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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

N Kishore Kumar, 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.

To,
The Joint Secretary (Personnel)
Expenditure, Govt. of India.

Date: August 08, 2012

Place: Ranchi

Subject: Inputs for the pending proposal for creation and
upgradation of certain posts in EPFO – reg.
Madam,

The undersigned Secretary General of the EPF Officers' Association along with some other Association members had met you on May 01, 2012. We had explained the matter in detail and had submitted you a written representation on the captioned subject. A copy of the said representation is enclosed as **Annexure I**.

Apart from the materials brought to your knowledge earlier, some additional facts, relevant to the subject, are compiled and being forwarded herein for your kind consideration. These facts are enclosed to this communication as **Annexure II**. You are requested to account for these facts in the disposal of the matter at your end.

Thanking you.

Yours faithfully



Sudarshan Kumar
Secretary General
EPF Officers' Association

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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.

On,

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'.

ACCORD

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

Before 2/12/03
9/12/03

Yours faithfully,
Sanjukta Ray
(Sanjukta Ray)
Under Secretary



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*File under
Submission
No. 12/12/03
in
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

Why Economy/Austerity Measures cannot be made applicable to EPFO

(particularly to curtail decisions of the Central Board regarding creation of posts or cadre review)

Justification 1.

The Central Board/EPFO receives no money from Govt. of India or any other Govt. to meet its Administrative Cost (the cost incurred in administering the three schemes i.e. the expense incurred in salary, allowances, creation/upgradation of posts, cadre review e.t.c.).

The details are as below:

The Employees' Provident Fund Organisation is administering Three Schemes as below:

Sl. No.	Name of the Scheme	Funding/Financing of the Scheme.	Funding/Financing of the Administrative Cost (cost incurred in administering the scheme i.e. the expense incurred in salary, allowances, creation/upgradation of posts, cadre review e.t.c.) Before GSR 3 dated 29.12.2006 w.e.f 06.01.2007	Funding/Financing of the Administrative Cost (cost incurred in administering the scheme i.e. the expense incurred in salary, allowances, creation/upgradation of posts, cadre review e.t.c.) Present status After GSR 3 dated 29.12.2006 w.e.f 06.01.2007
1.	Employees' Provident Funds Scheme, 1952	Completely self-financed without any contribution or assistance from any Govt. [Section 6 (Annexure I) of the Act and Para 38 (1) (Annexure II) of the EPF Scheme, 1952.]	Completely self-financed without any contribution or assistance from Govt. Administrative Charge is levied from employers covered under the Act. The amount collected is deposited in "Central Administration Account" (also known as A/C 2) [Para 49(Annexure III) and Para 38 (1) of the Employees' Provident Fund Scheme, 1952]. Thus Government of India contribute no money/sum to this Scheme.	Completely self-financed without any contribution or assistance from Govt. Administrative Charge is levied from employers covered under the Act. The amount collected is deposited in "Central Administration Account" (also known as A/C 2) [Para 49 and Para 38 (1) of the Employees' Provident Fund Scheme, 1952]. Thus Government of India contribute no money/sum to this Scheme.

2.	Employees' Pension Scheme 1995.	Financed by employer [Section 6A (2)(a) (Annexure I) of the Act] and partially by Central Government. An amount equal to 1.16% of the employees' pay, is contributed by Govt. of India [Para 3(2) of the Employees' Pension Scheme, 1995].	Upto 16% of the total administrative expense is charged from "Employees' Pension Fund" [Para 27 (2) and 28 (Annexure IV) of the Employees' Pension Scheme, 1995] which included an amount equal to 1.16 % of the employees' pay, contributed by Govt. of India [Para 3(2) of the Employees' Pension Scheme, 1995]. Thus a part (16% of 1.16% = 0.18% of pay) of administrative cost/expense to administer the Employees' Pension Scheme, 1995 was contributed by Govt. of India. This situation changed with the amendment to the Employees' Pension Scheme, 1995 vide GSR 3 dated 29.12.2006 w.e.f 06.01.2007.	Administrative expenses/cost to administer the Employees' Pension Scheme, 1995 is now not charged at all from the "Employees' Pension Fund" [Para 27 (2) and Para 28 (now deleted) (Annexure V) of the Employees' Pension Scheme, 1995]. This administrative expense is now funded from the "Central Administration Account" [Para 49 of the Employees' Provident Fund Scheme, 1952]. The "Central Administration Account" is completely self-funded and financed by levying Administrative Charge from employers covered under the Act. Thus there is no Govt. contribution in the administrative expenses/cost incurred to administer this Fund.
3.	Employees' Deposit Linked Insurance Scheme, 1976.	Completely self-financed without any contribution or assistance from any Govt. Further details are not relevant for the present purpose.	Completely self-financed without any contribution or assistance from any Govt. Further details are not relevant for the present purpose.	Completely self-financed without any contribution or assistance from any Govt. Further details are not relevant for the present purpose.

