagpal are as under:

- Claims settled (unexempted sector) Inviting attention to the figures mentioned at page 2, page 165, page 166, page 167 and page 171, he observed that the claim rejection ratio was increasing both for EPF and EPS claims which is not a good picture. He observed that there is a high cost when a claim is returned by the EPF Office and leads to harassment of subscribers.
- Applications for transfers and partial withdrawals have also shown very high percentage of return/rejection ratio.
- The report indicates shortage of manpower and at the same time the workload is increasing every year. This mismatch is affecting the service delivery of the Organisation.
- The report indicates a large saving in the Administrative Charges. This is also indicative of shortage of manpower and has a telling effect on efficiency of the Organisation. The

Scheme mandates to settle a claim within thirty days, whereas in some offices the claims are pending for more than six months.

- Arrears: The arrears have also shown increasing trend during the last three years. The figure does not include the cases of defaulters whose dues have not been assessed completely otherwise the arrears will increase enormously. Special drives require to be launched for recovery of arrears including follow up of matters before Courts of Law. He desired that the report of CCTS on defaults should also be indicated in the report.
- Regional Committees: He observed that there were many Regional Committees pending for constitution since 2002 and desired that the matter may be taken up with State Labour Secretaries by Ministry of Labour & Employment.
- EPF Appellate Tribunal: He observed that the pending cases before EPF Appellate Tribunal were also increasing in the last three years. He desired to know how many cases were decided against the EPFO for deficiency of service and the compensation paid by EPFO in such cases.

Shri Girish Awasthi observed that the report indicates a huge amount lying uninvested in the case of exempted establishments. He endorsed the views of Shri A.D. Nagpal in the matter of pending Court cases. He also expressed concern on the large amount of PF arrears, public grievances. He desired that the office should take suitable action to fill up shortage of staff immediately.

Shri Ashok Singh observed that the Scheme mandates a claim to be settled within 30 days and the report indicates that more than 7 lakhs claims were settled beyond 30 days. The time limit has been decided by the Board and therefore the reasons for non-settlement of claims within 30 days require to be

looked into. Regarding annual accounts he observed that more than one crore account slips were pending. The responsibility of issuing the account slips rests with the department and it has to be more responsive for timely issuance of annual accounts. If the reasons for delay and pendency is shortage of staff or the office requires additional staff then the same should be provided without further delay. Regarding Regional Committees he endorsed the views of Shri A.D. Nagpal. He further highlighted that there is a need to give proper representation of the Central Trade Unions in the Regional Committees on the pattern of representation in the Central Board of Trustees.

Shri B.N. Rai observed that the earlier reports used to indicate the number of FIRs that amount to conviction and the cases where the convictions were NIL. He cited one case of West Bengal Region in which stay order has been passed by the High Court and the case is reported as pending for past eight years and no further action has been taken in the matter. He reiterated his earlier suggestion to have a full time Law Officer in the Organisation and to have a sub-committee of the CBT to monitor Court Cases at Regional & National Level.

He further cited the case of Jute Mills in the State of West Bengal which are having 20 or more employees but have not been brought under the EPF Scheme. There are no benefits of PF & Pension payable to them. These Jute Mills have also threatened to go on strike if their demands are not met. He also highlighted that the rate of deduction of contributions of Provident Fund at 10% needs to be enhanced to 12%.

Regarding setting up of Regional Committees he observed that there is a need for a policy on the representation of the Central Trade Unions and the State Govt. has no power under the Act to make nominations in the Regional Committee. He also expressed his concern that eight Regional Committees did not meet even once during the year 2007-08. The Chairman intervened and

observed that the matter regarding constitution of Regional Committees has already been taken up with all the Chief Ministers and Labour Ministers of the State impressing upon them to hold regular meetings of the Regional Committees. This is also being monitored at his level. Regarding the representation in the Regional Committee EPF for a State, opinion of State Govt. is mandatory and it is also subject to the representation of the Central Trade Union in a particular State. Regarding the issue of Jute Mills, he observed that a meeting is going to be convened shortly with the representatives of Jute Mills in the next week and there is no need for any apprehension of strike etc.

