

EMPLOYEES' PROVIDENT FUND ORGANISATION
DRAFT MINUTES OF THE
186th MEETING OF CENTRAL BOARD OF TRUSTEES (EPF)

Meeting: Central Board of Trustees, Employees' Provident Fund

Date: 22.02.2009

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

The 186th 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 S.K. Srivastava, Joint Secretary to the Government of India, Social Security Division, Ministry of Labour & Employment Government of India, New Delhi.</p>	<p>Central Government Representatives.</p>
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<p>Smt. Ananya Ray, 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 Ministry of Finance, Govt. of India.</p>	
<p>Shri A.D. Nagpal Shri B.N. Rai Shri Ashok Singh Shri Sankar Saha Shri D. L. Sachdev Shri A. Dakshi (Representing Shri W.R. Varada Rajan)</p> <p>Shri M. Jagadiswara Rao (Representing Shri M.P. Patwardhan)</p>	<p>Employees' Representatives.</p>
<p>Shri S. B. K. Pradhan, OSD O/o Resident Commissioner, Govt. of Orissa (Representing Principal Secretary, Govt. of Orissa)</p> <p>Dr. Ram Murti Agarwal, Chief Medical Officer, ESIC (Representing Principal Secretary, Govt. of Uttar Pradesh)</p>	<p>State Government Representatives.</p>
<p>Shri J.P. Chowdhury Dr. Ram S. Tarneja Shri Ravi Wig Shri Sharad Patil Shri P. Rajendran</p>	<p>Employers' Representatives.</p>

Shri Babu Lal Todi Shri Santosh Saraf Shri U.K. Dikshit Shri B.P. Pant Shri S.S. Rathi	
Shri K. Chandramouli, Central Provident Fund Commissioner	Member Secretary.

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

Shri C. R. Chikkamath, Secretary to the Govt. of Karnataka, Department of Labour.	State Govt. Representative
Shri T. Prabhakar Rao, Secretary to the Govt. of Karnataka, Department of Labour.	

The following members were absent from the meeting:-

Dr. G. Sanjeeva Reddy	Employees' Representative
Shri Nirmal Ghosh	
Secretary (Labour) Hyderabad Secretary (Labour) Assam Secretary (Labour) Patna	

Secretary(Labour) Gujarat	State Government Representatives.
Secretary (Labour) Chandigarh	
Secretary(Labour) Madhya Pradesh	
Secretary(Labour) Maharashtra	
Secretary(Labour) Haryana	
Secretary(Labour) Rajasthan	
Secretary(Labour) Tamilnadu	
Secretary(Labour) West Bengal	
Secretary(Labour) NCT of Delhi, Labour Department	

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 186th meeting of the CBT, EPF which is the fourth regular meeting of the new Board. He welcomed Shri K. Chandramouli, IAS who had taken over as Central Provident Fund Commissioner on 1st January 2009, as Member Secretary of the Board. He hoped that under his leadership EPFO will attain new heights of success in all the fronts. He apologised for the short notice for convening the meeting and clarified that the main agendas were actually deferred items of the previous meeting. Nevertheless he expressed his gratitude that many of the members made it a point to attend the meeting. He drew attention to three important agenda items before the Board. The first item was on recommendation of rate of interest to be credited to the EPF Members account for the year 2008-09. He observed that the global slowdown had implications on the economy of the country which has thrown new challenges in labour sector. In this scenario as Board of Trustees, it was their bounden duty to pass on the maximum benefits to the employees on their savings in accordance with the permissible returns on the invested fund as a measure of social security. He further invited attention to the second item in the agenda on contract workers and desired that the members may deliberate and make appropriate recommendations. Regarding the amnesty scheme which was discussed in the last meeting and comments/suggestions were called from the members, he mentioned that comments from only two members have been received so far. If the members wished, the item agenda may be taken up and some conclusion may be arrived at.

