

CENTRAL BOARD OF TRUSTEES

EMPLOYEES' PROVIDENT FUND ORGANISATION [E.P.F.O.]

[ANNEXURE-II]

GROUP 'A' CADRE RESTRUCTURING PROPOSAL, 2013

by E.P.F. OFFICERS' ASSOCIATION

[In response to H.O. letter bearing number No. HRD/I(1)2011/Cadre Re-structuring/8818 dated August 07, 2013.]

2013

Annexure-II

Proposals, views, suggestions and comments by the E.P.F. Officers' Association in respect of Cadre of P.F. Commissioners in C.B.T./E.P.F.O.

[In response to the HO. Letter bearing number No. HRD/I(1)2011/Cadre Re-structuring/8818 dated August 7, 2013]

The exercise of cadre review should begin with the realisation of the fact that in its existence of six decades, no cadre review was ever undertaken in C.B.T./E.P.F.O. though as per governmental direction this exercise should be undertaken every five years. The cadre of P.F. Commissioners should have been reviewed more than ten times by now. True import and ingredients of "Cadre Review", properly so called, are explained, *inter alia*, in eleven documents of/approved by the DoPT which are listed towards the end of the instant proposal. Cadre related exercise undertaken in the past – whether partial implementation of the "INTERIM REPORT ON THE RECOMMENDATIONS OF XLRI ON ORGANISATIONAL RESTRUCTURING AND H.R. POLICY" by a Sub-Committee of C.B.T. (the final report is not yet submitted since the year 2009) or yet-to-be-implemented decisions taken in the 72nd meeting (July 14, 2011) of the Executive Committee of the C.B.T. - were more in the nature of avoiding cadre review than undertaking it. This is probably the only cadre in India where out of the cadre strength of 840 odd officers, no one is (or maybe two or three who are not yet granted NFSG) in the cadre of Junior Administrative Grade (Ordinary Grade) and yet the proposal for putting Regional Commissioners-II in that grade was shelved by

the Finance Ministry (albeit under ignorance of the fact that JAG {Grade Pay 7,600} is totally vacant in a cadre of 840 odd Group 'A' officers) and obediently acceded to as final word. A small move in the form of proposal (before the 70th meeting of the E.C. on February 11, 2011) for granting Senior Administrative Grade (SAG, Grade Pay 10,000) to 15 Additional Central Commissioners in the Organisation was considered too much and the same was quietly shelved to five with remaining 10 proposed to be downgraded to an irregular grade pay of 8,900, that was finally approved by the 72nd meeting of the E.C. It was so downgraded without assigning any reason and as a result officers in C.B.T./E.P.F.O. are suffering from low morale. The sense of hurt is aggravated further when the little changes done in the past are dubbed as "cadre-review-exercise-has-been-completed".

The disposal by the Ministry of Finance is more in the nature of denial than permission and more of what can't be done than what can be done. Prohibitions are sweeping in nature and based on no principle of general application. For example, in our case humble upgradation of Regional Commissioner – II from Grade Pay of 6,600 to 7,600 (a grade that is totally vacant and occupied by none at present) is not allowed whereas in the Income Tax Department high level upgradation from SAG to the scale of 67,000-79,000 and a fantastic back-to-back double upgradation from the scale of 67,000-79,000 to 75,500-80,000 and then to Apex scale (80,000) was allowed. Comparison in the Table below explains the differential treatment.

Table I.

Sl. No.	<u>Income Tax Dept. Cadre Restructuring</u> (Letter from Ministry of Finance, Deptt. of Revenue bearing number F. No. A-11013/1/2013-Ad. VII dated 31 st May, 2013)	<u>C.B.T./E.P.F.O. Cadre Changes</u> (letter from the Ministry of Finance bearing number MoF DoE ID No. 2(30)/E.III Desk/2011 dated 09.10.2012)
1.	<i>"... permitted ... filling up of additional posts ... immediately, without awaiting amendment in the recruitment rules on the basis of model recruitment rules by DoPT."</i> [Para 2 (ii)]	<i>"The pay scale of none of the posts may be changed during the process of cadre restructuring and only the number of posts at various levels may be modified."</i> [Para 2(i)(a)]
2.	<i>"... approved the filling up of the additional posts in the HAG+ with all the existing CCsIT being placed in the HAG+ directly and thereafter a DPC being conducted to place 26 of these CCsIT in the Apex grade."</i> [Para 2(iii)]	<i>"It may be ensured that there is no increase in the overall strength of the organization in the current financial year and any increase in organizational strength (which may not exceed the number proposed) may take place only after 2012-13."</i> [Para 2(i)(b)]
3.	<i>"The number of posts in the HAG scale (67,000-79,000) to be increased from 116 to 300. CTI level officers will be placed in this scale and re-designated as Principal Commissioner/Principal Director."</i> [Para (b) of Annexure B to the letter no. D.O. F. No. HRD/CM/102/3/2009-10(Pt)/1102 dated July 02, 2013]	<i>"10 posts in the Grade Pay of Rs. 8900 (PB-4) for the 10 Zones in the country"</i> [Para 2(ii)(a)]
		<i>"2 posts in the Grade-Pay of Rs. 10,000 in the Headquarters."</i> [Para 2(ii)(a)]
		<i>"The creation of 1 post in the HAG grade of Rs. 67,000-79,000 is not agreed to at this stage"</i> [Para 2(ii)(c)]

Further, the proposal to upgrade the Regional Commissioner-II into the Grade Pay of 7,600 is well thought out and the Executive

Committee had approved it. Even this was curtailed by the Finance Ministry whereas the similar proposal in E.S.I.C. for *en bloc* upgradation of the cadre of Joint Director from the grade pay of 6,600 to 7,600 [Ministry of Labour and Employment letter bearing number S-38012/2/2008-SS.I (Vol. II) dated 01/06/2011 and the ESIC Head Office letter bearing number B-11/14/1/07-E.III (Vol.II) dated 06/06/2012] was assented to and implemented. **There can't be a principle that upgradation is allowed in the Income Tax Department and the E.S.I.C. but not in the C.B.T./E.P.F.O.**

In E.P.F.O., the part of the proposal related to the grade pay ranging upto 8,700 was not required to be sent either to the Ministry of Labour and Employment or to the Ministry of Finance as held by the Chandigarh Bench of C.A.T. (OA-400/HR/2011) and the Hon'ble Punjab and Haryana High Court in Chandok case (C.W.P.No.8438 of 2011). If the Finance Ministry disagrees to a proposal or the decision arrived at by the Central Board after thorough deliberation, the same should have been challenged at least on three grounds:

- a. that the reasons for the disagreement is not disclosed
- b. that the proposal is disposed in a differential manner as the similar proposals for upgradation was allowed in the Income Tax Deptt. and
- c. that, most importantly, the executive advice by the Ministry of Finance can't override statutory decision by the Central Board.

One page note by the Ministry of Finance, unsupported with any reason whatsoever cannot be taken as final word on the matter.

We should be open to realise and admit the fact that non-implementation of statutory provision under section 5D (7) of the

Act is responsible for the present state of affairs. The whole cadre is in complete disarray and radical overhauling is needed to streamline it. To avoid the situation like this, in the year 1988, The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (the Act) was amended (section 5D) guaranteeing parity of service condition with officers of the Central Government. If the Act was amended by the Parliament of India, it must have some purpose to serve and it is incumbent upon all of us to achieve the appointed purpose. Though the needful was done by our august Parliament some 25 years earlier, this provision of the statute is still baying for actualisation.

Clause (a) of sub-section 7 of section 5D of the Act reads *"The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:*

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

Clause (b) reads *"In determining the corresponding scales of pay of officers and employees under clause a, the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and*

employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final.”

The said provisions were introduced with a view to ensure that conditions of service of the P.F. Commissioners of all descriptions may be equated to the similarly placed officers of the Central Government. Almost 23 years since then, first step was taken in the year 2011 when the Executive Committee of the Central Board (E.C.) in its 72nd meeting held on July 14, 2011, declared that the service condition of the P.F. Commissioners in E.P.F.O. will be equated to those of Indian Revenue Service (Income Tax). Despite such categorical statutory guarantee and elapse of more than two years since the said E.C. resolution and 25 years since the amendment of the Act, the same has not been implemented till date and the officers in E.P.F.O. continue to suffer hugely stunted service conditions compared to its peers in the Government of India.

Just to assuage the feeling of the officers and the employees of the Organisation, assurances were held out from time to time by setting up studies (XLRI Report) and constituting committees.

[viz. Sub-Committee of the C.B.T. on XLRI Report that was constituted under the authority of the C.B.T. (in its meeting held on 24.09.2007) having the mandate to *“Examine the recommendations on the cadre review in respect of officers and staff and recommend the changes, which are necessary to meet the aspirations on career growth of both the officers and staff with special emphasis in improving the administration of the Act and the Schemes.”* and *“To suggest policy timeline for subsequent cadre reviews at appropriate intervals.”*].

It is pertinent to mention here that, for this purpose, no fund is required from the Consolidated Fund of India and the whole Organisation runs from the internally generated revenue collected as Administrative Charges which has an annual excess of more than sixteen hundred crores (receipt 3663.9 crores and outgo 2046.78 crores at the end of 2012-13) and an accumulated surplus of twelve thousands four hundreds and fourty four crores of rupees lying unused in Special Deposit Account with RBI.