Shri Sankar Saha expressed his concern on the quantum of claims settled during the year of report which is increasing by very high rate. He was of the apprehension that it is indicative of economic slowdown and closures. Regarding the coverage of Jute Mill workers he informed that a joint inspection of EPF, ESIC and Factory Inspector was supposed to be conducted to identify evasion but there was no response from RPFC. He desired that the Chairman need to invite representatives of the Jute Mill Unions to appreciate their problems. He also pointed out the case of coverage of Bengal Chemicals which has been pending since the year 2000 and no progress in the case has been made by RPFC concern. In another case of monthly pension pertaining to FCI, the establishment has recovered Rs.77, 000 to grant him a meager pension of Rs.216 per month. A complaint was lodged with RPFC concerned but no reply has been received in the past five years. Whatever reply has been received it is very vague and the member is yet to get proper justice.

Shri Ravi Wig invited attention to Table III at page 32 of the report and pointed out that only 9.56 lakh members have been covered under the Building & Construction activity out of a total of 3 crores subscribers. The CBT in its 129th meeting had made a coverage appeal for building & construction workers but it has not been implemented in true spirits. He desired that the report should

carry a commitment on issuing permanent account numbers to these category of employees. He further informed that he has received assurances from the Builder Associations that the day permanent account numbers are issued to them, they will be in a position to offer 30 to 40 lakh membership of workers in building and construction.

The Chairman intervened that the matter of issuing cards is linked with the modernization project. A presentation has been made before the Board on the Project where the whole roadmap was also presented.

The CPFC clarified that the modernization project has been started again with the participation of NIC and a fresh look has been given. In first phase, computerization of all the process will take place and after testing it will be launched in all the offices. In the second phase, the matter of permanent account number can be taken up only after the accounting package is finalized and linked with the software put into operation in first phase. The IT Subcommittee of the Board headed by Secretary, L&E is monitoring the project regularly. However, at present there is no firm commitment on the deadlines regarding issuance of permanent account number.

JS, SS observed that the presentation on the modernization project before the Board carried the entire details. The activities to be taken in phase one and phase two were also informed to the Board. He clarified that all the activities are interlinked and sequential and cannot be done independently. The developments during the course will be indicated to the CBT very shortly.

The Chairman further intervened and observed that he will be personally reviewing the monitoring the project. He further observed that the project has to spell a clear road map and time lines.

Shri W.R. Varda Rajan endorsed the views of Shri Ravi Wig. He observed that construction workers are the most active members of the unorganized sector and if a special drive is undertaken to cover them there will be a sharp increase in the membership.

Secretary, L&E observed that after the agriculture sector the construction workers are the largest. Having regard to the definition of unorganized sector worker and for coverage under the EPF Scheme, there is no social security for workers in establishments which are employing more than nine and less than twenty employees. She also informed that the Rashtriya Swasthya Beema Yojana (RSBY) has been launched by the Central Govt. for the workers in the rural sector and equally applies to construction workers. She desired more time from the members of the Board as the things were in the right direction. The computerization in EPFO need not be taken as a path to the darkness but progress is being made on this front. As the Chairman has expressed that he will also review, she assured the Board that in the next meeting of the Board further improvement on computerization will be presented to the Board.

Shri B.P. Pant referred to the coverage and membership. He stated that the figure is cited everywhere but there is a need to identify non-contributory members and the exact numbers in the report. Regarding pending court cases, he observed that the organisation has not been set up to launch prosecutions or file challans before the court or register FIR before police authority. He desired that there must be a fast track mechanism to deal with PF cases and their settlement at the earliest.