Thereafter, the Chairman informed the Board about the sad demise of Shri Alampalli Venkataram, a former member of the CBT and expressed his deep sorrow. He observed that Shri Venkataram was an eminent trade union leader and representative of the employees in the CBT for more than 20 years. The Chairman also commended his dedicated service of Shri A. Venkataram as member of the Board and his contributions as a member of various sub-committees of the CBT. As a mark of respect a silence of one minute was observed. The Board also resolved to send its condolence to the next of kin.

Before the items were taken up Shri Ashok Singh raised the matter of exemption granted to M/s. Sahara India. He observed that he has been raising the issue in all the CBT meetings, but no action upon cancellation of the exemption granted to the establishment has been reported. In spite of assessment made by Lucknow office, the amount has not been recovered. He thereafter handed over a note to the CPFC in which certain irregularities were pointed out and required attention.

The Chairman observed that when an issue is raised by the member in the meeting, it should be looked into very promptly and necessary action should be taken.

The CPFC clarified that an action taken report has been placed before the Board and the matter will be further expedited as desired by the member.

Shri A.D. Nagpal raised the matter of grant of one time fixation benefits in respect of Group 'C' and 'D' employees at par with ESIC. The expenditure was fully within the competence of the Board. He desired that another reference may be made to Ministry of Finance.

Shri Sankar Saha raised the matter of committee of the CBT on exempted establishments which had not met so far. It was clarified that the committee has been reconstituted recently with Shri Sankar Saha as the Chairman from the employees' side.

Shri D.L. Sachdev observed that multiple fund manager have been appointed by the EPFO recently in spite of opposition from the employees representatives. Their performance during the last three months may be informed to the Board. He further invited attention to the existing vacancy in the Executive Committee of the CBT against which one employee representative is required to be appointed by the Govt.

Shri Ravi Wig invited attention to the minutes of the CBT held on 18-9-2008 and raised the matter of replacement in the sub-committee for construction workers as he had been in the sub-committee earlier. He desired that when the matter of appointments in the sub-committee is considered, there should be consensus among employers associations and employees associations as well, so that best suited person is

appointed in the sub-committee. In this regard he also invited the views of employees association.

Shri B.N. Rai and Shri Ashok Singh agreed with the nomination of Shri Ravi Wig in the sub-committee having regard to his experience in field of construction.

The Chairman agreed to have Shri Ravi Wig as additional member in the sub-committee for construction workers, with provision of one additional member from the employees' if the situation required.

Shri A. Dakshi representing Shri W.R. Varada Rajan observed that he would like to raise the gap in the membership in EPF and in the EPS 1995 after the regular agenda is deliberated upon by the Board.

Dr. Ram Tarneja raised the issue of having a sub-committee on HR and desired sub-committee on XLRI to expedite its final report.

Secretary clarified that constitution of sub-committee on HR is an important issue and should be taken up by the CPFC expeditiously.

Shri Babu Lal Todi desired to know whether the anomalies committee to look into the grievances arising out of the implementation of 6th Central Pay Commission recommendations has been set up.

Joint Secretary (SS) clarified that the setting up of anomalies committee is at an advanced stage. Regarding consensus among the employers and employees while considering the appointments in the sub-committee, he invited attention to the minutes of the 183rd CBT wherein the consultative process among the employers and employees representatives was followed and respected.

Shri A.D. Nagpal desired that while setting up of the anomalies committee, the balance among the employers' and employees' representatives may be made.

The Chairman requested the Member to keep their queries for later part of the meeting and agenda may be taken up first.

Shri B.N. Rai suggested that there was a need to have a "zero" hour in the CBT meeting before regular agenda is taken up. This will give the members an opportunity to raise their view points on important issues that require immediate attention. This was agreed to by the Chairman.

Thereafter the CPFC introduced the items of the agenda before the Board.

Item No.1: Confirmation of the Draft Minutes of the Special Meeting, 184th Meeting & 185th Meeting of the CBT (EPF) held on 18.09.2008, 11.11.2008 & 10.12.2008 respectively.

After a brief discussion by the members, the draft minutes were confirmed alongwith the comments received from the members.

