

The Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997'

UNION OF INDIA

India

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Rule

THE-EMPLOYEES-PROVIDENT-FUNDS-APPELLATE-TRIBUNAL-PROCEDURE-RULES-1997

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The Employees' Provident Funds Appellate Tribunal (Procedure) Rules, 1997'Published Vide G.S.R. 268, dated 2.6.1997, published in the Gazette of India, Ext., Point II, Section 3(i), p. 2043, dated 21.6.1997

9.

/510In exercise of the powers conferred by sub-section (1) of section 21 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following rules, namely:

1. Short title and commencement.

(1)These rules may be called The [* * *] [Omitted 'Employees' Provident Funds Appellate' by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).] Tribunal (Procedure) Rules, 1997.(2)They shall come into force from the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires,(a)"Act" means the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);(b)"agent" means a person duly authorised by a party to present an appeal or a written reply on its behalf before the Tribunal;(c)"appellant" means a person or the establishment making an appeal to the Tribunal

under section 7-I;(d)"form" means a form specified in Appendix;(dd)["Fund" means Provident Fund, Pension Fund and Insurance Fund established under the Act;] [Inserted by Noti. No. S-35025/02/98-SS-II, dated 7.2.2000.](e)"legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1961);(f)"legal representative" means a person who in law represents the estate of the deceased;(g)["Registrar" means the Registrar appointed for the Tribunal or any other person authorized, by order, by the Central Government to act as Registrar for the purpose of these rules;] [Substituted by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).](h)"Registry" means the Registry of the Tribunal;(i)["Tribunal" means the Industrial Tribunal referred to in section 7D of the Act] [Substituted by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).];(j)the words and expressions used and not defined in these rules but defined in the Act shall have the same meanings respectively assigned to them in the Act.

3. Language of the Tribunal.

- The language of the Tribunal shall be English: Provided that the parties proceeding before the Tribunal may file documents drawn up in Hindi, if they so desire:Provided further that:(a)the Tribunal may, in its discretion permit the use of Hindi in the proceedings but the final order shall be in English;(b)the Tribunal hearing the matter, may in its discretion, direct English translation of pleadings and documents to be filed.

4. Procedure for filing appeals.

(1)An appeal to the Tribunal shall be presented in Form I by the appellant in person or by an agent or by a duly authorised legal practitioner to the registry or any other officer authorised in writing by the Registrar to receive the same or be sent by registered post with acknowledgment duly addressed to the Registrar of the Tribunal.(2)The appeal under sub-rule (1) shall be presented in triplicate in a paper-book form along with one unused file size envelope bearing full address of the respondent.(3)Where the number of respondents is more than one, as many extra copies of the appeal in paper-book form as there are respondents together with unused file size envelopes bearing the full address of each respondent shall be furnished by the appellant:Provided that where the number of respondents is more than five, the Registrar may merit the appellant to file the extra copies of the appeal at the time of issue of notice to the respondents.(4)The appellant may attach to and present with his appeal a receipt slip in Form II which shall be signed by the Registrar or the Officer receiving the appeal on behalf of the Registrar in acknowledgment of the receipt of the appeal.

5. Presentation and scrutiny of appeals.

(1)The Registrar or the officer authorised by him under rule 4, shall endorse on every appeal the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.(2)If, on scrutiny, the appeal is found to be in order it shall be duly registered and given a serial number.(3)If the appeal, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as

he may deem fit.(4)If the appellant fails to rectify the defect within the time allowed under sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register the appeal and inform the appellant accordingly.

6. Place of filing appeals.

- [The appeal shall ordinarily be filed by the appellant with the Registrar of the Tribunal within whose jurisdiction the cause of action has arisen.] [Substituted by Notification No. G.S.R. 24 (E), dated 14.1.2016 (w.e.f. 21.6.1997).]

7. Fee, time for filing appeal, deposit of amount due on filing appeal.

- [(1) Every appeal filed with the Registrar shall be accompanied by a fee of two thousand rupees to be remitted in the form of crossed Demand Draft on a nationalised bank in favour of the Registrar of the Tribunal and payable at the main branch of that Bank at the station where the seat of the said Tribunal situate.] [Substituted by Notification No. G.S.R. 24 (E), dated 14.1.2016 (w.e.f. 21.6.1997).](2)Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any other authority under the Act, may within 60 days from the date of issue of the notification/order, prefer an appeal to the Tribunal:Provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days:(3)Provided further that no appeal by the employer shall be entertained by a Tribunal unless he has '[deposited with the Tribunal a Demand Draft payable in the Fund and bearing] [Substituted by Noti. No. S-35025/02/98-SS-II, dated 7.2.2000.]75 per cent of the amount due from him as determined under section 7-A:Provided also that the Tribunal may for reasons to be recorded in writing, waive or reduce the amount to be deposited under section 7-O.