Shri B.L. Todi observed that the PF arrears are increasing and so are the court cases. He suggested that there must be a system of early detection of default cases. The quantum of damages under the Scheme is very high and there is a consequent default also. If this liability is reduced many small scale establishments will feel the relief and the establishments in general will come back to the compliance fold.

Shri B.S. Hegde referred to the shortage of staff depicted in the Report and observed that there is an anomaly that at one hand there is lack of man power and on the other hand high expectations exists to perform. He desired to know the reasons for such anomalous situation.

Shri J.P. Chowdhary raised the issue of Administrative Charges which are like taxation. There was a need to reduce the administrative charges by 50%. He also observed that there are huge savings in administrative account and the need to keep in reserve without utilizing it for other purposes. To strengthen the EPF number of things can be done to improve productivity. The norms which were in existence prior to computerization are still being followed. The PF account is one of the simplest form of accounts to be kept unlike the stock exchange. Therefore computerization in EPFO can be done in a better manner and it requires many parts of the Reinventing EPF India Project can be done away with. The employers can be categorized. The details of establishments who have deposited the contributions and submitted the returns can be displayed in the website. The employees can be covered on the basis of employees' strength indicated by the employer on the website. It need not require any visitation by inspectors. Regarding defaults and non contributory accounts the number of accounts can be segregated by following a bench mark and put into dormant accounts. A separate department can be created to deal with these matters which need not interfere with the day to day work of the office. He also observed that theamnesty scheme proposed is getting more complicated. He clarified that nobody is in favour of defaulters and they have to be discouraged. They are in fact in league with the authorities who maintain their accounts for many years. A number of discussions have taken place on the amnesty scheme but nothing has concretized.

Shri D.L. Sachdev observed that it is to be appreciated that there is an appreciable increase in the coverage of establishments and increase in the membership. As there is no fixed format the annual report it is necessary to have a format that not only reflects the activities, but should also include both positive as well as negative decisions. The present report should also reflect activities not only of EPFO but also of the CBT. He endorsed the views of the other members on the functioning of Regional

Committee, EPF for the States. He expressed his concern on the delivery part of the organisation as there is delay in settlement of claims and issue of annual accounts to the subscribers.

Shri Nirmal Ghosh also appreciated that there are many areas where improvements have taken place during the year 2007-08. However, he expressed his concern on the arrears and not only those which are realizable but those which are not realizable.

The CPFC with the permission of the Chair briefly clarified the observations of the members as under:

- Regarding increase in returned and rejection ratio of the claims. He clarified that these were due to improper filling up of the forms and non availability of certification from the employers. These are systemic issues.
- Regarding detection of defaults, there is a software to track the compliance by the establishments known as Computerized Compliance Tracking System(CCTS).
- Regarding liquidation of pending claims and annual accounts slips he informed that the concerns of Hon'ble LEM have been communicated to all RPFCs concerned and a conference of the RPFCs have been called on 1st and 1^{2th} December 2008 wherein they will come with their action plans to liquidate the pending claims and annual accounts slips by 3^{1st} March 2009.

The Chairman thanked the members for making valuable suggestions and for improving upon the annual report of the organisation. He desired that the draft annual report of the organisation may be adopted.

With the above deliberations the draft annual report for the year 2007-08 was adopted.

Item No.4: Revised Estimates for the Year 2008-2009 and Budget Estimates for the year 2009-2010 for the Employees Provident Fund Scheme - 1952, Employees' Pension Scheme - 1995 and Employees Deposit Linked Insurance Scheme - 1976.

The CPFC invited FA & CAO to introduce the agenda to the Board.

The FA & CAO informed the Board that the agenda item contains the budget proposal of expenditure of the organisation under the three schemes for the year 2008-09 and for the next financial year 2009-10. He informed that the proposals were also placed before the 93rd meeting of the Finance & Investment Committee held on 27.11.2008. The Finance & Investment Committee had cleared the proposal to be placed before the CBT. Some of the members had desired clarification on certain items which has been answered in the addendum to the agenda item placed on Table of the House. He requested the Board to consider the proposal and clear the proposals.