Despite the fact that the Organisational functions are computerised and the service delivery had improved (so hugely that against the statutory norm of thirty days claims, majority of claims are settled within three days), the management had shown little inclination in formulating or effecting Cadre Restructuring, properly so called, and implementing of service conditions as stipulated in the Act. Such persistent denial usually results into litigation by the aggrieved officers/Association as the last measure. It can legitimately be expected that any public authority or governmental organ that professes to be guided by the principle of Constitutionalism and fair play, shall not require collective or indivisual canvassing or litigation for getting a provision of the Parliamentary statute actualised.

The matter is explained in the following paragraphs:

i. **Grossly stunted and skewed cadre structure in E.P.F.O.:**

The concept of cadre review owes its origin to the recommendations made by the Administrative Reforms Commission's Report on Personnel Administration (Recommendation no. 10) released in 1969. The recommendation for periodic cadre review was accepted by the Government of

India and implemented vide the Department's O.M. No.5/1/71-PP (VI), dated the 1st February, 1971. Further, the Fifth Central Pay Commission recommended and the Central Government accepted the structure of a cadre by prescribing defined percentages of cadre strength at various levels of the service. In pursuance, the detailed Monograph on Cadre Review was published. In the light of accepted recommendations of Sixth Central Pay Commission, in the year 2010, yet another Monograph on Cadre Review was published on December 09, 2010 by the DoPT. Reiterating the earlier provisions, the D.o.P.T. vide the O.M. bearing number No. I-11011/1/2009-CRD dated December 14, 2010 provided that the strength of a cadre should ideally be distributed across various levels in the following proportion: 30% in Time Scale (Junior+ Senior); 30% in Junior Administrative Grade (Ordinary Grade), 20% in JAG (Selection Grade) i.e. NFSG, 17% in Senior Administrative Grade (SAG) and 3% in HAG, Higher HAG+ and Apex Scale together. As against it, the whole cadre in E.P.F.O. is confined upto NFSG scale only and there is no officer in SAG, HAG, HAG+ or Apex scale. Even within NFSG, almost 60% of cadre strength is scrambled into Junior Time Scale – the lowest entry level scale for Group 'A' officers. The ideal/organised services cadre structure/ratio is compared vis-a-vis that in E.P.F.O. and the same is juxtaposed below:

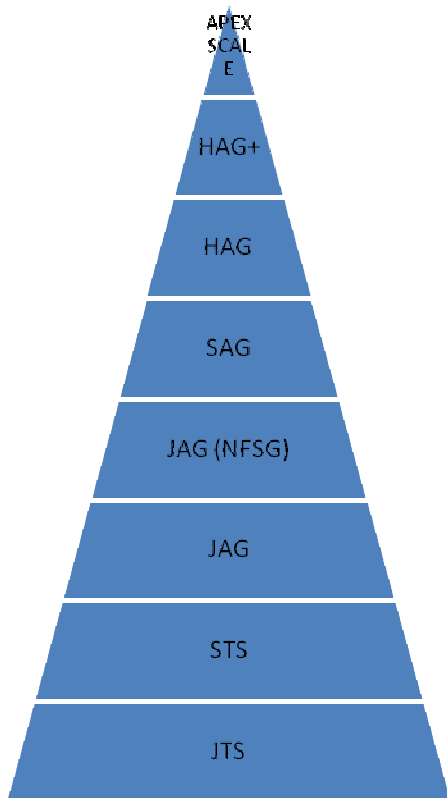
Table II:

Sl. No.	Cadre	Apex Scale/HAG+ & HAG	SAG	JAG (Functional)	JAG (NFSG)	JAG	STS	JTS
1.	Ideal/	3%	17%	0%	20%	30%	30%	

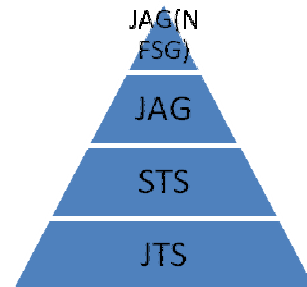
	Organised							
2.	E.P.F.O.	0%	0%	5%	22%	0%	73%	65%
								#

Of total cadre strength including JTS.

Pyramidal Comparison of Cadre Structure:



Ideal/Central Govt. Services
(Cadre Structure)



E.P.F.O.
(Cadre Structure)

From the analysis and the comparison made above it is patent that Human Resource Management is grossly mismanaged and long neglected in E.P.F.O., in breach of the statutory guarantee to the contrary.

- ii. No cadre review ever undertaken in E.P.F.O in the last six decades.:

“Cadre Review of Group ‘A’ Central Services, A Monograph (2010 edition)” prepared by the Cadre Review Division of the D.o.P.T. in the Section 5 titled “Objectives of a Cadre Review” reads as follows:

“The main objective of a cadre review has traditionally been to strike a healthy balance between the functional requirements and career progression. It need not be emphasized that a satisfied workforce leads to its enhanced efficiency and sense of belongingness and thereby benefits the organization immensely. Generally speaking, the objectives of a cadre review are to:

- a) estimate future manpower requirements on a scientific basis for a period of 5 years at a time;*
- b) plan recruitment in such a way as to avoid future promotional blocks and at the same time prevent gaps from building up;*
- c) restructure the cadre so as to harmonize the functional needs with the legitimate career expectations of its members; and*
- d) enhance the effectiveness of the service.”*

To this effect, sub-section (3) of Section 5D of the Act provides that *“The Central Board may appoint ... as many Provident Fund Commissioners (of various descriptions) ...as it may consider necessary for the efficient administration of the Scheme, the Pension Scheme and the Insurance Scheme.”*

The Central Board can ascertain as to how may P. F. Commissioners at what level are *“necessary for the efficient administration of (the Act) and the Schemes..”* only through the tool of cadre review prescribed by the government, as explained above.

Further, the Government of India and its administrative head – the Cabinet Secretary – has exhorted [letter bearing number D.O. No.

I-11019/6/2008-CRD dated April 29, 2008] the Cadre Controlling Authorities to undertake such exercise every five years.

It is the most glaring injustice that despite such categorical statutory provisions, C.B.T. Resolutions, accepted recommendations of the Administrative Reform Commissions, accepted recommendations by three consecutive Central Pay Commissions, Governmental directions from the Apex level and the persistent demand by the E.P.F. Officers' Association [(<http://epfoa.in/bulletin/source/BB15.pdf>),(<http://epfoa.in/bulletin/source/B45.pdf>),(<http://epfoa.in/bulletin/source/BB47.pdf>),(<http://epfoa.in/bulletin/source/BB48.pdf>),(<http://epfoa.in/bulletin/source/BB50.pdf>)], no cadre review is undertaken in the C.B.T./E.P.F.O. ever since its inception almost six decade ago.

It is in this depressing background that the invitation for suggestions is made by the Head Office to the E.P.F. Officers' Association.

Before enlisting the substantive proposals, preliminary issues of fundamental nature are listed below.

Preliminary Issues of Fundamental Nature:

A. Cadre Controlling Authority is NOT defined in C.B.T./E.P.F.O.:

As per Monograph on Cadre Review, it is the primary responsibility of the Cadre Controlling Authority to undertake cadre review and keep the cadre in proper shape. As this vital functionary is not yet defined in the E.P.F.O. the first step in the direction of cadre review should be to define a single Cadre Controlling Authority for the P.F. Commissioners of all description, as is the case in the Indian Revenue Service (Income Tax) and other Central Group 'A' Services.

B. Composition of the Cadre Review Committee in terms of D.o.P.T. O.M. bearing number No. I-11011/1/2009-CRD dated December 14, 2010 and the Monograph on Cadre Review by D.o.P.T.:

As pointed out earlier, Cadre Review Committee can be constituted only under the authority of the Cadre Controlling Authority which is not yet defined under any Rule, Regulation or Scheme applicable to the Central Board/E.P.F.O.. Further, the Cadre Review Committee has to be constituted in a manner prescribed under Para 6 of the D.o.P.T. O.M. bearing number I-11011/1/2009-CRD dated December 14, 2010 and therefore the composition of the Cadre Review Committee that may be constituted for undertaking this exercise in the C.B.T./E.P.F.O. may conform to its requirement. The Association had requested in the past [vide the letter dated December 03, 2010 (<http://epfoa.in/bulletin/source/BB32.pdf>)] for the constitution of proper Cadre Review Committee in terms of the said D.o.P.T. O.M. It may be considered whether non-adherence to this requirement may result into whole proposal being rejected on this account.

It's pertinent to point out that under Para 2. [*“Formulation of Proposal”*] of the D.o.P.T. O.M. dated December 14, 2010 requires that *“The proposal would be formulated, to the extent possible, in consultation with the representatives of service association (s)”*.

C. Quality of disposal of cadre related proposal by the Finance Ministry:

Statutory provision overridden by administrative direction;
Organisational needs were ignored: Objective of Cadre
Restructuring left unmet: No reason assigned for denial.

