



EMPLOYEES' PROVIDENT FUND OFFICERS' ASSOCIATION
EMPLOYEES' PROVIDENT FUND ORGANISATION
MINISTRY OF LABOUR AND EMPLOYMENT, GOVT. OF INDIA
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Commissioner

10th July, 2019
MOST URGENT

To,
Hon'ble Chairman,
CBT, EPF,
Shram Shakti Bhawan,
NEW DELHI 110 001

Subject: Non-grant of NFSG benefits & non-disposal of representations of EPF officers despite orders of Hon'ble CAT, Chandigarh – filing of contempt petition – request for grant of appointment for briefing on above – regarding

Respected Sir,

It is submitted that CBT, EPF had approved for grant of NFSG benefits to EPF officers in the year 1999, however, the same was implemented in EPFO after approval of the Ministry of Labour & Employment with effect from the year 2006. At that time, Shri A.K. Chandok had filed a petition before the Hon'ble Central Administrative Tribunal (CAT), Chandigarh bench for grant of NFSG benefits with effect from the year 1999, as approved by the CBT, and Hon'ble CAT had ordered for the same.

The said orders of the Hon'ble CAT were challenged before the Hon'ble High Court of Punjab & Haryana by the Government and the Hon'ble High Court had upheld the orders of Hon'ble CAT. The Hon'ble High Court had ordered that as CBT, EPF is the competent authority to decide the issue, it should not have been referred to the Ministry, and even if it was referred to the Ministry, the Ministry should have referred it back to the CBT, EPF. Thus, the NFSG benefits were ordered to be granted to EPF officers with effect from year 1999 and the total number of posts under NFSG were increased from 15% to 30% of senior division posts. The Government had thereafter referred the issue to the Department of Law for filing of SLP before the Hon'ble Supreme Court against the above orders of Hon'ble High Court. However, the ASG had opined that this was not a fit case for filing of SLP, and the Government had accepted said legal opinion and implemented the orders of Hon'ble High Court. On basis of this, NFSG benefits were granted to a number of EPF officers, who are still enjoying the same.

2. Later, CAG audit raised an objection on grant of NFSG benefits in EPFO, as at that time there existed both functional posts (of ACC) as well as non-functional posts (of RPFC-I) in the same pay scale of PB-4 Grade Pay Rs.8700. This issue was resolved during the process of cadre restructuring in EPFO during 2016-17, as the post of Additional Central P.F. Commissioner (ACC) which was earlier at said pay band was upgraded to the pay scale of PB-4 with Grade Pay Rs.8900, thus leaving the pay scale of PB-4 with Grade pay Rs.8700 vacant for NFSG posts. The benefit of NFSG for EPF officers was also approved by the CBT, EPF as well as by the Ministry of Labour & Employment, after due approval from Ministry of Finance. Later, the CAG audit has clearly stated that above restructuring of posts has cleared the way for grant of NFSG in EPFO.

3. However, when EPFO sent a proposal to the Ministry of Labour & Employment for constituting a committee for placing eligible officers in NFSG pay scale, the Ministry needlessly referred the issue to the DoP&T for comments. Furthermore, while referring the matter to DoP&T it was not intimated that the Hon'ble Punjab & Haryana High Court has already ruled in the A.K. Chandok case that CBT, EPF is the competent authority for approval of grant of NFSG to EPF officers and that on basis of the said judgment, NFSG benefits were earlier granted to a number of EPF officers, as stated above.

4. Demoralised & frustrated by this undue delay in grant of NFSG benefits, some EPF officers with backing of EPF Officers' Association (EPFOA) filed a petition before the Hon'ble CAT, Chandigarh bench, with request to direct the competent authority for grant of NFSG benefits to eligible officers. The Hon'ble CAT vide orders dated 08-02-2019, issued direction to the respondents viz. the Hon'ble Chairman, CBT, EPF,

the Secretary (L&E) and the CPFC to consider and decide the representations of the applicants while taking into consideration the ratio laid down in the case of A.K. Chandok, which has been affirmed by the Hon'ble High Court also. The needful was to be done within a period of two months. If upon such consideration, the applicants are found similarly situated like the applicant in the A.K. Chandok case, the relevant benefits be granted to them, otherwise a reasoned and speaking order be passed thereon, with a copy to the applicants.

5. When the above two-months' time granted by Hon'ble CAT was drawing to a close, the Ministry & EPFO had sought an extension of time. The Hon'ble CAT vide orders dated 22-04-2019 gave a further extension of two months with directions that no further extensions shall be granted. However, instead of complying with the court orders, the Ministry has now sought another extension from the court. It is submitted that EPFO has been taking a consistent stand in the said matter but the Ministry has been delaying the issue by unnecessarily referring it to DoP&T. In fact EPFO has already requested the Ministry to decide the matter at the earliest to avoid any adverse orders from the court.

6. Sir, it is submitted that you may kindly appreciate that if the directions of Hon'ble CAT are not followed even now, then there exists no recourse in the judicial system other than filing of contempt petition. However, we, as EPF officers, wish to avoid such an extreme & unpleasant step. Therefore, so as to resolve the entire issue amicably, it is requested that you may kindly issue orders for immediate compliance of the orders of Hon'ble CAT in above matter. It is also requested that you may kindly grant the EPF Officers' Association an appointment, as per your earliest possible convenience, so that we may get an opportunity to personally brief you on this important issue.

Thanking you.

Yours sincerely,



**[Saurabh Swami]
Secretary-General**

Copy to:

- 1. Secretary (L&E)**
- 2. CPFC, EPFO**

**with similar request as above.
for kind information please.**



**[Saurabh Swami]
Secretary-General**