Shri Babu Lal Todi referred to page 7 of the proposal and desired to know why the variations are in negative figures.

FA & CAO clarified that these figures were actually due to instructions issued by Govt. of India for observance of austerity measures in expenditure. The other negative figures are specific to the inputs given by the functional regions for which assessment is made by the field offices.

Shri A.D. Nagpal reiterated that he had submitted comments in the meeting of the FIC that the budget proposals need to have proper application of mind. He desired that the observations may be noted and taken on record.

With the above brief discussion the item was approved by the Board.

ItemNo.5: Re-structuring of the Information Services Wing in Employees Provident Fund Organization (EPFO).

The CPFC introduced the item to the Board which was also placed before the last meeting of the Board held on 11-11-2008 but was not considered due to paucity of time. He observed that the sub-committee on XLRI in its interim recommendations had stated that with regard to IS Division and Hqrs. Cadres the CPFC may bring suitable proposals. Since a comprehensive cadre review had been considered based on the recommendations of the sub-committee on XLRI, the present agenda was being placed before the Board.

Shri M.P. Patwardhan observed that the agenda does not speak about the in-house training and refresher course for the staff in the IS Division. The agenda should also quantify the volume of work that will be handled by the IS Division. It is not clear whether that in house restructuring is being proposed or it is based on an outside agency as both will utilize different parameters. Whether the system would be based on COBOL or ORACLE has not been made clear.

Shri B.N. Rai desired to know why the matter was not discussed in the IT sub-committee of the CBT.

Shri Girish Awasthi observed that since there is a sub-committee of the CBT on IT, it will be better to refer the matter to the sub-committee and thereafter recommendations can be placed before the Board.

With the above deliberations the item was deferred to be referred to IT sub-committee of the CBT.

Item No. 6: Request for waiver of damages in respect of M/s Alex Match Industries Ltd. TN/20755.

The agenda was approved subject to the rules.

Item No. 7: Request for waiver of employees' and employer's share for pre-discovery period in respect of M/s. Bankura Biri Shilpi Co-op. Society Ltd., West Bengal.

The agenda was approved by the Board.

Item No. 8: Request for waiver of damages under section 14B of the Act in respect of M/s Rajasthan Explosives & Chemicals Pvt. Ltd. (RJ/2771).

The agenda was approved subject to the rules.

Item No. 9: Request for waiver of damages in respect of M/s Loaves & Rolls Ltd. – KN/24177.

The agenda was approved subject to the rules.

Item No.10: List of ineligible request for waiver of damages rejected by Central Provident Fund Commissioner.

The item was noted together with Item No.17 by the Board.

Item No.11: An Amnesty Scheme for employers to promote voluntary compliance.

The CPFC introduced the item before the Board. He informed that the item was sequel to Hon'ble LEM and Chairman concern that establishments are not willing to

come voluntarily to come to EPFO for fear of harassment, producing past records, to settle the issue lot of time and efforts is spent by EPFO. He had given directions to place an item on Amnesty Scheme for the employers which may have a scheme for waving the damages or penalties, so that they come forward to enroll themselves and there is corresponding increase in coverage under the EPF scheme. The CPFC clarified that it has been desired that the Amnesty Scheme for EPF may be framed on the pattern of the voluntary schemes launched by the Income Tax Department, DDA or Municipal Corporation of Delhi.

To evolve the scheme the views of the members were received and our views were also circulated. He clarified that the EPF Act and the schemes differ in many respects from the other laws. As has been held by hon'ble Supreme Court, the rights and liabilities under the EPF Act and the schemes are sui juris. It applies of its own vigour. All establishments to whom the law applies are required to pay the contributions and seek social security for their employees. The members have right to pension after completing the eligible service under the pension scheme. These issues have an implication for social security and it cannot be waived. In other laws the waiver of liabilities do not deprive anybody of their rights or benefits under the law.