The analogy may also be drawn from Employees' State Insurance Corporation (ESIC) where, the Government of India has exempted ESIC from Economy/Austerity measures as it is not drawing any amount from Government of India towards administration of any of its Schemes.

This amendment is subsequent to the **June 14, 2005 letter written by Department of Expenditure** to EPFO and therefore a relook is required regarding the application of economy/austerity measures of Govt. of India on E.P.F.O.

Justification 2.

The Central P. F. Commissioner in his letter dated November 16, 2010, addressed to the Department of Expenditure, Ministry of Finance, has informed the above said facts i. e. EPFO does not receive any amount from Government of India to meet any part of the Administrative Expenses [the expense incurred in salary, allowances, cadre review e.t.c.] and therefore, the Economy/Austerity measures do not apply to EPFO. The said fact was stated in the context of applicability of restriction of air travel by Air India to EPFO officials. The letter dated November 16, 2010 written by the Central Commissioner is enclosed as [**Annexure VI**].

Justification 3

Section 5D(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 deals with appointment of officials where the Act has mandated the recruitment of officers will be made by Central Board subject to maximum scale of as may be specified in the Scheme. The **Para 22(A)** of Employees' Provident Funds Scheme, 1952 (the Scheme) states as follows:

22A: The power of appointment vested in the Central Board under Sub-Section (3) of Section 5D of the Act shall be exercised by the Board in relation to posts carrying the maximum scale of pay of `14,300-18,300. {Now Grade Pay 8,700/- in PB-4.}

Thus the Central Board has complete statutory power to create posts upto Grade Pay 8,700/-, P.B. 4, which can't be curtailed by any administrative circular by Dept. of Expenditure, Govt. of India.

Justification 4.

A situation as mentioned in the foregoing paragraph had arisen in the year 2003. The EPFO has forwarded the proposal for creation of posts vides U.O. Note No. HRM-II/39(2)97 dated 09.09.2003. The Department of Expenditure objected to creation of these posts by the Central Board on the ground of austerity/economy measures.

The matter was referred by Ministry of Labour to the Ministry of Law and Justice, for clarification whether the statutory power of the Central Board is subject to the administrative circular/instruction of the Department of Expenditure regarding austerity/economy measures. The Ministry of Law and Justice has clarified to the Ministry of Labour that the administrative instructions of the Government will not be applicable in case of EPFO as there is a the statutory powers are vested in the Central Board for creation of posts under **Section 5D(3)** of EPF & MP Act, 1952 read with **Para 22(A)** of Employees' Provident Funds Scheme, 1952. This statutory power will always prevail over the administrative instructions. A copy of the letter issued by the Ministry of Law and Justice is attached as [**Annexure VII**].

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 ¹[, the ²[Pension] Scheme and the Insurance Scheme].]

³[6.] *Contributions and matters which may be provided for in Schemes.* — The contribution which shall be paid by the employer to the Fund shall be ⁴[ten per cent.] of the basic wages, ⁵[dearness allowance and retaining allowance (if any)] for the time being payable to each of the employees ⁶[(whether employed by him directly or by or through a contractor)], and the employee's contribution shall be equal to the contribution payable by the employer in respect of him and may, ⁷[if any employee so desires, be an amount exceeding ⁴[ten per cent.] of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section]:

⁷[Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words “⁴[ten per cent.]”, at both the places where they occur, the words ⁸[“12 per cent.”] shall be substituted:]

¹ Subs. by Act 99 of 1976, s. 20, for the words “ and the Family Pension Scheme ” (deemed to have come into force from 1st August, 1976).