The Head Office letter bearing number No. HRD/I(1)2011/Cadre Re-structuring/8818 dated August 7, 2013 inviting comments from the Association reads "*In the backdrop of the above developments, I am directed to request you to offer your views /comments /opinion within the directions of the Executive Committee and Ministry of Finance.*" This letter annexes the letter from the Ministry of Finance bearing number MoF DoE ID No. 2(30)/E.III Desk/2011 dated 09.10.2012. This letter was written by the Finance Ministry in response to the reference made by the Ministry of Labour and Employment regarding proposal for upgradation and creation of certain posts in E.P.F.O.

Before the disposal by the Finance Ministry may be analysed, the facts which were not disclosed by the E.P.F.O. to the Ministry of Finance are listed:

1. That the Organisational Restructuring was never undertaken in E.P.F.O. in the last six decades despite exponential expansion of the Organisational work both horizontally and vertically.
2. That since 1952, when the Organisation came into existence, no cadre review was ever undertaken against the Government norm for undertaking this exercise every five years.
3. That there is no recruitment planning in the Organisation and in the last two decades direct recruitments were made only on five occasions and no direct recruitment is made since the year 2006.
4. That as a consequence of erratic recruitment, the whole strength of entry level Group 'A' officers i.e. Assistant P.F. Commissioners, under Direct Recruitment quota, have exhausted completely.

5. That more than 200 posts of Assistant Commissioners are vacant and out of 320 odd Assistant Commissioners in place, almost half are serving in *ad hoc* capacity.
6. That almost whole strength (253/270) of entry level Group 'A' officers of Assistant Commissioners are recruited in one go without the slightest regard to the career prospects of recruits and the resultant Organisational inefficiency.
7. That appointment/promotion on *ad hoc* basis continued upto six years as no D.P.C. was held in the Organisation for years together rendering officers ineligible for promotion on account of short "regular service".
8. That officers recruited in Group 'A' stayed in junior time scale for almost a decade before being granted the next time scale - STS.
9. That almost 90% of the total cadre strength are confined in time scale, most of which in Junior Time Scale (J.T.S.).
10. That both functional and non-functional posts exist in Selection Grade in violation of Govt. direction on the subject [DoPT O.M. bearing number No. 5/12/79-PP-II dated 31-7-1982].
11. That after grant of 30% NFSG no officer is left in the scale of Junior Administrative Grade (J.A.G.) as against the norm of 30% of the Senior Duty Post (S.D.P.).
12. That an unprecedented and unheard of situation is created in E.P.F.O. wherein the rank/post of Additional Central Commissioner is planned to be spread over three different Grade Pays of 8,700, 8,900 and 10,000.
13. That after one promotion, officers expect the next one only after a decade or a decade and a half or never.
14. That the Govt. decision to grant the pay scale of IAS officer of a particular batch, to the officers of other services, senior by two

batch than a particular batch of IAS officers, is not yet implemented since 2006.

It is in the background of the ignorance of the facts listed above that the disposal was made by the Finance Ministry. It's not difficult to find out that any disposal which is made under ignorance of the vital facts can't meet the appointed objective. Thus, it imposed sweeping ban – *“scale of none of the posts may be changed”* on upgradation – particularly on the proposal to upgrade Regional P.F. Commissioners –II from STS to JAG. The disposal reads further as herein:

“Creation of the following posts is agreed to:-

- a) 10 posts in the Grade Pay of Rs. 8900 (PB-4) for the 10 Zones in the country*
- b) 2 posts in the Grade-Pay of Rs. 10,000 in the Headquarters.*
- c) The creation of 1 post in the HAG grade of Rs. 67000-79000 is not agreed to at this stage.”*

Against the proposal for upgradation of 5 posts of Additional Central Commissioners at Head Office and the Director of the National Academy to SAG level, the Finance Ministry has agreed for two but left no cue as to how the remaining three posts of Additional Central Commissioner at the Head Office or National Academy level will do with lower level.

Similarly, assent was given for creation of posts in the Grade Pay of 8,900, though it is not the regular scale for Organised/Non-Technical services in the Central Government.

Now we examine the disposal by the Finance Ministry with reference to the provisions of the Monograph on Cadre Review of

Group 'A' Services. *"Cadre Review of Group 'A' Central Services, A Monograph (2010 edition)"* prepared by the Cadre Review Division of the D.o.P.T. Section 5 titled *"Objectives of a Cadre Review"* reads as follows:

"The main objective of a cadre review has traditionally been to strike a healthy balance between the functional requirements and career progression. It need not be emphasized that a satisfied workforce leads to its enhanced efficiency and sense of belongingness and thereby benefits the organization immensely.

Generally speaking, the objectives of a cadre review are to:

a) estimate future manpower requirements on a scientific basis for a period of 5 years at a time;

b) plan recruitment in such a way as to avoid future promotional blocks and at the same time prevent gaps from building up;

c) restructure the cadre so as to harmonize the functional needs with the legitimate career expectations of its members; and

d) enhance the effectiveness of the service."

Para 26 (*"Adverse effects of over or under recruitment"*) of the *"Monograph on Cadre Management of Group 'A' Central Services"* (first edition) prepared by the Cadre Review Division of the D.o.P.T. exhorts for taking bold action to correct the distortions created by over or under recruitment. It reads *"Where ad-hoc appointments are sizeable and have been continuing for long periods creating problems for the Cadre Authority and adversely affecting the morale of officers concerned, bold measures may have to be thought of, say in the directions of a radical restructuring of the cadre, a reassessment of promotion quotas and review of recruitment rules."*

It is very much expected that the wing of the Finance Ministry dealing with cadre review matters are in the know of these provisions of the Monograph and should abide by it irrespective of the fact that these aspects may not have been brought to its knowledge specifically by the E.P.F.O.. However, the content of the disposal is clearly at variance with the provisions cited above and squarely fails to meet the objectives underlying these provisions. Both the proposal and the disposal clearly show absence of “*bold measures*” and “*radical restructuring of the cadre*” exhorted under the Monograph which the cadre of P.F. Commissioners in the E.P.F.O. are most eligible to.

Moving further, absence of reason in support of decisions conveyed by the Finance Ministry is most glaring. No reason was given for any provision in the disposal – be it sweeping ban on upgradation, reducing proposal for five S.A.G. posts to two, allowing 8,900 grade pay not allowed in regular non-technical central services, permitting functional posts in selection grade despite existence of N.F.S.G. and denying creation of post at HAG level. Requirement of reason is all pervasive and still no effort is made as to how the said disposal meets the end of Cadre Review listed in the DoPT Monograph, as set out above.

Such sweeping restrictions appear bizarre as in a recent cadre restructuring proposal in relation to Income Tax Department, the Finance Ministry has agreed for massive upgradation and creation of posts – 300 Commissioner (I.T.) level officers were placed from SAG to HAG and re-designated as Principal Commissioner (IT) and Chief Commissioners/Directors General were placed from HAG to HAG+ and 26 of them to the apex scale by re-designating them as Principal Chief Commissioner/Principal Director General. Even in

E.S.I.C. the cadre of Joint Director was upgraded en bloc from the grade pay of 6,600 to 7,600 [Ministry of Labour and Employment letter bearing number S-38012/2/2008-SS.I (Vol. II) dated 01/06/2011 and the ESIC Head Office letter bearing number B-11/14/1/07-E.III (Vol.II) dated 06/06/2012]. Thus all those measures which the Finance Ministry gently prohibited in our case were agreed to and assented in the case of Income Tax department and the ESIC. It establishes that there exists no general principle that posts can't be upgraded under the exercise of cadre review as mentioned in the said disposal.

Finally, we examine whether, while making the disposal of cadre proposals, the Finance Ministry has abided by the principle of the supremacy of the statutory mandate. The said disposal observed that *"...the Central Board has powers to create posts upto the Grade Pay of Rs. 8,700. Ministry Of Labour & Employment is advised to consider this restructuring/creation/upgradation of posts within the delegated powers in consultation with the FA for posts upto Grade Pay of Rs. 8700."* In the paragraph that follows it writes:

"However, the same is subject to the following:-

- a) The pay scale of none of the posts may be changed during the process of cadre restructuring and only the number of posts at various levels may be modified. There is also no justification for revision of grade pay of ex-cadre posts.*
- b) It may be ensured that there is no increase in the overall strength of the organization in the current financial year and any increase in organizational strength (which may not exceed the number proposed) may take place only after 2012-13."*

It, thus, clearly acknowledged that in so far posts bearing grade pay of 8,700 are concerned, the Central Board is the sole statutory authority on the matter under E.P.F. Act, 1952. However, in the very next paragraph it circumscribes the statutory powers by providing, inter alia, that *“pay scale of none of the posts may be changed...”*. Thus, it has clearly transgressed into the area reserved by statute for the Central Board and made observations contrary to provisions under Section 5D (7) of the Act. It is the fundamental principle of jurisprudence and Constitutionalism, which is repeated and affirmed, time and over again by the Apex Court, that executive instructions can't fetter, circumscribe or override the statutory provisions.

