

EMPLOYEES PROVIDENT FUND OFFICERS' ASSOCIATION
(Recognised)

Bhavishya Nidhi Bhawan, G.S. Road, Near Bharalu Bridge,
Bhangagarh, Guwahati – 781 005. (Assam)

PATRON

G. Sanjeeva Reddy,
MP (Rajya Sabha)

PRESIDENT

Shankar Pathak, RPFC-I

SECRETARY GENERAL

Sudarshan Kumar, APFC

WORKING PRESIDENT

E Sanjeeva Rao, R.P.F.C-II

JOINT SECRETARY GENERAL

Ganesh Kumar, R.P.F.C-II

ORGANISING SECRETARY

M.S.Arya, R.P.F.C-II

TREASURER

Pramod Singh, A.P.F.C

Vice Presidents:

(North)

Manoj Yadav, R.P.F.C-II

(South)

Paritosh Kumar, R.P.F.C-II

(East)

Shekhar Kumar, RPFC-II

(West)

Ravindra Shinde, A.P.F.C.

MEMBERS:

(North)

Rina Mandal, R.P.F.C-II

(South)

N Kishore Kumar, A.P.F.C

(East)

R.K.Sinha, A.P.F.C

(West)

G R Jilla, A.P.F.C.

Date: May 01, 2012

Place: New Delhi

To,

The Joint Secretary (Pers.)
Department of Expenditure
Ministry of Finance, Govt. of India.

Subject: No cadre review in last 60 years in E.P.F.O.:
Pending proposal for creation and upgradation
of certain posts in the Central Board of Trustees
(E.P.F.O.) – reg.

Madam,

A proposal for creation or upgradation of certain posts are formulated and approved by the Executive Committee of the Central Board for implementation to the cadre of P.F. Commissioners of various ranks created under Section 5D (3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (the Act) read with para 22A of the Employees' Provident Funds Scheme, 1952 (the Scheme) and the Section 5E of the Act. The proposal was so approved by the Executive Committee of the Central Board in its 72nd meeting held on July 14, 2011, which was presided over by the Secretary (Labour & Employment).

Contents of these statutory provisions are summarised below:

TABLE I.

Section/Para	Provision
Section 5D (3) of the Act	Appointment of officers. – The Central Board may appoint, subject to the maximum scale of pay, as may be specified in the Scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and such other officers and employees as it may consider necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.
Section 5E of the Act	Delegation. - The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers, subject to such conditions and limitations, if any, as it may specify, such of its powers and functions under this Act as it may deem necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.
Para 22A of the Scheme	Appointment of officers and employees of the Central Board. – The power of appointment vested in Central Board under sub-section (3) of section 5-D of the Act shall be exercised by the Board in relation to posts carrying the maximum scale of pay of Rs. 14,300 – 18,300 (as per 6 th CPC PB4, Grade Pay 8,700).

As a matter of fact this proposal consists of two distinct levels of posts:

1. Creation of or upgradation to posts carrying grade pay upto Rs. 8700 in P.B.4, and
2. Creation of or upgradation to posts carrying grade pay of Rs. 8900 or Rs. 10,000 in P.B.4 and other posts of higher scale.

The Central Board is fully competent to create posts covered under first part and requires no further examination, alteration, amendment or approval by any government department, including D.o.P.T. or the Department of Expenditure, Ministry of Finance. Despite this clear statutory provision even the first part of the proposal is sent to the Department of Expenditure, Ministry of Finance for its concurrence or approval. It is a settled principle that in case of any conflict between statutory provision [Section 5D (3) read with Para 22A

(supra)] and administrative instruction [to refer a matter regarding creation of or upgradation to posts to the Department of Expenditure], the former must prevail over the latter. In this regard the opinion sought from the Department of Legal Affairs, under the similar factual matrix, *"...in the event of conflict between statutory provisions enacted by Parliament and administrative instructions of the Government, the provisions of statutes will always prevail over the administrative instructions"*. A copy of the letter to E.P.F.O. from the Ministry of Labour and Employment, conveying the said opinion of the Department of Legal Affairs, bearing the number A-11013/3/2003-SS.I dated December 08, 2003, is enclosed as [Annexure I.]

It is being brought further to your knowledge that no money is drawn or contributed from the Consolidated Fund of India to meet any part of the administrative expenses of the Central Board (E.P.F.O.). Administrative expenses of the Central Board (E.P.F.O.) is met from a Fund created by levying "Administrative Charges" collected from the establishments covered under the Act. In this connection Para 39 of the Scheme read as follows: *"39. Fixation of administrative charges.– The Central Government may, in consultation with the Central Board and having regard to the resources of the Fund available for meeting its normal administrative expenses, fix the percentage of administrative charges payable under subparagraph (1) of paragraph 38 above"*. The letter written by the Central P. F. Commissioner to the Department of Expenditure is also illustrative on the subject. In this letter bearing number D.O. No. CPF/PS/MISC/10/28087 dated November 16, 2010, wherein he writes *"The Organisation (EPFO) meets its total administrative requirement from the administrative charges levied on the employers, whose employees are covered under EPF & other schemes. Thus the administrative charges are independent and not dependent on Govt. of India"*. A copy of this letter is enclosed as [Annexure II.]