² Subs. by Act 25 of 1996, s. 4, for the words “ Family Pension ” (with effect from 16th November, 1995).

³ Sub-sec. (1) of Sec. 6 numbered as s. 6 by Act 28 of 1963, s. 5.

⁴ Subs. by Act 10 of 1998, s. 2, for “ eight and one-third per cent. ” (with effect from 22nd September, 1997).

⁵ Subs. by Act 46 of 1960, s. 4.

⁶ Ins. by Act 28 of 1963, s. 5.

⁷ Subs. by Act 33 of 1988, s. 9 (with effect from 1st August, 1988).

⁸ Subs. by Act 10 of 1998, s. 2, for “ ten per cent. ” (with effect from 22nd September, 1997).

Provided further that where the amount of any contribution payable under this Act involves a fraction of a rupee, the Scheme may provide for rounding off of such fraction to the nearest rupee, half of a rupee, or quarter of a rupee.

¹[*Explanation I.*] — For the purposes of this ²[section] dearness allowance shall be deemed to include also the cash value of any food concession allowed to the employee.

³[*Explanation II.*] — For the purposes of this ²[section], “retaining allowance” means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.]

⁴[(2) * * *]

⁴[(3) * * *]

⁵[6A. *Employees' Pension Scheme.* — (1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for —

- (a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and
- (b) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

¹ Re-numbered as *Explanation I*, by Act 46 of 1960, s. 4.

² Subs. by Act 28 of 1963, s. 5.

³ Ins. by Act 46 of 1960, s. 4.

⁴ Sub-sec. (2) and (3) omitted by Act 28 of 1963, s. 6.

⁵ Subs. by Act 25 of 1996, s. 5 (with effect from 16th November, 1995).

(2) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after framing of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme, —

- (a) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent. of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme ;
- (b) such sums as are payable by the employers of exempted establishments under sub-section (6) of section 17 ;
- (c) the net assets of the Employees' Family Pension as on the date of the establishment of the Pension Fund;
- (d) such sums as the Central Government may, after due appropriation by Parliament by law in this behalf, specify.

(3) On the establishment of the Pension Fund, the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and shall stand transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits, they were entitled to under the ceased scheme, from the Pension Fund.

(4) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

¹[Provided that in the case of any employer of a factory or other establishment to which the Act and the Family Pension Scheme, 1971, shall apply the aforesaid Form may be deemed to satisfy the requirements of the Employees' Family Pension Scheme, 1971, for the purpose specified above.]

²**36-B. Duties of contractors.** — Every contractor shall, within seven days of the close of every month, submit to the principal employer a statement showing the recoveries of contributions in respect of employees employed by or through him and shall also furnish to him such information as the principal employer is required to furnish under the provisions of the Scheme to the Commissioner.]

37. Allotment of Account Numbers. — On receipt of the information referred to in paragraphs 33, 34 and 36, the Commissioner shall promptly allot an Account Number to each employee qualifying to become a member and shall communicate the Account Number to the member through the employer.

38. Mode of payment of contributions. — (1) The employer shall, before paying the member his wages in respect of any period or part of period for which contributions are payable, deduct the employee's contribution from his wages which together with his own contribution as well as an administrative charge of such percentage ³[of the pay (basic wages, dearness allowance, retaining allowance, if any, and cash value of food concessions admissible thereon) for the time being payable to the employees other than an excluded employee, and in respect of which provident fund contributions are payable as the Central Government may fix, he shall within fifteen days of the close of every month pay the same to the Fund by separate bank drafts or cheques on account of contributions and administrative charge :]

⁴[Provided that if the payment is made by a cheque, it should be drawn only on the local bank of the place in which deposits are made :]

¹ Ins. by G.S.R. 320, dated the 16th February, 1972 (with effect from 18th March, 1972).

² Subs. by G.S.R. 1845, dated the 28th November, 1963 (with effect from 30th November, 1963).

³ Subs. by G.S.R. 1399, dated the 18th September, 1964 (with effect from 1st October, 1964).

⁴ Subs. by G.S.R. 706, dated the 9th September, 1983 (with effect from 24th September, 1983).