It was also a fact that when an establishment comes to EPFO considerable harassment occurs as the Act is very stringent, lot of penalties are inflicted, lot of money has to paid in one go.

In the above background, he informed that Amnesty Scheme can be considered which need to have sufficient safeguards for protecting the legal rights of the employees. He invited attention of the Board to the broad suggestions made at page 91 and 92 of the agenda which can form a part of the package for Amnesty Scheme, such as :

- Allotment of code numbers within three days without verification on the basis of one single document.
- Levy of damages in respect of past period to be restricted to actuals.

- For past coverage any representation for coverage from Unions within a year after that no representation would be entertained.
- Any inspection for the past, the period to be specified and records to be specified.
- Date of past inspection from the date of previous inspection.

He further observed that the draft scheme was also circulated among the members and the office had received comments of Shri W.R. Varada Rajan only. He had desired to have the legal opinion taken by the EPFO in the matter, which has been placed on table of the house. It has been suggested by the legal adviser that it requires amendment of the Act. The matter has accordingly been placed before the Board for discussion and for seeking further guidance.

Shri W.R. Varada Rajan observed that he desired for two things. One was the legal advice which has been received and placed before the Board. The other thing relates to a debate on such a scheme in earlier meeting which he had sought to be provided. The circumstances in which it was not brought before the Board needs clarification.

He observed that the agenda placed before the Board in the present form need not be accepted as an amnesty scheme. Rather he was of the view that the crux of the item is - How we can apply the statutes and the schemes so that there must not be any harassment to the employers and at the same time the legitimate rights of the employees are protected. He, therefore, suggested that the office can prepare a revised note and circulate it again for inviting comments of the members. Their views can be placed again in the next CBT.

Shri Girish Awasthi invited attention to page 90 of the agenda. He desired to know now whether legal opinion was taken when special drive was taken to cover the establishments. He also observed that there are many establishments which are not covered under the scheme. He also desired to know whether it is beneficial to grant them code number or to leave them where they are.

The CPFC clarified that it was moral hazard only. The coverage may or may not have been done correctly. There is a need for a proper system to be built in and that the enforcement officer does not become the sole authority to determine whether an establishment is coverable or not. Where an establishment does not deposit any contribution it should be listed out so that it does not get any contracts.

Secretary (L&E) observed that voluntary compliance is always better and it will improve overall compliance. Taking the example of Income Tax Department, such drives have been able to generate more funds to be utilized in various developmental programmes. They have used the Information technology in a very effective manner highlighting the benefits that flow on coming to the compliance fold under the Income Tax. She stressed that one should understand that there are many employers sitting on the fence and waiting for such opportunities.

Shri B.N. Rai observed that whole issue involves some amendment to the Act and the scheme which is long drawn process. He observed that there are many practical difficulties at the ground level and explained with his suggestions as under :

- Assistant PF Commissioners have been given enormous powers under the Act. He has the sole power to issue order and review orders.
- His powers are challenged only before tribunal and thereafter High Court. The employer brings stay orders from High Court and the whole matter lingers on.
- The objective behind is to promote welfare measure. A sub-Committee has been constituted which had recommended for allowing the contributions for the current period and dealing with past period separately, but the suggestion has not been accepted.
- There must be delegation of power of review of orders of APFC to other officers.

- An internal policy need to be framed by the CBT to deal with the arrears for the past period which may not require amendment of the Act.

Shri A.D. Nagpal observed that it is a welcome measure and thanked the Chairman for bringing the item for extending social security to a large number of workers who are left uncovered. He invited attention to the agenda and made the following observations with suggestions:

- If the establishments are being covered from the date of visit, then the amnesty scheme is illegal.
- The employers will be encouraged definitely if certain benefits are made in the amnesty scheme, such as coverage on the basis of self-certified documents.
- Waiver of employees share for the pre-discovery period need to be considered.
- Easy installment facility for dues of pre-discovery period may be allowed.
- No prosecution for non-coverage and withdrawal of prosecution cases.
- Only damages to be levied on dues for the pre-discovery period.
- To charge interest under Section 7Q to the extent of interest payable on PF.