Such disposal by the Finance Ministry that offers little help to meet functional needs of the Organisation, streamline the cadre structure or mitigate the acute stagnation, seems to have been made primarily on account of absence of disclosure of true picture of the cadre in E.P.F.O., inability to appreciate the importance of reasoned disposal, supremacy of the statutory mandate and under ignorance of Cadre Management/Review instruction from Department of Personnel and Training. It can't be a principle of the governance that the whole Organisation shall unquestioningly obey any letter from the Finance Ministry even if its content is infirm (as explained above), barely capable of objective interpretations and its adherence may have serious bearing on the functioning, performance and future growth of the Organisation. Even a Judicial order is amenable to correction or appeal if some error is apparent on its face.

For the aforesaid reasons, the Association is of the view that there is absolutely no way that the terms of the said disposal by the

Finance Ministry can achieve the objectives of cadre review in this frontline Social Security Organisation of our country. No fetter of being cribbed within the fourcorners of one page letter from the Ministry of Finance should therefore, be put on suggestions to be offered by the Association. Instead, we should move forward as per the statutory mandate under Section 5D (7) of the Act waiting implementation for almost 25 years. We must contemplate "***bold measures***" and "***radical restructuring of the cadre***" exhorted by DoPT Monograph as elaborated below under "Substantive Proposals for Cadre Review".

Substantive Proposals for Cadre Review:

I. **Structural ratio of the cadre may be adjusted to confirm the ideal cadre structure/ratio pyramid prescribed in the DoPT Monograph:**

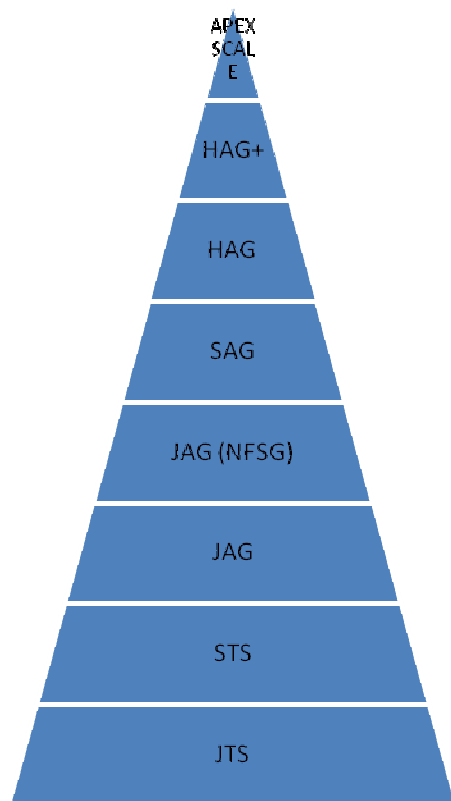
As explained in the foregoing paragraphs, the "*Cadre Review of Group A' Central Services, A Monograph (2010 edition)*" and its earlier version prepared by the Cadre Review Division of the DoPT alongwith its O.M. bearing number No. I-11011/1/2009-CRD dated December 14, 2010, provide that the strength of a cadre in the senior duty posts should ideally be distributed across various levels in this proportion: 30% in Senior Time Scale); 30% in Junior Administrative Grade (Ordinary Grade), 20% in JAG (Selection Grade) i.e. NFSG, 17% in Senior Administrative Grade (SAG) and 3% in HAG, Higher HAG+ and Apex Scale together. As against it, the whole cadre in E.P.F.O. is confined upto NFSG level and there is no officer in SAG, HAG, HAG+ or Apex scale. Even within NFSG, almost 90% of cadre strength is scrambled into Time Scale of which 75% in Junior Time Scale – the lowest entry level scale for Group

'A' officers. The ideal cadre structure of Organised Non-Technical Services of the Central Government is compared vis-a-vis that in E.P.F.O. and the same is juxtaposed below:

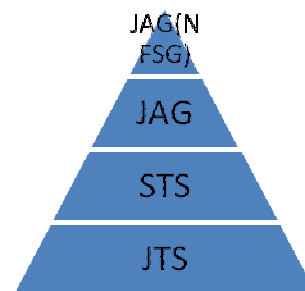
Sl. No.	Cadre	Apex Scale/HAG+ & HAG	SAG	JAG (Functional)	JAG (NFSG)	JAG	STS	JTS
1.	Ideal/ Organised	3%	17%	0%	20%	30%	30%	
2.	E.P.F.O.	0%	0%	5%	22%	0%	73%	65% #

Of total cadre strength including JTS.

Pyramidal Comparison of Cadre Structure:



Ideal/Central Govt. Services
(Cadre Structure)



E.P.F.O.
(Cadre Structure)

This comparison reveals that the cadre in E.P.F.O. is hugely bottom-heavy structure with absolutely no post at higher level - SAG and above. To analyse the matter further we take the example of Income Tax Department. There are nine distinct levels of posts and scales in the department namely, Assistant Commissioner, Deputy Commissioner, Joint Commissioner, Additional Commissioner, Commissioner, Principal Commissioner, Chief Commissioner, Principal Chief Commissioner and finally Member, C.B.D.T.. Opposed to this, there are only three categories of officers available in E.P.F.O. namely, Assistant Commissioner, Regional Commissioner and Additional Central Commissioner. Availability of limited numbers of posts/rank (only three) is the core aspect of the cadre distortion and it may be addressed by adding five more categories of posts/ranks in the Organisation. Measures suggested below may be considered to achieve the prescribed ideal cadre structure/ratio:

- A. May activate the post of Deputy P. F. Commissioner and create posts of Joint P.F. Commissioner and Additional P.F. Commissioners. Then divide the existing cadre of Regional Commissioner-II into Deputy, Joint or Additional Commissioner.

The post of Deputy P. F. Commissioner finds express mention under Section 5D (3) of the Act and the same may be activated by a resolution to this effect by the Executive Committee.

Now the creation of posts of Joint Commissioner and Additional Commissioner are explained.

Para 24A (2) of the 1952 Scheme reads as follows:

“(2) The Central Board may also, by a resolution, empower its Chairman to appoint such officers ... other than those mentioned in sub-sections (1) and (2) of section 5D of the Act, as he may consider necessary for the efficient administration of the Scheme.”

Sub-section (1) [of section 5D] creates the post of the Central P.F. Commissioner and sub-section (2) of the F.A. & C.A.O.. Sub-section (3) vests in the Central Board power to appoint “*such other officers...as it may consider necessary...*” apart from P. F. Commissioners of various descriptions.

This power has already been exercised in the past to divide the post of Regional P.F. Commissioner into two namely, Regional P.F. Commissioner Grade-II and Regional P.F. Commissioner Grade-I. Further, in a govt. department (Income Tax), the posts of Joint and Additional Commissioner bear the Grade Pay of 7,600 and 8,700 respectively and the Central Board is competent, under Para 22A of the 1952 Scheme, to create the posts upto 8,700 level in E.P.FO.. Thus the Central Board alongwith its Chairman are vested with enough statutory powers which need to be invoked to create the named categories of posts.

Deputy, Joint and Additional Commissioners may be placed in STS, JAG (Ordinary Grade) and JAG (NFSG) respectively as is the usual practice in the Central Government.

The pool of officers currently posted as Regional Commissioner Grade-II, may be divided into three parts and appointed/designated as Deputy P.F. Commissioner, Joint P.F. Commissioner and Additional P.F. Commissioner. Criteria for such division should be the number of years put in the Group ‘A’ service. Regional Commissioner-II with service length in Group ‘A’

- i. four years or more but less than nine years – be designated as Deputy P.F. Commissioner
- ii. nine years or more but less than thirteen years – be designated as Joint P.F. Commissioner
- iii. thirteen years or more – be designated as Additional P.F. Commissioner.

B. Regional Commissioner-I with less than sixteen years of service in Group 'A' may be posted as Additional P.F. Commissioner.

Apart from Regional Commissioner-II with thirteen years or more length of service in Group 'A', those Regional Commissioner-I, who have not completed minimum eligibility of sixteen years of service may also be designated as Additional Commissioner and place in the scale of the Additional Commissioner i.e. 8,700 grade pay on non-functional basis.

C. Cadre strength for Joint Commissioner and Additional Commissioner may be fixed at a combined strength:

Both Joint Commissioner and Additional Commissioner are part of Junior Administrative Grade and the Additional Commissioner is posted in the NFSG segment of the JAG. In the interest of flexibility and for the reason that both posts are part of J.A.G., it is suggested that cadre strength for these two posts may be jointly ascertained to a determined figure. Thus, instead of 'x' number posts for Joint Commissioner and 'y' number of posts for Additional Commissioner; the joint cadre strength for two posts may be fixed at 'x+y'. Similar arrangement is made in the recent Income Tax Cadre restructuring where strength of these two posts are augmented from earlier 1253 and fixed jointly at 1575

http://incometaxindia.gov.in/archive/BreakingNews_Department_Order_03072013.pdf).