Provided further that where there is no branch of the Reserve Bank or the ¹[State Bank of India] at the station where the ²[factory or other establishment] is situated, the employer shall pay to the Fund the amount mentioned above by means of Reserve Bank of India ³[Governmental Drafts at par] separately on account of contributions and administrative charge.

⁴[(2) The employer shall forward to the Commissioner, within twenty-five days of close of the month, a monthly abstract in such form as the Commissioner may specify showing the aggregate amount of recoveries made from the wages of all the members and the aggregate amount contributed by the employer in respect of all such members for the month :

Provided that an employer shall send a ' Nil ' return, if no such recoveries have been made from the employees :

Provided further that in the case of any such employee who has become a member of the Pension Fund under the Employees' Pension Scheme, 1995, the aforesaid Form shall also contain such particulars as are necessary to comply with the requirements of that Scheme.

(3) The employer shall send to the Commissioner within one month of the close of the period of currency, a consolidated Annual Contribution Statement in Form 6-A, showing the total amount of recoveries made during the period of currency from the wages of each member and the total amount contributed by the employer in respect of each such member for the said period. The employer shall maintain on his record duplicate copies of the aforesaid monthly abstract and consolidated annual contribution statement for production at the time of inspection by the Inspector.]

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 sub-paragraph (1) of paragraph 38 above.

¹ Subs. by G.S.R. 974, dated the 10th August, 1960, for " Imperial Bank of India ".

² Subs. by S.R.O. 1363, dated the 26th April, 1957, for " factory ".

³ Subs. by S.R.O. 270, dated the 7th February, 1953.

⁴ Subs. by G.S.R. 25, dated the 31st December, 1996 (with effect from 11th January, 1997).

may be, the records of any member employed by him and any card then in his possession, and if so required by the said Commissioner, Officer or Inspector shall deliver such record to the said Commissioner, Officer or Inspector, who may, if he thinks fit, retain the record provided that he shall grant a receipt for every record retained by him.

47. Supply of cards ¹[pass books] and forms to employers. — The Commissioner shall supply to employers, free of charge on demand contribution cards, ¹[pass books] Declaration Forms and other forms referred to in this Scheme :

Provided that if any employer desires to obtain any cards, ¹[pass books] or forms in excess of the number which the Commissioner considers to be the requirements of the employer, the Commissioner may, if he thinks fit, supply such extra cards, ¹[pass books] or forms and make such charge therefor as he considers reasonable.

48. Current account. — The Commissioner shall deposit the Bank drafts or cheques received from the employers in the Reserve Bank or the ²[State Bank of India] in the Current Account of the Fund.

CHAPTER VII

ADMINISTRATION OF THE FUND, ACCOUNTS AND AUDIT

49. Administration Accounts. — A separate account shall be kept called the “ Central Administration Account ” for recording all administrative expenses of the Fund including such administrative charges as the fund may be authorised to levy.

³[* * *]

50. Provident Fund Account. — The aggregate amount received as the employers' and the employees' contributions to the fund shall be credited to an account to be called the “ Provident Fund Account ”.

¹ Ins. by G.S.R. 341 dated the 9th July 1992 (with effect from 25th July, 1992).

² Subs. by G.S.R. 974, dated the 10th August, 1960, for “ Imperial Bank of India ”.

³ Sub-paragraph (2) omitted by G.S.R. 1845, dated the 28th November, 1963 (with effect from 30th November, 1963).

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case may be. If the person concerned was not in employment previously or had availed of return of contribution in respect of his/her previous employment, he/she shall, on demand by the employer, furnish to him, for communication to the Commissioner particulars concerning himself/herself and his/her family in the Form prescribed by the Central Provident Fund Commissioner.

25. Employees' Pension Fund Account.—The account called the "Employees' Pension Fund Account" shall be opened by the Commissioner in such manner as may be specified by the Central Board with the approval of Central Government.

26. Investment of the Employees' Pension Fund.—(1) All moneys accruing to Employees' Pension Fund Account except the contributions of the Central Government shall be invested in accordance with the provisions of paragraph 52 of the Employees' Provident Fund Scheme, 1952.

(2) Net assets of the Family Pension Fund as on the 16.11.1995 shall merge in the Pension Fund and remain invested in the Public Account of the Government of India. The future Central Government's contribution accruing to the Pension Fund from 17th November, 1995 onward shall also be invested in the Public Account of the Government of India.