He further observed that he is opposed to the amendment of the Act as proposed in the agenda at page 92 at item (vi). He stated that it will give unbridled powers to the assessing officers and lead to abuse of powers, discrimination among employers and adverse criticism.

Shri Sankar Saha observed that there is no need to bail out the defaulting employers. An employer is expected to know the law after starting a company. If an employer comes under law voluntarily, only then penalty can be waived. But they have to pay both the employer and employee contributions and interest. Otherwise there will be discrimination among the employers. In the name of amnesty, the defaulters should not be encouraged.

Shri D.L. Sachdev appreciated the concern of the Chairman on the subject. He observed that Legal opinion is before the Board that it would require amendment of the law. It follows that there is no more amnesty, as amnesty is for a limited period. This issues requires to be studied further.

Shri Babu Lal Todi invited attention to the period of limitation in submission of past records. In Income Tax Department a period of 8 years has been provided. Thus, there is need to specify the period by the CBT. The ESIC has prescribed 5 years and similar provision can be made. He was referring to amnesty not only for the penalty but for arrears cases filed in courts. If damages are allowed to be waived, arrears will come down and there would be consequent decrease in the number of cases filed.

Shri J.P. Chowdhary observed that it is matter where rare unanimity exists among the employers and employee representatives. Nobody likes to promote a professional defaulter. However, the scheme should not leave out the defaulters and encourage malpractices. He referred to the agenda and stated there is lot of ambiguity and element of discretion. He was apprehensive that such discretions may fail the very scheme itself. He suggested that let there be voluntary compliance scheme other than a amnesty scheme. Regarding liability for past period, he observed that he law provides for limitation for three years. Let the employers pay normal interest for past three years and thereafter, they should be regular in future compliance. Further, lots of cases are pending in courts where damages have been levied. Lot of money is spent on litigation. If such employers also want to come to the ambit of the scheme, they may also be brought under the amnesty. However, the precondition for the scheme should be transparent. As regards records of past period it can be decided by the Chairman.

Shri Ravi Wig made his observations with regard to construction workers. He observed that amnesty scheme rather should apply to EPFO. Out of 3 crore subscribers only 9 lakh under the construction sector have been covered. There is hardly any coverage made under this sector during the last 15 years. The CBT had in its 129th meeting approved that there will be a scheme for the construction workers. Even today we are not able to say when permanent account number can be given to them. There was sub-Committee of Board which had visited the cause of construction workers. There are many employers who are willing to come forward to come under the PF scheme, but the EPF officers are not willing to bring them in. He also added that there is a need for bringing amnesty extended to the employers for production of records. He strongly recommended for having an amnesty scheme, but it should not have any ifs and buts are stated in the agenda.

Shri Ashok Singh welcomed the agenda and commended the Chairman to have brought the agenda. He also shared his experience of construction workers. He recommended issue of PF numbers for construction workers. He further stated that there must be a limitation period for scheme as in Income Tax Department. He agreed with the CPFC that if within one year if a person does not claim his benefit, no complaints need to be entertained. He desired that it was high time to have such a scheme. The suggestions have come and agenda has been placed for approval of the Board. It must be done at the earliest.

Shri J.P. Chowdhary and Ravi Wig observed that all concerned have agreed in principle to have such a scheme.

After the deliberations, the Chairman summed that lot of suggestions have come. He desired that if the members can provide their suggestions in 15 days time. It would be further examined taking into account the legal aspects into consideration.

With the above deliberations the agenda was deferred for the next meeting of the Board.

The CPFC highlighted two issues before the meeting ended. He first presented money collected by the EPFO staff towards Bihar relief fund. He handed over a cheque for a sum of Rs. 56, 95,279 to the Chairman, CBT for the Prime Ministers relief fund on behalf of the family of EPF.