D. May abrogate functional scale in Selection Grade i.e. N.F.S.G (i.e. 8,700):

Presently the posts of Additional Central Commissioner and Regional Commissioner Grade-I, both are placed in Selection Grade of 8,700 grade pay. Former is placed on functional basis and the latter on Non functional basis i.e. under 30% NFSG quota as a segment of Junior Administrative grade. This arrangement in E.P.FO., is against the cadre norm laid down by the Department of Personnel & A.R. (Policy Planning Division) vide the Office Memorandum (O.M.) bearing number No. 5/12/79-PP-II dated 31-7-1982. It was through this O.M. that concept of Non-Functional Selection Grade (NFSG) was introduced as part of Junior Administrative Grade (JAG). Provisions of this O.M. are set out below:

"Central Services Group "A" where the scale of Rs. 2000-2250/- exists as a part of the cadre structure on functional basis, will not be eligible to have a non-functional Selection Grade unless the cadre controlling authorities decide to do away with the functional selection grade and opt in favour of the non-functional selection grade." [Para 3 (b)].

"In the case of these Services where Rs. 2000-2250/- exists as a Functional Selection Grade (list given in Annexure-'B') these guidelines shall apply only when the Cadre Controlling Authorities decide to do away with the functional Selection Grade and opt in favour of non-functional Selection Grade." [Para 5].

Another DoP&T O.M. bearing number No. 22/1/2000-CRD dated
June 6, 2000

(<http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/g.pdf>),

([https://docs.google.com/document/d/1QdVuR-](https://docs.google.com/document/d/1QdVuR-NSVh6rjhoRrWVeHyAVbDIRhIHC54rmgJ5k_wg/edit)

[NSVh6rjhoRrWVeHyAVbDIRhIHC54rmgJ5k_wg/edit](https://docs.google.com/document/d/1QdVuR-NSVh6rjhoRrWVeHyAVbDIRhIHC54rmgJ5k_wg/edit)) read with
Para 4.8 of the Monograph on Cadre Management of Group 'A'
Central Services [First version by the CADRE REVIEW DIVISION of
the D.oP.T.] reiterates the main features of Selection Grade as
below:-

*(i) Central Service Group 'A' where the scale of Rs. 14300-18300/-
exists as part of the cadre structure on functional basis will not be
eligible to have non-functional Selection Grade unless the Cadre
Controlling Authorities decide to do away with the functional
Selection Grade.*

*(ii) The non-functional Selection Grade posts should be carved out
of the Junior Administrative Grade; they thus do not represent net
additions.*

*(iii) The strength of the Selection Grade should be equal to 30% of
the senior duty post. The Selection Grade should strictly remain
non-functional and in no case be converted into functional. They
are thus personal to the officers concerned. An Officers to be
eligible to be placed in Selection Grade must have entered the
14th year of service on the 1st January of the year calculated from
the year following the year of the examination on the basis of
which he was recruited.*

(vi) ...

(vii) ...

From the above deliberation it's clear that Selection Grade can't
exist in a cadre on both functional and non-functional basis.

Though all services under Govt. of India has implemented this provision, in E.P.F.O. Selection Grade [P.B.4 with Grade Pay of Rs. 8,700/-] continue to exist both in functional as well as non-functional basis. To bring parity with other Non-Technical Central Services (now IRS (I.T.)), there should be no Selection Grade in functional scale and all Selection Grade posts should only be non-functional in nature. This can be achieved by abolishing functional posts in the grade pay of Rs. 8,700/- and the officers who are recipient of this scale on functional basis viz. Additional Central P. F. Commissioner must necessarily and inevitably be placed in the higher scale of Senior Administrative Grade (SAG) or above.

E. May scrap the proposed scale of 8,900 Grade Pay:

Grade pay of 8,900 is not a regular scale applicable to officers of Central Government. It is not available in Non-Technical Services of the Central Government. This scale is allowed only in those services where the number of ranks in a service outnumbers the regular scales. In this event officers are accommodated in the grade pay of 8,900 - an intermediate scale between JAG (NFSG 8,700) AND SAG (10,000). Keeping this in view, agenda for 70th meeting (February 11, 2011) of the Executive Committee contain proposal that all Additional Central Commissioners may be placed in SAG (10,000). Instead of approving and implementing this proposal, it was quietly shelved and the new agenda for 71st meeting of the Executive Committee proposed a reduced grade pay of 8,900 for ten out of them. This is not only contrary to the another proposal before the same meeting of the Executive Committee for parity of service condition with Indian Revenue Service (IT) but also violative of the statutory provision under Section 5D (7)(a) of the Act that

guarantees equal service conditions with (non-technical service) officers of the Central Government. The proposal for grade pay of 8,900 may, therefore, be shelved and instead all such officers may be placed in the Senior Administrative Grade of 10,000 or higher scales as proposed below.

Abrogation of functional scale in 8,700 and the irregular scale of 8,900 must be attached utmost importance and urgency as forced presence of these scales are responsible for scrambling the whole cadre within junior scales and these scales do not allow their elevation to senior levels of SAG and above.

F. Regional P.F. Commissioner, Grade-I may be redesignated as Regional P.F. Commissioner:

As proposed above, the post of Regional P.F. Commissioner-II will cease to exist with its division into three categories namely, Deputy Commissioner, Joint Commissioner and Additional Commissioner. Now it will be desirable to restore the statutory nomenclature of Regional P.F. Commissioner. As per section 5D (3) there is no Grade-I or Grade-II; it is only Regional P. F. Commissioner. Thus, there will not be Regional Commissioner of two descriptions and it will be the post of Regional P.F. Commissioner, simpliciter, as provided in the Act.

G. Regional P. F. Commissioner-I with 16 years or more in Group 'A' may be elevated to Senior Administrative Grade (SAG, Grade Pay 10,000).

The scale next to the Junior Administrative Grade is the Senior Administrative Grade and the scale post next above the proposed Additional P.F. Commissioner will be the Regional P.F.

Commissioner. Thus the Regional Commissioner will naturally be the recipient of the SAG. As per DoPT norm a minimum of 16 years of service in Group 'A' is required for elevation to SAG. As all Regional Commissioners-I have completed sixteen years of service in Group 'A' they should be placed *en bloc* in the SAG. As the power of the Central Board is limited to appointment of officers upto the Grade Pay of 8700, the appointment of Regional Commissioner in the scale of 10,000 may be done by the Central Government on the recommendation of the Central Board following the prescribed governmental procedure.

The Executive Committee of the Central Board, in its 72nd meeting, has already made the service conditions of Indian Revenue Service (Income Tax) applicable in the Central Board and therefore a Regional P.F. Commissioner-I shall be equivalent in rank to the Commissioner (I.T.) in the Income Tax department.

H. Additional Central P. F. Commissioners may be elevated to Higher Administrative Grade (H.A.G., scale 67,000-79,000).

Additional Central P.F. Commissioner is the post next above the Regional P.F. Commissioner-I and the HAG is the next higher scale to the SAG. Additional Central P.F. Commissioner should therefore naturally be placed in the HAG scale. Same process may be followed as for placing Regional P.F. Commissioners in the Senior Administrative Grade. All Additional Central P. F. Commissioners in charge of zones/states may be placed in this scale.

The constraint of requisite number of service in the next below scale may not be allowed to deny such elevation and a total number of years of service in Group 'A' may be taken as criterion for such elevation. This should be done by formulating suitable

Recruitment Rule as explained in the relevant section. Such multiple upgradation is hallmark of radical cadre restructuring required to set right the twisted cadre structure as in E.P.F.O.. There are precedents to the similar exercise. In a recent cadre restructuring implemented in the Income Tax Department, out of 116 Chief Commissioners (CCs), a total of 26 CCs [Cadre Controlling CCs-18; Directors General-7 and the DG (International Taxation)] were elevated from HAG (67,000-79000) to HAG+ (75,500-80,000) and then to Apex scale – an upgradation by two scales.

(http://incometaxindia.gov.in/archive/BreakingNews_Department_Order_03072013.pdf) &
(https://docs.google.com/document/d/1QdVuR-NSVh6rjhoRrWVeHyAVbDIRhIHC54rmgJ5k_wg/edit)

- I. **New posts of Chief P.F. Commissioner may be created in Higher Administrative Grade+ (H.A.G.+ scale 75,500-80,000) by elevating five senior most Additional P. F. Commissioners.**

Senior Additional Central P. F. Commissioners may be posted in the Head Office and they may be re-designated as Chief P.F. Commissioner. As an Additional Central P. F. Commissioner posted in the Head Office is the country head of a functional area, he should be placed in HAG+ scale in terms of Section 5D (7)(b) of the Act and consonant with equivalent post of Chief Commissioner (I.T.) in Income Tax Department.

It is emphasised that the managing Social Security is the sovereign function and Constitutional obligation of the State under the Directive Principles and the Section 5D (7) (b) of the Act provides

for taking this fact into account in deciding the rank of officers in the Central Board.

This proposal for creation of new designations is also justified on the ground that there is no point in spreading the rank/post of Additional Central Commissioner over three different Grade Pays of 8,700, 8,900 and 10,000, which is being considered at present.

- J. Posts in Apex Scale: May make statutory changes to appoint five Central Government nominees in the Central Board from the Cadre of P.F. Commissioners and all such members may be placed in the Apex Scale (80,000).