Item No. 2: Action Taken Statement in respect of CBT Meetings held upto 10.12.2008.

The CPFC introduced the agenda item and read the action taken to the Board. The action taken report was noted by the Board and observations that were made by the members and were noted for further action and inclusion in the next action taken report, are as under :-

Sl. No. 1	Noted by the Board.
Sl. No. 2	Noted by the Board. However, it was further decided that the matter could be referred to an outside expert agency.

Sl. No. 3	Noted by the Board. The CPFC further informed that the matter would be further deliberated in the house and Board would be informed of the re- arrangements required in the programme.
Sl. No. 4	Noted by the Board. The matter would be expedited further.
Sl. No. 5	Noted by the Board. However, the figures mentioned in the minutes were clarified as those taken from the EPFO. It was further clarified that the EPFO has implemented the interim report of the sub-committee. The final report would be given once the modernization project gets into place in EPFO.
Sl. No. 6	Secretary (L&E) clarified that Secretary (Expenditure) has not agreed to the proposal and read out the contents of the letter received by the Ministry of Labour & Employment. However, since matter has been raised again in the CBT, another reference would be made by the Ministry. Noted by the Board with the observations of Secretary (L&E).
Sl. No. 7	Noted by the Board. The Board would be further informed after complete information becomes available.
Sl. No. 8	Noted by the Board. Secretary (L&E) further informed that 2/3 rd of the consultation process has been completed and the matter would be suitably informed to the Board.
Sl. No. 9	Noted by the Board. The matter will be followed up.
Sl. No. 10	Noted by the Board. However it was desired by the Board that the grievances will be resolved by the anomalies committee within one year of receipt of such grievances by the Committee.
Sl. No. 11	Noted by the Board.
Sl. No. 12	Noted by the Board. The CPFC assured the house that the matter will be followed up with the Govt. and notification will be expedited.
Sl. No. 13	Noted by the Board.
Sl. No. 14	Noted by the Board.
Sl. No. 15	Noted by the Board.

Item No. 3: Recommendation of rate of interest to be credited to EPF members' accounts for the year 2008-09.

The CPFC invited FA & CAO to introduce the item.

FA & CAO informed the Board that item was earlier placed before the Board in the 183rd meeting of the CBT but not taken up due to paucity of time. To recommend the rate of interest, the position of estimated amount to the credits of the members as on 1.4.2008 and the estimated yields from the investment holdings are taken into consideration.

He further informed that the yield for the year 2008-2009 was estimated at 8.39% which has been placed before the Finance & Investment Committee in its 91st meeting held on 19.03.2008. As per the calculation of interest payment liability vis-a-vis the expected interest income during 2008-2009 to maintain rate of interest of 8.5%, there was a shortfall of Rs. 139.25 crores. The contingency reserve utilized earlier for the year 2006-2007 had a balance of Rs. 150.56 crores which CBT may take the decision to utilize in order to offset this shortfall and recommend an interest rate of 8.5% for the year 2008-09. Accordingly, the matter has been placed before the Board for deliberation and appropriate decision.

Shri D.L. Sachdev expressed his serious reservations on lower rate of interest to be given to the workers. He observed that already the Chairman had made a sincere effort to meet the Prime Minister on the issue of higher returns in the special deposit scheme (SDS). He desired that the Scheme on SDS could be renewed. Since the then Finance Minister was not favorable to the request of the Board, he desired that Govt. should help the Board as it takes final decision on the rate of interest. If possible another effort should be made to meet the Prime Minister again on the issue.

Shri A. Dakshi observed that there is a demand from all the Trade Unions for 9.5% rate of interest on EPF and nothing less. In order to help the corporate sector

bailout packages have been pledged which are from our own reserves. Therefore, some support should also come from the Government for the poor workers, so that higher rate of interest is given to them. SDS was created in the year 1975 to give higher rate of returns to the workers. After liberalization the interest rates have gone down to the detriment of the interest of poor workers. He endorsed the view for better interest rate on SDS or alternatively the Government should support with other sources like bailout package.