8. Content of the appeal.

(1)Every appeal filed under rule 4 shall set forth concisely under distinct heads the grounds for such appeal. Such grounds shall be numbered consecutively. Every appeal including any miscellaneous appeal shall be typed in double space on one side on thick paper of good quality.

9. Documents to accompany the appeal.

- ([I) Every appeal shall be accompanied by a paper-book containing:(i)an attested true copy of the order against which the appeal is filed;(ii)copies of the documents relied upon by the appellant and referred to in the appeal;(iii)an index of the documents.(2)The documents referred to in sub-rule (1) may be attested by a legal practitioner or by a Gazetted Officer and each document shall be marked serially as Annexures A-1, A-2, A-3 and so on.(3)Where an appeal is filed by an agent, document authorising him to act as such agent shall also be appended to the appeal:Provided that where an appeal is filed by a legal practitioner, it shall be accompanied by a duly executed "Vakalatnama".

10. Plural remedies.

- An appeal shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.

11. Service of notices and processes issued by the Tribunal.

(1) Notices or processes to be issued by the Tribunal may be served by any of the following modes directed by the Tribunal: (i) service by the party itself; (ii) by hand delivery (Dasti) through process server; (iii) by registered post with acknowledgment due. (2) Where notice issued by the Tribunal is served by the party himself by "hand delivery" (Dasti), he shall file with the Registry of the Tribunal, the acknowledgment, together with an affidavit of service. (3) Notwithstanding anything contained in sub-rule (1) the Tribunal may, taking into account the number of respondents and their places of residence or work and other circumstances, direct that notice of the appeal shall be served upon the respondents in any other manner including any manner of substituted service, as it appears to the Tribunal just and convenient. (4) Notwithstanding anything done under sub-rule (1) the Tribunal may, in its discretion, having regard to the nature and urgency of the case, direct the service of the notice on the Standing Counsel appointed as such by the Central Government or any State Government or any other authority under the Act. (5) Every notice issued by the Tribunal shall, unless otherwise ordered, be accompanied by a copy of the appeal along with a copy of the paper-book. (6) Every appellant shall pay a fee for the service or execution of processes in such manner as the Tribunal may direct under sub-rule (3) such a sum, not exceeding the actual charges incurred in effecting the service, as may be determined by the Tribunal. (7) The fee for the service or execution of processes under sub-rule (3) shall be remitted in the manner prescribed in rule 7 within one week of the date of the order determining the fee or within such extended time as the Registrar may permit. (8) Notwithstanding anything contained in sub-rules (1) to (4), if the Tribunal is satisfied that it is not reasonably practicable to serve notice of appeal upon all the respondents, it may, for reasons to be recorded in writing, direct that the appeal shall be heard notwithstanding that some of the respondents have not been served with notice of the application: provided that no appeal shall be heard unless: (i) notice of the appeal has been served on the Central Government or the State Government or the Central Board or if such Government or Board is a respondent; (ii) notice of the appeal has been served on the authority which passed the order against which the appeal has been filed; and (iii) the Tribunal is satisfied that the interests of the respondents on whom notice of the appeal has not been served are adequately and sufficiently represented by the respondents on whom notice of the appeal has been served.

12. Filing of reply and other document by the respondents.

(1) Each respondent intending to contest the appeal, shall file in triplicate the reply to the appeal and the documents relied upon in paper-book form with the Registry within one month of the service of notice of the appeal on him. (2) In the reply filed under sub-rule (1), the respondent shall specifically admit, deny or explain the facts stated by the appellant in his appeal and may also state such additional facts as may be found necessary for the just decision of the case. It shall be signed and verified as a written statement by the respondent or any other person duly authorised by him in

writing in the same manner as provided for in Order VI, Rule 15 of the Code of Civil Procedure, 1908 (5 of 1908).(3)The documents referred to in sub-rule (2), shall also be filed along with the reply and the same shall be marked as R-1, R-2, R-3 and so on.(4)The respondent shall also serve a copy of the reply along with documents as mentioned in sub-rule (1) on the appellant or his legal practitioner, if any, and file proof of such service in the Registry.(5)The Tribunal may allow filing of the reply after the expiry of the prescribed period.

13. Date and place of hearing to be notified.

- The Tribunal shall notify to the parties the date and the place of hearing of the appeal in such manner as the Presiding Officer may, by general or special order, direct.

14. Calendar of cases.

(1)The Tribunal shall draw up a calendar for the hearing of cases and, as far as possible, hear and decide the cases according to the calendar.(2)Every appeal shall be heard and decided, as far as possible, within six months from the date of its registration.(3)The Tribunal shall have the power to decline an adjournment and also to limit the time for oral arguments.