Presently the Central Board and its Executive Committee are convened once in a while and consists of members who are engaged in some other vocation. They associate with the work of the C.B.T. for few days when agenda is sent to them. In between two meetings of the C.B.T. they are usually not actively associated with affairs of the C.B.T.. Thus the work related to the E.P.F.O./Central Board does not get desired effort or attention. This situation breeds *ad hocism* in the functioning of the Central Board. Given the sovereign function and Constitutional responsibility of utmost importance that the Central Board discharge, it will be eminently gainful if some full-time exclusive members are appointed to the Board tasked with policy initiative and formulation in assigned areas and overseeing the general trend of Organisational functioning. They may take policy decisions collectively and function on the lines of Central Board of Direct Taxes. Officers most eligible to be appointed as full-time members are those who have largest experience and working knowledge of

the affairs and functioning of the E.P.F.O./C.B.T. namely, Provident Fund Commissioners of the highest grade. These five members of the Central Board may be chosen from the proposed Chief Commissioners (Social Security) and till this post is created from the existing Additional P.F. Commissioners. They will serve as permanent executive of the Board and may deal with dynamic needs of the Organisation on a continual basis. This will cut delay, improve decision making in the Organisation and make the administration of the Act and Schemes very efficient. Policy stagnation being witnessed at present in the form of non-revision of wages and long obsolescence of various statutory and Scheme provisions may be avoided with high level representation of Organisational officers in the Central Board.

- K. Director of the National Academy may be appointed as the Director General of the proposed Directorate of Training and be placed in the Apex Scale.

Training infrastructure and regime in E.P.F.O. is in real bad shape. It's extremely rudimentary in nature. An Assistant Commissioner recruited directly after graduation by the U.P.S.C. is hardly trained for few weeks and sent to field. In many cases no training is imparted at all and they are deputed for field work involving responsibility of statutory compliance, grievance handling, administrative, financial and judicial nature including powers of arrest and imprisonment. Same is situation with non-Group 'A' officials.

It is therefore proposed to create a full-fledged Directorate of Training on the lines of one in the Income Tax Department and the officer heading the Directorate may be designated as Director

General (Training). He may be placed in the Apex Scale. This structure will give help meet the training needs of the Organisation and give boost to holistic research in the matters of social security in India.

L. May assign the year of vacancy as batch of officers and put in place Annual Recruitment Plan for Group 'A' officers.

The need and importance of systematic annual recruitment plan is emphasised in the Annexure VII to "Monograph on Cadre Management of Group 'A' Central Services" prepared by the Cadre Review Division of the D.o.P.T.. Relevant provisions are set out below:

"Recruitment Planning:

18. Rate of recruitment to a cadre is essentially a function of the maintenance and growth needs of the Service. A third important factor that determines recruitment size is the quantum of 'gaps', i.e. the number of vacancies remaining unfilled for a period of one year or more. It would be convenient to discuss recruitment plan under the three main heads representing the three basic components, viz. (1) maintenance needs (ii) growth needs and (iii) gaps. While drawing up the recruitment plan, promotion prospects will also have to be kept in view.

Adverse effects of over or under recruitment:

26. Under recruitment and ad-hoc appointments should be avoided as far as possible, as these will create distortions in the cadre. In any case, it should be ensured that ad-hoc appointments do not persist for more than a year at the most. Where ad-hoc appointments are sizeable and have been continuing for long

periods creating problems for the Cadre Authority and adversely affecting the morale of officers concerned, bold measures may have to be thought of, say in the directions of a radical restructuring of the cadre, a reassessment of promotion quotas and review of recruitment rules.

Over recruitment is as harmful, if not more, as under recruitment. The former leads to future blockades in promotions. The scope of undoing the damages done by past over-recruitment is very limited. The first objective of recruitment planning should, therefore, be to ensure that recruitment is made regularly every year and the rate of annual intake by direct recruitment and promotion from Group 'B' is kept within a fixed optimum rate. A study carried out by the Cadre Review Division has indicated that the optimum rate of annual intake should be 3% of the authorised cadre strength. If a cadre is suffering from gross under recruitments in the past, the aforesaid optimum rate may fall short of the number required to fill the big gap in the cadre. A special method should be adopted on a one-time basis to ensure that gap is filled without creating future blockades in promotion. An appropriate method would be to hold a limited departmental competitive examination of the eligible Group 'B' officers for filling the gap by promotion."

"Need for advance planning of personnel requirements:

8. The need for advance planning of the requirements of personnel is to be stressed for following reasons:-

a) Timely recruitment of personnel in adequate numbers is essential to prepare them for future deployment.

b) The process of getting the new posts sanctioned is time consuming.

c) In the absence of advance planning of manpower requirements, there may be violent fluctuations from time to time in the rate or recruitment with obvious adverse effects on the quality of recruits and cadre management.

"7. The basic objectives of periodical review of a cadre are as follow:-

a) To make advance projections of requirements of personnel for the next three years and to plan recruitment programme on a scientific basis..".

As a matter of fact, in E.P.F.O., vacancies are allowed to accumulate over multiple years and then bulk recruitment is made in one year. At present, more than 200 vacancies are there in the post of Assistant Commissioners and out of 320 odd Assistant Commissioners in place, almost half are serving on *ad hoc* basis. Large-scale recruitment of 130 odd officers in the entry cadre of Group 'A' - Assistant Commissioner - was resorted to in the year 1998 followed by no recruitment for next four years. Similarly the last recruitment of Assistant Commissioners is made in E.P.F.O. some seven years ago in the year 2006. Recruitments in the cadre of Assistant Commissioners are made only thrice in the last ten years – 1998, 2003 and 2006. In a move without precedence, almost whole strength of Assistant Commissioners numbering 253 are recruited in one go this year which will require unforeseen manoeuvring for securing any modicum of career to young recruits in this Organisation. It is obvious that all principle laid

down by D.o.P.T. are given a go by and recruitment of Group 'A' officers are conducted in as irregular a manner as possible.

To mitigate the rigour, it is proposed that when bulk recruitment is made in a year for vacancies accumulated over two or more previous years then, in order of their ranks, a particular number of recruits equal in number of vacancies of the earliest year may be assigned the batch year same as the vacancy year. For example, vacancy of 15 and 17 Assistant Commissioners arose in the years 1997 and 1998 respectively and a total of 32 Assistant Commissioners were recruited in the following year 1999. In this case first fifteen of the recruits shall be assigned 1997 batch and the next 17, 1998. For the reasons dealt in detail in the foregoing paragraph such arrangement will reduce the rigour of bulk recruitment and shall also be in sync with the "*bold*" measures suggested by DoPT in cases of bulk/accumulated recruitments.

Annual recruitment plan may also be put in place for the cadre of E.O./A.O who serve as feeder cadre for 50% quota of Assistant Commissioner that is filled through promotion. Recruitment of E.O./A.O. is no less erratic than of Assistant Commissioner.

II. May amend the upper age limit and other eligibility for direct recruitment of Assistant P.F. Commissioners to match the eligibility for Civil Services exam and recruitment be made through Civil Services Examination.

Upper age limit for recruitment of Assistant P.F. Commissioner is 35. Higher age limit for direct recruitment is prescribed in those cases where the eligibility requires certain number of years of prior work experience. The eligibility for Assistant Commissioners

recruited through UPSC is graduation degree and no prior work experience is required. There is, therefore, no justification for keeping the upper age limit at 35 which is very high by any standards. As the lower age limit is 21, a range of 14 years is applicable to the direct recruit. This created difficulty in managing coherent cadre structure and creates uneven manpower composition.

Further, in the eligibility criteria for recruitment of Assistant Commissioners, a degree or experience in Labour Law is indicated as desirable qualification. Such conditions in the eligibility restrict the pool of potential applicants thereby lowering the quality of recruits through open competitive examination. Utility of such qualification may be examined in the light of the fact that there is no such desirable qualification for other services conducted through Civil Services examination though they are recruited to administer many laws of complex nature.

The proposal for recruitment of Assistant Commissioners through Civil Services exam, if implemented, will help ensure that annual recruitment plan is indeed implemented. It will lessen the burden of UPSC in managing the annual schedule of examination and will avoid the requirement to conduct a separate exam for 20/30 Assistant Commissioners each year for which lakhs apply.

III. May formulate Integrated Recruitment/Service Rule with liberal relaxations and NO DEPUTATION CLAUSES:

In this Organisation recruitment was made at irregular intervals and DPC was not held and service was not regularised for years together. Appointment and promotion was continued on *ad hoc*

basis without any periodical review. There were also instances of appointment of Enforcement Officers/Accounts Officers to the post of Assistant Commissioner on, unheard of, "*current charge basis*" (where not only services were not considered regular but even the salary attached to the post of Assistant Commissioner was not allowed: Reference – H.O. letters bearing number HRM-I/A-10(7)2004/833 dated 02/04/2004 and HRM-I/A-10(7)2004/3120 dated 15/04/2004 and R.O. Kolkata letters bearing number T-69 dated 13/05/2004 and T-83 dated 18/05/2004). It was so because no DPC was held for years together say six years. To take an example, the DPC for the post of Regional Commissioner-II was held in the year 2004 and the next one in the year 2010, despite availability in abundance of eligible Assistant Commissioners with regular service ranging from five to eleven years. Taking eligibility of five years regular service as per existing R.R., no Assistant Commissioner shall be eligible for promotion to Regional Commissioner-II till the year 2015. Same with all other cadres. As a result, unique situation prevails in the Organisation where officer at no level is eligible to be promoted to the next higher level as they all have lesser years of regular service than required under the existing Recruitments Rule.