It is not out of place to mention that the Fund created by charging administrative charges from which salary, perks and other administrative expenses of the Central Board (E.P.F.O.) are met, has an accumulated surplus of 13,000 odd crores of Rupees and annual surplus of Rs. 1000 crore, without the Fund being utilised for the purpose it is collected.

Thus the reference to the Department of Expenditure, G.o.I., of the portion of the said proposal, so far as it relates to creation of or upgradation to posts carrying the maximum scale of pay of Rs. 14,300 –18,300 (as per 6th CPC PB4, Grade Pay 8,700), is a pure surplusage and the matter lies within the sole competence and exclusive jurisdiction of the Central Board (E.P.F.O.).

Respecting part of the proposal involving creation of or upgradation to posts carrying grade pay of Rs. 8900 or Rs. 10,000 in P.B.4 and other posts of higher scale, it is brought to your knowledge that no cadre review was ever undertaken in E.P.F.O. the last six decades since its creation in the year 1952 whereas the D.o.P.T. instructions require a periodicity of five years for such exercise. The cadre review exercise is neglected despite geometric growth, both horizontally and vertically, in the quantum of work undertaken and collection and handling of fund. To grasp the exponential expansion of the activities undertaken by the E.P.F.O. following facts may be considered:

TABLE II.

Data as on	No of establishments Covered under the Act	No of Accounts (in crore) maintained by EPFO	Claims settled (in lakhs)	Collection in A/C – 2 (in Crore) collection	Expenditure in crore from A/C 2
31/03/2001	340013	2.63	42.66	565.21	381.88
31/03/2002	357747	2.74	49.76	587.14	354.04
31/03/2003	344508	3.95	50.05	607.79	429.7
31/03/2004	370386	4.01	47.97	808.51	474.42
31/03/2005	408831	4.11	51.61	824.8	484.62
31/03/2006	444464	4.3	48.18	1016.68	586.75
31/03/2007	471678	4.44	51	1229.91	980.85
31/03/2008	532707	4.49	56.09	1587.71	544.16
31/03/2009	573063	4.71	71.64	1828.65	801.5
31/03/2010	615902	5.94	78.18	2107.60	1113.78
31/03/2011	660546	6.16	72.49	2,509.69	1,168.43

It is therefore requested as follows:

1. The portion of the proposal so far as it relates to creation of or upgradation to posts carrying the maximum scale of pay of Rs. 14,300 – 18,300 (as per 6th CPC PB4, Grade Pay 8,700) may be returned to the Central Board or the Ministry of Labour and Employment on account of such reference to the Department of Expenditure being a pure surplusage and the matter lying within the sole competence and exclusive jurisdiction of the Central Board (E.P.F.O.) as elaborated above.

2. The portion of the impugned proposal involving creation of or upgradation to posts carrying grade pay of Rs. 8900 or Rs. 10, 000 in P.B.4 and other post of higher scale may be processed in view of the following documents of the D.o.P.T. and Cabinet Secretary.

- i. D.o.P.T. O.M. No. I-11011/1/2009-CRD December 14, 2010
- ii. Directions of Cabinet Secretary issued vide his D.O. letter No. I-11019/6/2008-CRD Dated April 29, 2008.
- iii. Cadre Review of Group 'A' Central Services: A Monograph (2010)

Yours faithfully,



Sudarshan Kumar
SECRETARY GENERAL
EPF Officers' Association

Encl: a/a

(16)

F.No. A-11013/3/2003-SS.I
Government of India / Bharat Sarkar
Ministry of Labour / Shram Mantralaya

New Delhi, dated the 8th December, 2003

To
The CPFC,
Bhavishya Nidhi Bhavan,
14, Bhikaji Cama Place,
New Delhi-110066

Sub- Creation of Posts in Employees' Provident Fund Organisation - Seeking clarification from Ministry of Law on implementation of Central Government Economy instructions—regarding.

Sr.

I am directed to refer to EPFO UO Note No. HRM-II/39(2)97 dated 9th September 2003 on the above cited subject and to say that the matter has been examined in consultation with M/o Law & Justice, Deptt. Of Legal Affairs, which have clarified that 'it would be appropriate and also advisable to seek the prior permission from the Ministry concerned before creating new posts in the Board as it is being done in day to day in all such matters by other Ministries / Departments'. It has been further clarified by that Department that 'in the event of conflict between statutory provisions enacted by Parliament and Administrative instructions of the Government, the provisions of statutes will always prevail over the administrative instructions'.