27. Disposal of the Fund.—(1) Subject to the provision of the Act and this Scheme, the Fund shall not, except with the prior sanction of the Central Government be expended for any purpose other than the payments envisaged in this Scheme; for continued payment of Family Pension, life assurance benefit and retirement-cum-withdrawal benefits sanctioned under the Employees' Family Pension Scheme, 1971, prior to the date of introduction of this Scheme or which may be sanctioned under that Scheme after the 16th November, 1995 in respect of cases arising before that date.

(2) Not exceeding 16% of the administrative expenses shall be met from and out of the Employees' Pension Fund. The remaining administrative expenses shall be met from the Administration Accounts set up under the Employees' Provident Fund Scheme, 1952. The cost of remittance of Pension shall be charged on the Pension Fund.

28. Administration Account.—A separate account shall be kept, called the "Employees' Pension Administration Account" for recording of all the administrative expenses of the Employees' Pension Fund.

29. Forms of Accounts.—The accounts of the Employees' Pension Fund, as also the Employees' Pension Administration Account shall be maintained by the Commissioner in such form and in such manner as may be specified by the Central Board with the approval of the Central Government.

30. Audit.—The accounts of the Employees' Pension Fund including the administrative expenses incurred in running this Scheme shall be audited in accordance with the instructions issued by the Central Government in consultation with the Comptroller and Auditor General of India.

member of the Employees' Pension Fund and, if he/she is, also ask him/her to furnish a copy of the Scheme Certificate issued by the Commissioner to him/her in respect of the past employment in terms of paragraph 12 as the case may be. If the person concerned was not in employment previously or had availed of return of contribution in respect of his/her previous employment, he/she shall, on demand by the employer, furnish to him, for communication to the Commissioner particulars concerning him/herself and his/her family in the Form prescribed by the Central Provident Fund Commissioner¹:

Provided that if such person is a person with disability, the aforesaid Form shall further contain such particulars as are necessary for such person.¹

25. Employees' Pension Fund Account. — The account called the "Employees' Pension Fund Account" shall be opened by the Commissioner in such manner as may be specified by the Central Board with the approval of Central Government.

26. Investment of the Employees' Pension Fund. — (1) All moneys accruing to Employees' Pension Fund Account except the contributions of the Central Government shall be invested in accordance with the provisions of paragraph 52 of the Employees' Provident Funds Scheme, 1952.

(2) Net assets of the Family Pension Fund as on the 16.11.1995 shall merge in the Pension Fund and remain invested in the Public Account of the Government of India. The future Central Government's contribution accruing to the Pension Fund from 17th November, 1995 onwards shall also be invested in the Public Account of the Government of India.

27. Disposal of the Fund. — (1) Subject to the provisions of the Act and this Scheme, the Fund shall not, except with the prior sanction of the Central Government be expended for any purpose other than the payments envisaged in this Scheme, for continued payment of Family Pension, life assurance benefit and retirement-cum-withdrawal benefits sanctioned under the Employees' Family Pension Scheme, 1971, prior to the date of introduction of this Scheme or which may be sanctioned under that Scheme after the 16th November, 1996 in respect of cases arising before that date.

¹ Proviso to paragraph 24, inserted by G.S.R. 252 (E), dated the 31st March, 2008 (with effect from 1st April, 2008).

¹[(2) All administrative expenses shall be met from the 'Central Administration Account' as specified in paragraph 49 of the Employees' Provident Funds Scheme, 1952. However, the cost of remittance of Pension shall be charged on the Pension Fund.]

¹[28. Administration Account. — * * *]

29. Forms of Accounts. — The accounts of the Employees' Pension Fund, as also the Employees' Pension Administration Account shall be maintained by the Commissioner in such form and in such manner as may be specified by the Central Board with the approval of the Central Government.

30. Audit. — The accounts of the Employees' Pension Fund including the administrative expenses incurred in running this Scheme shall be audited in accordance with the instructions issued by the Central Government in consultation with Comptroller and Auditor-General of India.

31. Rounding up of the Benefits. — All items of benefits shall be calculated to the nearest rupee, 50 paise or more to be counted as the next higher rupee and fraction of a rupee less than 50 paise shall be ignored.