Under such circumstances there are two options to fill the vacancy.

- i. through deputation by inviting application from outside, or
- ii. through providing liberal provisions in the R.R. or relaxation of existing conditions of qualifying service.

If deputation is resorted to the officers of the Organisation will be wronged doubly – first by denial of regular promotion and then allowing outside officers to occupy higher posts in the Organisation which legitimately belong to the officers of the

Organisation. Further, at present, Recruitment Rules are in a fragmented state with one for each description of P.F. Commissioner. Thus the only equitable course of action available in this circumstance is draft a single integrated Recruitment Rule for P.F. Commissioners of all descriptions as per Cadre Review Monograph and the guidelines laid down by the D.o.P.T. vide the O.M. bearing number AB.14017/48/2010-Estt.(RR) dated December 31, 2010 and after taking the unique circumstances into account.

Therefore, following provisions are recommended in Recruitment Rules:

- a. Eligibility requirement of a particular number of years of regular service at one below level should be substituted by a particular number of years of service – whether regular, *ad hoc* or “current charge basis” - in Group ‘A’

OR

the number of years between the year of vacancy against which appointment is made and the year of appointment for which panel of select list is drawn– whichever is earlier.

- b. Eligibility for promotion should be defines in terms of certain number of years of service in the next below SCALE and not the next below POST (in other Non-Technical Central Govt. Services Service Rules are defined as suggested).

In no case provision for deputation should be allowed at any level in Group ‘A’. This provision militates against the very idea of the cadre of P.F. Commissioners manning the Central Board.

A model integrated R.R. for the cadre of P.F. Commissioners [Annexure-III], as per currently available posts, prepared by the

E.P.F.

Officers’

Association

<http://epfoa.in/bulletin/source/Draft%20service%20rule.pdf>) may be considered for adoption.

IV. May effect structural changes in the Organisation:

A. May Create various Directorates as below;

Organisational structure may be unbundled and following Directorates may be created in the interest of specialization and efficiency.

- i. Directorate of Human Resource Development
- ii. Directorate of Administration
- iii. Directorate of Training
- iv. Directorate of Investigation
- v. Directorate of Estate
- vi. Directorate of International Workers
- vii. Directorate of Audit
- viii. Directorate of Systems
- ix. Directorate of Legal Services & Research and
- x. Directorate of Vigilance

Each wing in the Head Office headed by an Additional Central P.F. Commissioner may be converted into directorate thereby creating Directorates of Pension, Compliance, Recovery, Customer Services, Publicity and the like.

For these changes we may study the structural pattern in Income Tax and other departments in the Central Government. These changes will make functioning of the Organisation systematic and effective and will create opportunity for promotion at the highest levels.

B. May define threshold of geographical spread or membership to open new Regional and sub-Regional Offices and split all big R.Os and SROs into multiple units:

In metropolitan cities, Regional and Sub-regional offices cater to huge number of subscribers and establishment. This results into poor services and ineffective compliance. All metropolitan offices are examples of this malady. It may be considered to open new Regional offices once membership for an office crosses five lakh subject to maximum geographical spread consists of ten administrative districts. Similarly for Qualification for opening the Sub-regional offices may be lowered to the membership of three lakhs subject to geographical spread of a maximum of five districts. There is strong empirical evidence that in the Organisation small offices have consistently performed better than bigger offices. Proposals made in the XLRI report may be referred to in this connection.

C. May designate Regional or sub-regional offices to be headed by officers of different levels.

Presently many sub-regional offices in the metropolitan cities having large memberships are headed by a relatively junior officer in the time scale. Such offices should have ideally been divided into multiple regional and sub-regional offices each headed by an officer of commensurate rank e.g.. Joint Commissioner [JAG (Ordinary Grade)], Additional Commissioner [JAG (NFSG)] or Regional Commissioner (SAG), depending upon the importance of the office concerned, arrived at by factoring in aspects like member strength, metropolitan region, industrial area, high-end corporate units within jurisdiction and the like.

It may also be considered that the concept of Regional or Sub-Regional offices may be substituted by designating all offices as Regional Offices only but of different grade like Regional Office Grade I will mean Regional office of highest order to be headed by Regional Commissioners (SAG level). Similarly Regional Offices Grade II and Grade III may be headed by Additional or Joint Commissioners.

Categorisation of offices to be headed by officers of different rank is a necessity to achieve structural ratio and threshold analysis as prescribed by DoPT Monograph on Cadre Review.

D. May reduce the spread of local jurisdictional of Additional Central P.F. Commissioner.

Presently there is huge disparity among the jurisdiction of Additional Central P.F. Commissioners in terms of territorial spread and membership. There are many states which include metropolitan cities which alone create huge membership sufficient for the office of one Additional Central Commissioner. Similarly industrialised states in the western and southern parts of our country need to be divided into smaller territorial jurisdictions for Additional Central Commissioners in the field. On the other hand, whole North-East Region (NER) of the country, though it consists of huge swath of countryside and eight states, does not have an exclusive jurisdiction for an Additional Central Commissioner. Considering these aspects territorial jurisdictions of an Additional Central Commissioner may be reduced with a maximum of one state under jurisdiction with the exception only in cases of smaller states within NER wherein whole NER may be put in the charge of one Additional Central P.F. Commissioner. This structure shall not

only unleash efficiency but will also help achieve better structural ratio of the cadre.

E. May create posts of Chief Engineer in each Zone.

Fixed assets in terms of office and residential land and building, including conference halls, guest houses, holiday homes, recreation centres, community halls e.t.c, are grossly inadequate and of poor quality and measure in our Organisation. Massive infrastructure development may, therefore, be undertaken in our Organisation on mission mode. It will require the creation of full-fledged Directorate of Estate to be manned adequately at appropriate level. For swift acquisition and construction of quality infrastructure, post of Chief Engineers may be created in each Zone, with adequate supporting pool of engineers of different levels and work areas, analogous to the territorial jurisdiction of Additional Central Commissioner.

F. May vest in Additional Central Commissioners appellate powers against orders in quasi-judicial proceedings:

V. May convert C.B.T/E.P.F.O. into a full-fledged independent Department of Central Government – Department of Social Security and the cadre of P.F. Commissioners into a new Service – Indian Social Security Service.

This proposal may be officially brought to the notice of the Cabinet Secretariat and to consider the statutory and changes required for this transition a high-powered committee may be constituted by the Cabinet Secretary. If required, other wings of the Central

Government like ESIC, which render duplicate or similar social security services in scattered manner, may be identified and merged into the proposed "Department of Social Security". It should be made into an independent department as is the case with some departments like Department of Space or of Nuclear Energy. In a decade or so India will be the most populous nation in the world and at the same time a sizeable part of its population will start ageing. Social Security system in our country require complete overhaul to equip us better to serve the needs of the countrymen and senior citizens in a holistic and effective manner. Social Security is the *sine qua non* of the Sovereign State Function.

VI. May change all designations from "Provident Fund" to "Social Security".

Designations may be named as Assistant/Deputy/Regional/Additional Central Commissioner (Social Security) in substitution of the existing ones. This will reflect the reality better because the pension services provided by the Central Board are increasingly acquiring prominence as the core component of social security.

VII. Cadre Review of other officials/wings.

Information Services Division:

At present many technical support persons are manning the computer/system section in our offices having free access to system information and data. System data are sensitive in nature and its safekeeping requires that outsourced persons should have no access to them. It is, therefore, proposed that the outsourced personnel manning system/computer section may be removed

and the same may be substituted by regular officials of the Information Services division. Present cadres of D.P.A. and Programmer may be merged into one and the new cadre may be created and designated as the Cadre of Technical Officer in the grade pay of 4,800 with time bound escalation to grade pay of 5,400 in P.B.-2 in line with what is proposed for the cadre of E.O.. Within I.S. division, functions may be segregated into specialized work areas viz. I.T. (Development), I.T. (Security), I.T (Innovation), Hardware, Software, Networking and the like, to improve efficiency. Once this is done the requirement of number of posts at various levels may be reassessed and filled. Selection criteria for IS cadre officials involve possession of technical knowledge and degree and therefore the quality applicants can be attracted only by offering them remunerative pay scales. Since the whole Organisational function has shifted from manual to computerized system, morale of officials/officers manning IS division is crucial for better Organisational efficiency. and therefore the care review need of the IS division may be taken up with due urgency. Service conditions and promotional prospects of officials/officers posted in Systems/Information Services [DPA, Programmer, A.D. (IS), D.D.(IS)] may be undertaken on the lines of what is prevalent in the Income Tax Department.

Rajbhasha wing:

Officers/officials in Rajbhasha wing may be restructured in terms of direction issued by the Rajbhasha Wing of the Ministry of Home Affairs.

E.O./A.O.

Enforcement Officers/Accounts Officers may be upgraded in 4,800 grade pay with timely upgradation after four year in the

grade pay of 5,400 in Pay Band-2. Cadre of E.O. may be separated from A.O. and E.O. may be recruited exclusively through direct recruitment or departmental exam. Feeder cadre to Assistant Commissioner should be reserved only for E.O. and not for A.O.

PA./P.S.