Dr. Ram Tarneja observed that we all are trustees of the fund which we have at disposal and not of the funds which we do not have. The returns have been thoroughly examined by the Finance & Investment committee and even a rate of 8.5% is difficult to maintain. He was of the view that it would be better to press for restoration of SDS. He endorsed the views of Shri D.L. Sachdev on this. He observed that it would be better to decide on the issue of SDS quickly. He further suggested that this be done in two stages:-

- i) The first urgent request to GOI should be to continue to keep whatever SDS Deposits are with the Government even after maturity at the same rate of interest as is being paid. Keeping in view the elections, this will be an expeditious way to keep SDS on cumulative basis with GOI itself.
- ii) The new government would have assumed charge on or before 01.06.2009. The question of continuing SDS even for new deposits should be pursued with the new government.

Shri Ashok Singh desired to know whether the damages include penal interest?

If so, why it has been shown as damages only?

FA & CAO clarified that the damages include 7Q and since both being income, composite amount of these two has been shown under head damages.

The Chairman observed that care should be taken in future to include such earnings that have been received as income excluding which are receivable. Regarding the measure of financial support to the industry, the Chairman further observed that Government has extended support to ensure that they keep running and to encourage production. All these measures which have been termed as bailouts are with the intention to protect the jobs of the employees and not the industry. These funds have to be utilized by the industry in the interest of the workers. This he also clarified as a representative of the Government. He further clarified that it has been decided by the Government to register the names of all the retrenched employees. Regarding Special Deposit Scheme, the Finance Minister had categorically stated EPFO to withdraw the money if so desired. However, this has not been supported by the CPFC since the returns of SDS were higher today than the interest rates offered by Govt. Sectors therefore it would not be prudent to withdraw this amount and invest it in instruments which offer lesser yields.

Shri B.N. Rai reiterated that the objective of bringing the SDS in the portfolio was to give better interest to workers. When the interest has gone down the workers will not keep the money in EPF. The investments in SDS have stopped since the year 2000 and other source of income have been identified by the Board during the last 3 to 4 years. The Board should decide other investments and other sources of income. It requires a re-look in the interest of workers and the credibility of the Board.

Shri A. D. Nagpal observed that:-

- i) It is difficult to convince workers at rate of interest less than 9.5%, when Banks are paying higher rate of interest on fixed deposits.
- ii) Board has already passed a unanimous resolution requesting the Chairman to take up with the Prime Minister/Finance Minister regarding (a) Special Deposit Scheme (SDS) be continued and EPFO be allowed to continue investments in SDS and, (b) Administered rate of interest on SDS be increased as otherwise Social Security of poor workers after superannuation will be jeopardized.

With the above deliberations the Board recommended the rate of interest as 8.5% to be credited to EPF members' accounts for the year 2008-09 and the Chairman allowed the representatives to record their note of dissent.

Item No.4: Complaint filed against M/s Batliboi and Purohit as Portfolio Auditor for the year 2005-2006.

The Board resolved to file a formal complaint against the firm as proposed in the agenda item.

ItemNo.5: M/s. Kerala Gandhi Smarak Nidhi, (KR/12631) Consideration of request for waiver of damages.

The request was rejected by the Board.

Item No. 6: 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.

Shri A.D. Nagpal observed that it needs to be insured that sufficient budget is allocated at the beginning of the year.

Shri B.N. Rai suggested that the Board should be informed about the utilization of the budget.

The delegation of powers contained in the agenda item was noted by the Board.

Item No. 7: Request from CBT Members to Hon'ble LEM and Chairman, CBT, EPF for bringing an agenda on the affairs of contract workers for discussion.

The item was taken up for discussion and many members made observations regarding the issue of protecting interest of the contract employees and those who have not been brought under the purview of the Act and scheme.