32. Valuation of the Employees' Pension Fund and review of the rates of contributions and quantum of the pension and other benefits. —¹[(1) The Central Government shall have an annual valuation of the Employees' Pension Fund made by a Valuer appointed by it.]

(2) At any time, when the Employees' Pension Fund so permits the Central Government may alter the rate of contributions payable under this Scheme or the scale of any benefit admissible under this Scheme or the period for which such benefit may be given.

4[33. Disbursement of Pension and other benefits. — The Commissioner shall with the approval of the Central Board, enter into

¹ Subs. by G.S.R. 3, dated the 29th December, 2006 (with effect from 6th January, 2007).

² Omitted by G.S.R. 3, dated the 29th December, 2006 (with effect from 6th January, 2007).

³ Subs. by G.S.R. 134, dated the 28th February, 1996 (with effect from 16th March, 1996).

⁴ Modified by G.S.R. 746 (E), dated the 27th September, 2001 (with effect from 28th September, 2001).

श्रीरेन्द्र चटर्जी, मा.प्र.से.
केन्द्रीय प्रविश्य निधि आयुक्त

S. Chatterjee, IAS
Central Provident Fund Commissioner



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कर्मचारी प्रविश्य निधि संगठन
(श्रम मन्त्रालय, भारत सरकार)

मुख्य कार्यालय : प्रविश्य निधि भवन,
14, भिकाएजी कामा प्लेस, नई दिल्ली-110066
दूरभाष : 011-26172671, फैक्स : 011-26189910
Employees' Provident Fund Organisation
(Ministry of Labour, Govt. of India)
Head Office : Bhavishya Nidhi Bhawan,
14, Bhikaiji Cama Place, New Delhi-110 066
Phone : 011-26172671, Fax : 011-26189910

D.O.No.CPFC/PS/Misc./10

November 16, 2010

Dear Madam,

I am writing to you regarding instructions issued by the Department of Expenditure vide office Memorandum No.F.No.19024/1/2009-E.IV dated 13th July, 2009 on Air Travel on official account – both domestic and international. The said OM stipulates that these instructions will also apply to officials in autonomous body funded by the Government of India.

2. The Employees' Provident Fund Organisation (EPFO) is an autonomous body under the Ministry of Labour & Employment. The Organisation (EPFO) meets its total administrative requirements 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 the Govt. of India.

3. The employers are levied 1.1% administrative charge on the wages of the employees whose provident funds are maintained by our Organisation. It is, thus, necessary that we observe utmost economy in meeting the administrative expenditures. However, as you are aware, our Organisation has 119 offices spread over the entire country including some of the areas which are not even regularly connected by Air India. Being a field organisation, our officers have to undertake frequent travels by air for supervision/inspections etc. Travelling by Indian Airlines/Air India exclusively is costing the Organisation immensely, apart from the additional time, including night halts that have to be spent while reaching the destinations through Air India/Indian Airlines flights.

4. For example, to visit Mangalore from Bangalore, our officers have to travel via Mumbai, since there is no direct Air India flight from Bangalore to Mangalore. Similarly, to travel from Kolkatta to Bhubaneshwar or Kolkatta to Ranchi, our senior officers have to travel all the way to Delhi and take a flight from Delhi.

5. This involves huge unnecessary expenditure apart from additional expenses as TA/DA, which can otherwise, be saved.

6. We would, therefore, request you to kindly exempt the EPFO from the operation of the said circular so that we can use utmost economy in our travel expenses. Needless to say wherever there is an Air India flight available, and does not involve long detours or overnight halts, the officers will be asked to avail Air India services for their official tours. It may be mentioned also that ESIC, another Corporation under Ministry of Labour is exempt from the above mentioned circular.

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7. I would, therefore, request you to kindly consider the matter and exempt our Organisation from the operation of the above said circular dated 13th July, 2009.

With regards,

Yours sincerely,



(S.CHATTERJEE)

Encl: As above

Smt. Sushma Nath,
Secretary,
Deptt. of Expenditure,
Ministry of Finance,
New Delhi.