Thereafter, being the outgoing Central Provident Fund Commissioner he thanked all the members and officers of Ministry of Labour & Employment for their cooperation. He acknowledged enormous support from all and thanked each one present.

Dr. Tarneja observed that Shri A. Viswanathanji had brought stability in the organisation. He desired that continuity need to be maintained by putting the next incumbent in position at the earliest possible.

Shri D.L. Sachdev observed that the Chairman can consider extension to be given to the outgoing CPFC till the new incumbent joins. Shri Ashok Singh and Shri Babulal Todi endorsed the views.

Item No. 12: Further delegation of Financial and Administrative Powers under 'Computerization' by the Central Provident Fund Commissioner under Para 24(3) of EPF Scheme, 1952 and ratification for extension of period for Hiring of Servers.

&

Item No.13: Request from CBT Members to Hon'ble LEM and Chairman, CBT, EPF for bringing an agenda on the affairs of contract workers for discussion.

Both the items were not taken up due to paucity of time and were deferred.

Item No. 14: Setting up of workers Bank in EPFO.

The item was not taken up due to paucity of time.

Item No. 15: Audited Annual Account in respect of Employees' Provident Fund Scheme, 1952, Employees' Pension Scheme, 1995 and Employees' Deposit Linked Insurance Scheme, 1976 for the financial year 2007-08.

The Audited Annual Accounts in respect of the three schemes for the year 2007 -2008 were adopted by the Board.

Item No. 16: Clarification on Appointment of HSBC AMC, ICICI Pru AMC, and Reliance Capital as Portfolio Managers-letter of BMS reg.

The item was not taken up due to paucity of time.

Item No. 17: List of ineligible requests for waiver of damages rejected by the Central Provident Fund Commissioner.

The item was noted together with Item No.10 by the Board.

Item No.18: Waiver of damages under Section 14B of the Act – M/s The New Great Eastern Spinning & Weaving Co. Ltd., Mumbai.

The item was approved subject to the rules.

Item No. 19: Request for waiver of damages in respect of M/s. Madhya Pradesh Road Transport Corporation and its units.

The request for waiver is not within the rules and hence declined.

The meeting ended with vote of thanks to the Chair.

Annexure – 'A'

List of the officers of Employees' Provident Fund Organisation, who attended/present in the 185th of the Central Board of Trustees (EPF) held on 10.12.2008.

1. Shri Abhay Kumar Singh, FA & CAO.
2. Shri P. Sudhakar Babu, Addl. CPFC (Compliance).
3. Shri Trilok Chand, Addl. CPFC (HR).
4. Shri K.C. Pandey, Addl. CPFC (Pension).
5. Shri V.P. Ramaiah, Addl. CPFC (CSD).
6. Shri R.K. Kukreja, RPFC (HRM).
7. Shri K.C.J.P. Narayanan, Director(Recovery).
8. Shri K.V. Sarveswaran, RPFC(Pension).
9. Shri P.U. Kulkarni, RPFC(Compliance).
10. Shri V. Vijaykumar, RPFC (MIS).
11. Ms. Uditia Chaudhary, RPFC (HRM).
12. Ms. Anita Dixit, RPFC(Coord).
13. Shri Chandramauli Chakraborty, RPFC(IS).
14. Shri Gautam Dixit, RPFC(CSD).
15. Shri Kumar Rohit, RPFC (ASD).
16. Shri Saurav Jagati, RPFC(HRD).
17. Shri Sanjay Bisht, RPFC (Conference).
18. Shri Vishal Agarwal, APFC (Conference)
19. Shri Ashraf Kamil, APFC (HRM).
20. Shri Robert Kapai, APFC(Finance).
21. Shri Vineet Gupta, APFC(Pension).
22. Shri Sunil Yadav, APFC(HRM).
23. Shri J.C.Thukral, APFC (ASD).