Shri B.N. Rai observed that agenda was introduced by Shri Girish Awasthi who was not present due to illness. He had no objection if the matter was deferred. However, he observed that there was an urgent need to look into the issue of coverage of contract employees who are not getting their benefits due to unscrupulous contractors. He emphasized that there was a need to address the issue on two accounts to decide upon the ways and means to cover the uncovered contract employees and to improve the compliance of the existing covered contract employees. He desired that some exercise needs to be done at the ground level before bringing the agenda before the Board. He further pointed out that the covered contract workers are facing broadly five problems as follows:-

- i) Their contributions are not being deposited in the code number of principal employers as per law.
- ii) The contractors are deducting contributions but are depositing partly under their individual code no.
- iii) The contractors are often changed while contract workers remained working in the same establishment and under such conditions, the contract workers neither get their deducted amount back through the contractors nor from local P. F. Office.
- iv) The contract workers do not get annual account slip for their deducted contributions which have created confusion and worry in them.
- v) The coverage in general not being done from the date of their joining. Shri Rai said that such things are not happening only in private sector but in public and govt. sectors too. He cited example of NTPC where thousands of workers have been engaged on contract but most of them have been covered lately at the repeated demands of unions.

Shri D.L. Sachdev endorsed the views of Shri B.N. Rai. He observed that many exempted trusts in the Oil Sector, being the principal employer, do not enroll the contract employees with them as separate code no. has been allotted to the contractor. The allotment of separate code number to contractors has created problems at the ground level. He then referred to the case of contract employees of M/s. FCI.

Shri M. Jagadiswara Rao also endorsed the views that the existing system of separate code numbers needs to be stopped and principal employer should be made more accountable.

Shri A. Dakshi observed that the agenda item discusses the misuse of the existing provisions and endorsed the views of Shri A.D. Nagpal that there was a requirement to plug the loop holes. He also observed that in the interim budget declaration there was a mention of issue of identity cards for identification of workers. Therefore both these issues were very important in the interest of workers and there should be a full fledged discussion of the Board.

Shri Ashok Singh made a suggestion to cast the responsibility upon the principal employers to deduct and deposit the contributions with EPFO like TDS and a certificate could be given to the contractor. This will take care of the situations where the contractor closes his business leaving the contract employees in lurch but the contributions of the workers would be safe.

Shri A. D. Nagpal mentioned that there is a need to devise ways to plug all the loopholes which help contractors to evade PF benefits to its workers so that PF deductions of poor workers made by the contractors are deposited with PF authorities so that social security protection is provided to the workers under the EPF & MP Act – 1952.

The Chairman endorsed the views that there was a serious problem relating to contract employees and Board should come out with workable solutions. He has been receiving many grievances from contract employees working at airports and beedi

establishments that they were not receiving their provident fund in spite of being deducted from their earnings. There had to be a solution to address the situation.

After deliberations, Secretary (L&E) observed that the subject matter was also discussed in the recently concluded Indian Labour Conference at New Delhi and there was need to bring in some decisions arrived in that Conference.

The Chairman observed that it would be better to have comments from all the members on the issue with suggestions to improve coverage of contract employees and that they get the social security benefits under the schemes. He requested the members to send their suggestions within 15 days time.

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

Item No. 8: Request for Waiver of damages under section 14B of the Act – M/s Mutha Spherocast (India) Pvt. Ltd. (MH/100373).

The agenda item was approved subject to rules.

Item No. 9: List of ineligible requests for waiver of damages rejected by Central Provident Fund Commissioner.

The agenda item was noted by the Board.

Item No.10: Grant of exemption under section 17 of the EPF & MP Act, 1952 by Appropriate Government.

Shri P. Rajendran while supporting the grant of exemption to establishments, pointed out that as per his understanding the Ministry of Finance had refused to extend the deadline of 31.3.2009 to recognize the exempted trusts under the Income Tax Act. There was no mention about it in the interim budget also. He therefore observed that there had to be a decision on two points i.e., notification for grant of exemption to be issued in respect of 417 establishments which are pending with the Government and further processing of the list pending with the EPFO. These two issues need not be linked with the cases of defaulting establishments for which separate mechanism exists for securing compliance.