15. Action on appeal for appellant's default.

(1)Where on the date fixed for hearing of the appeal or on any other date to which such hearing may be adjourned, the appellant does not appear when the appeal is called for hearing, the Tribunal may, in its discretion either dismiss the appeal for default or hear and decide it on merit.(2)Where an appeal has been dismissed for default and the appellant files an appeal within thirty days from the date of dismissal and satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal was called for hearing, the Tribunal shall make an order setting aside the order dismissing the appeal and restore the same:Provided, however, where the case was disposed of on the merits, the decision shall not be reopened except by way of review.

16. Ex parte hearing and disposal of appeal.

(1)Where on the date fixed for hearing the appeal or on any other date to which such hearing may be adjourned, the appellant appears and the respondent does not appear when the appeal is called for hearing, the Tribunal may, in its discretion adjourn the hearing or hear and decide the appeal ex parte.(2)Where an appeal has been heard ex parte against a respondent or respondents, such respondent or respondents may apply to the Tribunal for an order to set it aside and if such respondent or respondents satisfy the Tribunal that the notice was not duly served or that he or they were prevented by any sufficient cause from appearing when the appeal was called for hearing, the Tribunal may make an order setting aside the ex parte hearing as against him or them upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal:Provided that where the ex parte order on the appeal is of such nature that it cannot be set aside as against one respondent only, it may be set aside as against all or any of the other respondents also:Provided further that in

cases covered by sub-rule (8) of rule 11, the Tribunal shall not set aside ex parte order of an appeal merely on the ground that it was not served upon a respondent or respondents.

17. Substitution of legal representatives.

(1) In the case of death of a party during the pendency of the proceedings before the Tribunal, the legal representatives of the deceased party may apply within thirty days of the date of such death for being brought on record as necessary parties. (2) Where no application is received from the legal representatives within the period specified in sub-rule (1), the proceedings against the deceased party shall abate: Provided that on good and sufficient reasons the Tribunal, on an application, may set aside the order of abatement and substitute the legal representatives.

18. Adjournment of hearing.

- The Tribunal may if sufficient cause is shown at any stage of proceedings grant time to the parties or any of them, and adjourn the hearing of the appeal.

19. Order to be signed and dated.

- (i) Every order of the Tribunal shall be in writing and shall be signed by the Presiding Officer who pronounced the order. (ii). The order shall be pronounced in open Court.

20. Communication of orders to parties.

(1) Every final order passed on any appeal shall be communicated to the appellant and to the respondent concerned either by hand delivery or by registered post free of cost. (2) If the appellant or the respondent to any proceeding requires a copy of any document or proceeding, the same shall be supplied to him on such terms and conditions on payment of such fees as may be fixed by the Presiding Officer by general or special order.

21. Orders and directions in certain cases.

- The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

22. Working hours of the Tribunal.

- Except on Saturdays, Sundays and other public holidays, the office of the Tribunal shall, subject to any order made by the Presiding Officer remain open from 9.30 a.m. to 6.00 p.m.

23. Sitting hours of the Tribunal.

- The sitting hours of the Tribunal shall ordinarily be from 10.30 a.m. to 1.30 p.m. and 2.30 p.m. to 5.00 p.m. subject to any general or special order made by the Presiding Officer.

24. Powers and functions of the Registrar. - (1) The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions as are assigned to him under these rules or by the Presiding Officer by separate order.

(2)The official seal shall be kept in the custody of the Registrar.(3)Subject to any general or special direction by the Presiding Officer, the seal of the Tribunal shall not be affixed to any order, summons or other process save under the authority in writing of the Registrar.(4)The seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing of the Registrar.

25. Additional powers and duties of Registrar.

- In addition to the powers conferred elsewhere in these rules, the Registrar shall have the following powers and duties subject to any general or special order of the Presiding Officer, namely:(i)to receive all appeals and other documents;(ii)to decide all questions arising out of the scrutiny of the appeals before they are registered;(iii)to require any appeal presented to the Tribunal to be amended in accordance with the Act and the rules;(iv)subject to the direction of the Tribunal, to fix the date of first hearing of the appeals or other proceedings and issue notices thereof;(v)to direct any formal amendment of records;(vi)to order grant of copies of documents to parties to the proceedings;(vii)to grant leave to inspect the records of the Tribunal;(viii)to dispose of all matters relating to the service of notices or other processes for the issue of fresh notices and for extending the time for filing such appeals and to grant time not exceeding 15 days for filing a reply or rejoinder, if any, and to place the matter before the Tribunal for appropriate order after the expiry of the aforesaid period;(ix)to requisition records from the custody of any Court or other authority;(x)to receive appeals within thirty days from the date of death for substitution of legal representatives of the deceased parties during the pendency of the appeals;(xi)to receive and dispose of appeals for substitution, except where the substitution would involve setting aside on order of abatement;(xii)to receive and dispose of application by parties for return of documents.