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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, Bhatkaji Cama Place,
New Delhi-110066

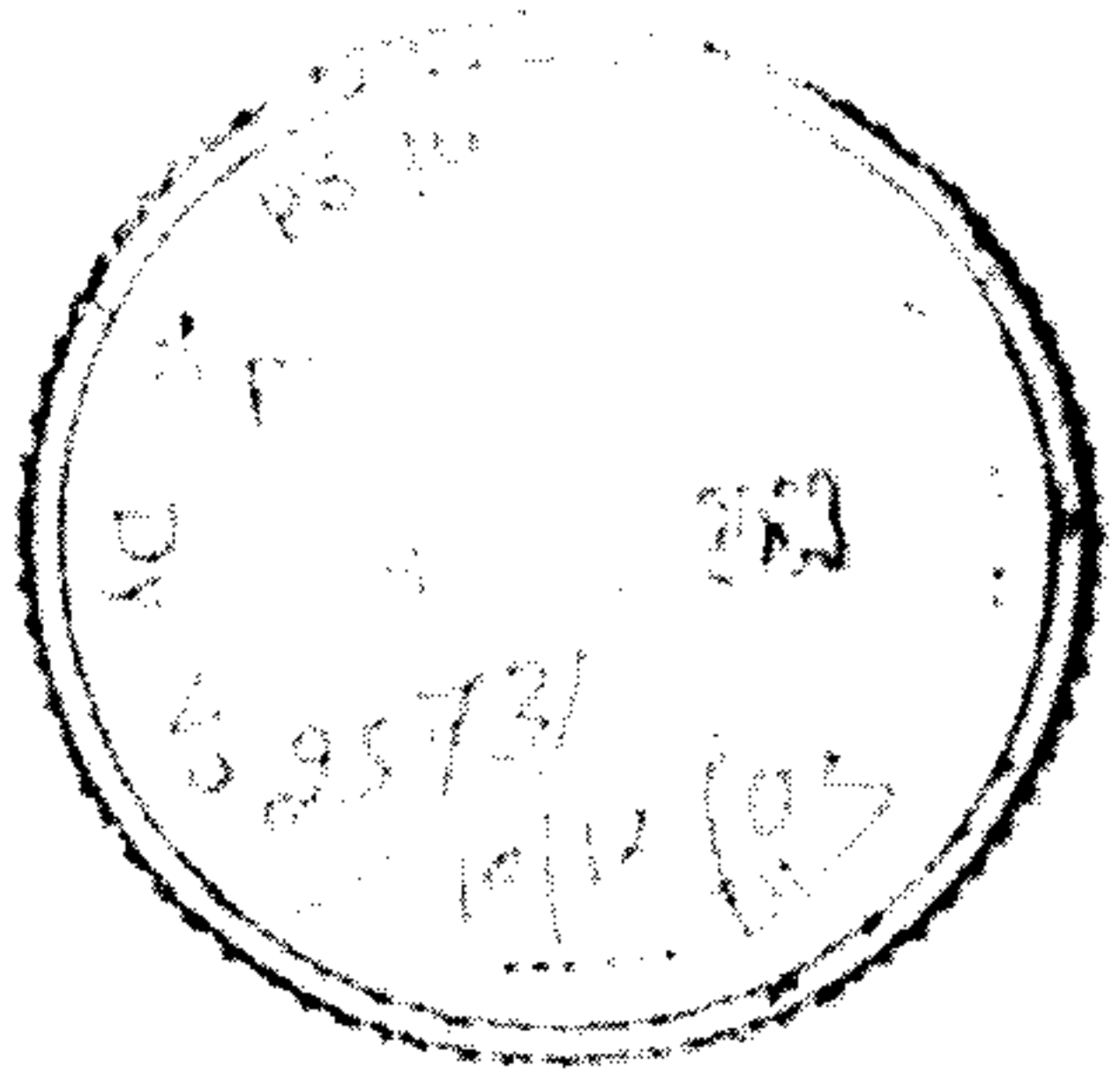
Sub- Creation of Posts in Employees' Provident Fund Organisation - Seeking clarification from Ministry of Law on Implementation of Central Government Economy instructions—regarding.

Sir,

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'.

AC/HR/1

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



Barbar & c/c 15/12

Yours faithfully,

Sanjukta Ray
(Sanjukta Ray)
Under Secretary

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