Joint Secretary (SS) clarified that there are two issues concerning the grant of exemption under the Act. The first issue relates to those cases which have been routed through the CBT to the Central Government earlier for grant of exemption. Recently a decision was taken jointly with EPFO to go for quick inspection of these trusts before they are cleared. As a sequel the CPFC had issued detailed instructions to the field offices with directions to send their reports by 6th February 2009. These reports have been received in the Ministry in a phased manner and approval of the competent authority is being obtained to clear the 85 cases on a fast track mode, which are pending with the Government. Regarding the new 147 cases based on the recent experience, he suggested that it would be better to go for re-inspection so that the cases are not held up later.

Shri Sharad Patil observed that the pending list of exemption included big trusts which have been doing well and their cases deserve better treatment.

On the agenda and the issues raised, the CPFC clarified that it would be in the interest of all to recommend 147 cases for grant of exemption to the Government. As regards the cases where relaxation has been given by the RPFCS, a detailed circular has already been sent to the RPFCS to take up the cases of relaxation threadbare and report

to Headquarters within a month. If they did not comply with the directions their powers would be withdrawn. As some members had pointed out that there are old cases pending for grant of exemption, such cases can be brought to the notice of EPFO. Otherwise, as per records no such case has been pending with EPFO.

With the above deliberations the agenda item was approved by the Board.

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

The CPFC informed the Board that the item was introduced on the directions of the Chairman in the last meeting of the CBT but deferred for the next meeting. As members who could not send their comments earlier desired to offer their comments/suggestions and sought further time, the Chairman asked the members to send their comments within 15 days time.

The agenda was deferred for the next meeting of the Board.

Item No. 12: Report of the Sub-Committee on Plantation Sector.

The CPFC introduced the item and informed the Board that action has been taken on the larger part of the recommendations made in the report.

The Chairman observed that members may take note of the report and the issues would be discussed in full agenda to be placed alongwith the amnesty scheme.

The agenda item alongwith the action taken report was noted by the Board.

The meeting ended with vote of thanks to the Chair.

Minutes Confirmed.

(Sudha Pillai)
Secretary (Labour & Employment) &
Vice-Chairperson, Central Board of Trustees, EPF.

Annexure – 'A'

List of the officers of Employees' Provident Fund Organisation, who attended/present in the 186th of the Central Board of Trustees (EPF) held on 22.02.2009.

1. Shri Vikas, Director, Ministry of Labour & Employment.
2. Shri Abhay Kumar Singh, FA & CAO.
3. Shri P. Sudhakar Babu, Addl. CPFC (Compliance).
4. Shri Trilok Chand, Addl. CPFC (HR).
5. Shri K.C. Pandey, Addl. CPFC (Pension).
6. Shri V.P. Ramaiah, Addl. CPFC (CSD).
7. Shri R.K. Kukreja, RPFC (HRM).
8. Shri K.C.J.P. Narayanan, Director (Recovery).
9. Shri K.V. Sarveswaran, RPFC (Pension).
10. Shri K. Rajagopalan, RPFC (Compliance).
11. Shri V. Krishnamoorthi, RPFC (F&A).
12. Ms. Anita Dixit, RPFC (Coord).
13. Shri Chandramauli Chakraborty, RPFC (IS).
14. Shri Gautam Dixit, RPFC (CSD).
15. Shri V. Ranganath, RPFC (Investment).
16. Shri K.S. Rajan, Dy. Director (Audit).
17. Shri K.V. Ranganadhan, Dy. Director (Audit).
18. Shri Saurabh Jagati, RPFC (Exemption).
19. Shri Sanjay Bisht, RPFC (Conference).
20. Shri Vishal Agarwal, APFC (Conference)
21. Shri Upendra Pratap Singh, APFC (Compliance).
22. Shri Robert Kapai, APFC (Finance).
23. Shri Vineet Gupta, APFC (Pension).
24. Shri J. C. Thukral, APFC (ASD).