Enough number of P.A./P.S. may be recruited to provide support to officers and everytime officers are recruited, in suitable proportion P.A./P.S should also be promoted/recruited. The cadre of Personal Secretaries may be removed from the feeder cadre for Assistant Commissioners. This provision is most bizarre as a P.S. cadre is a cadre of support staff who doesn't discharge functions of administering the Act or scheme. Sudden elevation of a P.S. to Assistant Commissioner doesn't suit needs of functional composition of the cadre of Assistant Commissioner nor does it appeal to reason.

VIII. May convene a joint meeting of senior officials in C.B.T., Ministry of Labour and Employment, Deptt. of Expenditure, DoPT, U.P.S.C. and Cabinet Secretariat for bold and radical cadre restructuring:

Experiences in the past show that the restructuring proposed were feeble in nature which may be partially based in the fear that an adequate restructuring may look bold and the same may not pass muster with Finance Ministry, DoPT or U.P.S.C. On the other hand, the grave situation in the E.P.F.O. is neither communicated nor appreciated in full measure by the authorities concerned who consider the proposals severally and in isolation. To make sense of the whole exercise it is incumbent on us that the proposals are considered in conjunction with its difficult background. It is,

therefore, suggested that the real picture summarised as fourteen points, listed below, may be brought to the knowledge of all the authorities concerned with the exercise of Cadre Restructuring in the Central Board.

1. That the Organisational Restructuring was never undertaken in E.P.F.O. in the last six decades despite exponential expansion of the Organisational work both horizontally and vertically.
2. That since 1952, when the Organisation came into existence, no cadre review was ever undertaken against the Government norm for undertaking this exercise every five years.
3. That there is no recruitment planning in the Organisation and in the last two decades direct recruitments were made only on five occasions and no direct recruitment is made since the year 2006.
4. That as a consequence of erratic recruitment, the whole strength of entry level Group 'A' officers i.e. Assistant P.F. Commissioners, under Direct Recruitment quota, have exhausted completely.
5. That more than 200 posts of Assistant Commissioners are vacant and out of 320 odd Assistant Commissioners in place, almost half are serving in *ad hoc* capacity.
6. That almost whole strength (253/270) of entry level Group 'A' officers of Assistant Commissioners are recruited in one go without the slightest regard to the career prospects of recruits and the resultant Organisational inefficiency.
7. That appointment/promotion on *ad hoc* basis continued upto six years as no D.P.C. was held in the Organisation for years together rendering officers ineligible for promotion on account of short "regular service".
8. That officers recruited in Group 'A' stayed in junior time scale for almost a decade before being granted the next time scale - STS.

9. That almost 90% of the total cadre strength are confined in time scale, most of which in Junior Time Scale (J.T.S.).
10. That both functional and non-functional posts exist in Selection Grade in violation of Govt. direction on the subject [DoPT O.M. bearing number No. 5/12/79-PP-II dated 31-7-1982].
11. That after grant of 30% NFSG no officer is left in the scale of Junior Administrative Grade (J.A.G.) as against the norm of 30% of the Senior Duty Post (S.D.P.).
12. That an unprecedented and unheard of situation is created in E.P.F.O. wherein the rank/post of Additional Central Commissioner is planned to be spread over three different Grade Pays of 8,700, 8,900 and 10,000.
13. That after one promotion, officers expect the next one only after a decade or a decade and a half or never, and
14. That the Govt. decision to grant the pay scale of IAS officer of a particular batch, to the officers of other services, senior by two batch than a particular batch of IAS officers, is not yet implemented since 2006.

These authorities are the Central Board and its Chairman and the Executive Committee themselves, the Members of the Central Board, the Ministry of Labour and Employment, the Department of Expenditure, the Department of Personnel and Training and the UPSC. This should also be brought to the knowledge of the Cabinet Secretary – the executive head of Central Government with reference to his letter bearing no. number D.O. No. I-11019/6/2008-CRD dated April 29, 2008. Once these facts are brought to their knowledge and a joint meeting is held they may realise the gravity of the situation and agree to “*bold*” or “*radical cadre restructuring*”, as required under the DoPT Monograph, to

address the situation like this. The authorities who are interested in the level of performance of the E.P.F.O. should also be made aware of H.R., recruitment and cadre mismanagement in the Organisation to help them understand as to what is holding the E.P.F.O. back. The cadre issue has reached such a level that it should cease to be an in-house affairs of the C.B.T./E.P.F.O. and the Ministry of Labour and Employment and all stake-holders should jointly push a radical proposal through. The instant proposal of the Association should be placed for consideration in the said joint meeting.

IX. May immediately implement approved proposals upto 8,700 grade pay.

Pending the formulation of the cadre restructuring as suggested herein, proposals approved by the Executive Committee in its 72nd meeting (on July 14, 2011) may be approved upto the level of Grade Pay of 8,700, which is completely within the statutory powers of the Central Board.

X. May undertake Cadre Review in terms of provisions in the following documents:

- a. *"Monograph on Cadre Management of Group 'A' Central Services"* (first edition) (<http://persmin.nic.in/DOPT/CSWing/CRDivision/main2.html#contents> OR <http://epfoa.in/bulletin/source/BB25.pdf>)
- b. *"Cadre Review of Group 'A' Central Services, A Monograph (2010 edition)"* (http://persmin.nic.in/DOPT/CSWing/CRDivision/CRD_Monograph_2010.pdf OR http://epfoa.in/bulletin/source/Cadre%20Review%20Monograph_2010.pdf)

- c. Department of Personnel & A.R. (Policy Planning Division) O.M. bearing number No. 5/12/79-PP-II dated 31-7-1982 [It was through this O.M. that concept of Non-Functional Selection Grade (NMSG) was introduced as part of Junior Administrative Grade (JAG)].
- d. "Grant of Non-Functional Selection Grade to the Organized Group A Central Services- increase in percentage ceiling" No. 22/1/2000-CRD dated 06/06/2000 (<http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/g.pdf>)
- e. Latest directions of Cabinet Secretary dated April 29, 2008 (<http://persmin.nic.in/DOPT/CSWing/CRDivision/Directcabsecy.pdf>)
- f. D.o.P.T. O.M. bearing number No. I-11011/1/2009-CRD dated December 14, 2010. (<http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/gg.pdf>)
- g. D.o.P.T. vide the O.M. bearing number AB.14017/48/2010-Estt.(RR) dated December 31, 2010. (http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02est/AB.14017_48_2010-Estt.-RR.pdf)
- h. "Threshold analysis and statistical profile of Central Group 'A' Services" by DoPT (http://persmin.nic.in/DOPT/CSWing/CRDivision/Nontech_Threshold_010711.pdf)
- i. Provision of reserve posts in Organized Central Group 'A' Services No. I-11019/2/2013-CRD dated 11/02/2013. (<http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/Reserve.pdf>)
- j. "Guidelines to be followed by the Cadre Controlling Authorities while formulating proposals for cadre review of Group 'A' Services (<http://persmin.nic.in/DOPT/CSWing/CRDivision/guidelines.htm>).
- k. Cadre restructuring approved in the Income Tax Department in the month of May 2013. (http://incometaxindia.gov.in/archive/BreakingNews_Department_Order_03072013.pdf) & (https://docs.google.com/document/d/1OqVuR-NSVh6rjhoRrWVeHyAVbDIRhIHC54rmgJ5k_wg/edit)

All these documents are prepared or approved by the Cadre Review Division of the DoPT and includes collation of information in 22 forms (form IA to IX-A in year 2010 Monograph) and 21 checkpoints.

Conclusion:

Earlier, in terms of the direction of the Central Commissioner contained in the Minutes (dated August 19, 2010) of the Meeting held on July 06, 2010 between the Central Commissioner and the E.P.F. Officers' Association, the Cadre Review Proposal dated March 11, 2011 was formulated by the Association and forwarded to the Chairman of the Central Board, Chairman of the Executive Committee of the Central Board and the Central Commissioner and Chief Executive Officer of the Central Board. In addition to the proposals made herein the Association reiterates the proposals contained in the "Final Proposal of Cadre Review" dated March 11, 2011 and the same be treated the integral part of the instant proposal. In case of inconsistency between the proposals made herein and those made earlier (dated March 11 2011), the ones proposed herein may be taken to prevail over the March 2011 proposals to the extent of incongruence.

Para 26 ("Adverse effects of over or under recruitment") of the first DoPT Monograph on Cadre Review is of unique relevance to our situation and even at the cost of repetition this provision is again set out below:

"Where ad-hoc appointments are sizeable and have been continuing for long periods creating problems for the Cadre

Authority and adversely affecting the morale of officers concerned, bold measures may have to be thought of, say in the directions of a radical restructuring of the cadre, a reassessment of promotion quotas and review of recruitment rules."

Such bold measures is displayed and radical restructuring is undertaken recently in reviewing IRS cadre in Income Tax department where the approved cadre proposals were implemented without waiting for changes in Recruitment Rules, without holding DPC for upgradation and without waiting for the current financial year to end, even without any such emergency as obtains in E.P.F.O.. As the Executive Committee has already approved that the service condition as applicable to I.R.S. (I.T.), it's time to implement the "*bold measures*" for "*radical restructuring of the cadre*".