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2. This issues with the approval of Secretary (Labour).



Before 12/12/03
9/12/03

Yours faithfully,
Sanjukta Ray
(Sanjukta Ray)
Under Secretary

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*File under
Submission
12/12/03*

No. I-11011/1/2009-CRD
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

3rd Floor, Lok Nayak Bhawan,
New Delhi-110003

December 14, 2010

Office Memorandum

Subject: Consolidated guidelines on cadre review of Central Group 'A' Services.

The undersigned is directed to say that provisions governing the process of cadre review of Central Group 'A' Services are contained in various Office Memoranda issued by the Department of Personnel and Training and the Department of Expenditure. As a part of this Department's endeavour to keep the personnel policies relevant to current and future needs, these provisions have been reviewed in consultation with various stakeholders and it has been decided to issue a consolidated and revised set of guidelines on cadre review. The revised guidelines are given below. Besides, the broad issues concerning cadre review have been elaborated in the revised Monograph on Cadre Review of Central Group 'A' Services enclosed herewith. The list of existing Central Group 'A' Services is at Annex-I.

2. Formulation of Proposal

- (i) The proposal would be formulated, to the extent possible, in consultation with the representatives of service association (s). While drafting the proposal, all issues like expected changes in the Organization's activities, automation, amendment in the business processes, recruitment planning, plugging the skill gaps, cadre structure, career progression, financial implications etc. must be analyzed and made part of the proposal. These issues and their impact on cadre structure have been discussed in Section-5 and Section-6 of the Monograph.
- (ii) Full functional justification for each creation of post/upgradation should be given. A job evaluation exercise may be undertaken for each category of posts so as to ensure that different grades are assigned corresponding level of functions and responsibilities.
- (iii) It may be ensured that the cadre review would not have an adverse impact on the feeder grade.

3. Reference to Department of Personnel and Training/Department of Expenditure

- (i) The proposal should be referred to Department of Personnel and Training with the approval of Integrated Finance Division and the Minister in charge.
- (ii) The Cadre Controlling Authority would also give a certificate that there is no Court Case pending having a bearing on the cadre review.
- (iii) The name (s) of contact officer (s) for further/additional information may be clearly indicated in the reference.
- (iv) The proposal should be examined vis-à-vis the checklist given in Section-6 of the Monograph to ensure that the proposal is complete in all respect.

4. Financial Implications

- (i) The proposal having additional financial implications would be entertained strictly on functional considerations like consistent increase in workload, horizontal expansion in activities etc.
- (ii) While calculating the additional expenditure, the impact of Non-Functional Upgradation may be taken into account. The calculation sheet must be enclosed with the proposal.

5. Procedure for cadre review

- (i) Every cadre should be reviewed once every five years. The review should be first carried out by the Cadre Controlling Authority, preferably in consultation with the representatives of the service/cadre in question. However, if it is convinced after such a review that no change in the cadre structure is required, the decision should be conveyed to DoPT with the approval of Minister in charge.
- (ii) The cadre review proposal would be prepared by the Cadre Controlling Authority in the form of a Note for Committee of Secretaries. DoPT would obtain the approval of Secretary (P) and then refer it to Department of Expenditure for approval of Secretary (Expenditure).
- (iii) The Note would then be placed before the Cadre Review Committee by DoPT.
- (iv) Based on the recommendation of Cadre Review Committee, the proposal would be submitted for MOS (PP)'s approval. It would then be referred to the Department of Expenditure for Finance Minister's approval.

(v) The Cadre Controlling Authority would then take approval of Cabinet. The Note for Cabinet should ideally be prepared within a month of the Cadre Review Committee's approval.

6. **Composition of Cadre Review Committee**-The Cadre Review Committee would comprise the following functionaries:

(i)	Cabinet Secretary	Chairman
(ii)	Secretary of the Ministry controlling the cadre	Member
(iii)	Secretary, Department of Personnel and Training	Member
(iv)	Secretary, Ministry of Finance, Department of Expenditure	Member
(v)	The senior most member of the service/cadre concerned	Member

7. **Restriction on direct recruitment**-There is a restriction on direct recruitment to the extent that it should not exceed 3% of the total cadre strength. The authority to relax the condition rests with DoPT. It has now been decided to do away with this restriction. The Cadre Controlling Authorities are, however, advised not to resort to any bulk recruitment as it would create a bulge in the structure leading to stagnation at later stage. This may be kept in view while projecting recruitment planning.

Sd/-
(Pratima Tyagi)
Deputy Secretary to the Government of India
Tel:24622461

To

All the cadre controlling authorities