26. Seal and emblem.

- The official seal and emblem of the Tribunal shall be in a round shape bearing the name of the Tribunal in capital letters with Ashoka Pillar in the centre.

27. Dress of the Presiding Officer and staff of the Tribunal.

- The dress for the Presenting Officer of the Tribunal and members of the staff of the Tribunal shall be such as the Presiding Officer may specify.

28. Dress of the parties.

- A legal practitioner or, as the case may be, a Presiding Officer shall appear before the Tribunal in his professional dress, if any, and if there is no such dress:(i)if a male, in a closed collared coat and trousers or in a lounge suit;(ii)if a female, in a saree or any other customary dress of a sober colour.

29. Expenses of the Tribunals.

- The entire administrative expenses of the Tribunals shall be borne by the Central Board of Trustees, Employees' Provident Fund' [and the fee or any other money received by the Tribunal shall form a part of the Administrative Fund of the Central Board] [Added by Noti. No. S-35025/02/98-SS-II, dated 7.2.2000.].APPENDIXFORM I(See rule 4)APPEAL UNDER SECTION 7-I OF THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952Title of the Case:

Serial No. Description of documents relied Page No.

1.2.3.4.

Signature of the applicantFor use in Tribunal OfficeDate of FilingorDate of Receipt by postRegistration No.....Signature for Registrar[IN THE INDUSTRIAL TRIBUNAL] [Substituted 'IN THE EMPLOYEES' PROVIDENT FUNDS APPELLATE TRIBUNAL' by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).]BetweenA.....B.....AppellantVersusC.....D.....OF APPEAL:

1. Particulars of the appellant:

(i)Name of the appellant(ii)Office address(iii)Address for service of notices

2. Particulars of the respondent:

(i)Name of the respondent(ii)Office address(iii)Address for service of notices

3. Particulars of the order/notification against which appeal is made. - The appeal is against the following order/notification:

(i)Order/Notification Nowith reference to Annexure(ii)Date(iii)Passed by(iv)Subject in brief

4. Jurisdiction of the Tribunal. - The appellant declares that the subject-matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation. - The appellant further declares that the appeal is within the limitation prescribed in section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

6. Facts of the case. - The facts of the case are given below:(Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise).

7. Details of the remedies exhausted. - The appellant declares that he has availed of all the remedies available to him under the Act.

(Give here chronologically the details of representations made and the outcome of such representation with reference to the Annexure numbers.)

8. Matters not previously filed or pending with any other Court. - The appellant further declares that he had not previously filed any appeal, writ petition or suit regarding the matter in respect of which this appeal has been made, before any Court of law or any other authority or any other bench of the Tribunal and nor any such appeal, writ petition or suit as pending before any of them.

In case the appellant had previously filed any appeal, writ petition or suit, the stage at which it is pending and if decided, the gist of the decision should be given with reference to the Annexure.

9. Relief(s) sought.-In view of the facts mentioned in para 6 above the appellant prays for the following relief(s):

[Specify below the relief(s) sought explaining the ground for relief(s) and the legal provisions (if any) relied upon.]

10. Interim order, if any, prayed for. - Pending final decision on the appeal, the appellant seeks issue of the following interim order:

(Give here the nature of the interim order prayed for with reasons.)

11. In the event of appeal being sent by registered post. - It may be stated whether the appellant desires to have oral hearing at the admission stage and if so, he shall attach a self-addressed post card, inland letter, at which intimation regarding the date of hearing could be sent to him.

12. Particulars of bank draft/postal order in respect of the appeal fee:

1. Name of the bank on which drawn.

2. Demand Draft No.

or

1. Number of Indian Postal Order(s)

2. Name of the issuing Post Office

3. Date of issue of Postal Order(s)

4. Post Office at which payable

13. List of enclosures:

1.

2.

3.

4.

5.

6.

VERIFICATION I, (name of the appellant) S/o, D/o, W/o
..... age..... working as.....in the office
of..... resident ofdo hereby verify that the contents of
paras.....to.....are true to my personal knowledge and para
to.....believed to be true on legal advice and that I have not suppressed any material
fact.....Signature of the appellantDate:Place:To,The

Registrar.....FORM II[See rule 4(4)]RECEIPT SLIPReceipt of the appeal filed in the [Tribunal] [Substituted 'Employees' Provident Funds Appellant Tribunal' by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).] by Shri/Kum./Smt./ working in/ for of residing at is hereby acknowledged.For Registrar[Industrial Tribunal] [Substituted 'EPF Appellate Tribunal' by Notification No. G.S.R. 949(E), dated 20.7.2017 (w.e.f. 21.6.1997).]Date:Seal:CONTRIBUTION OF EMPLOYEES AND EMPLOYERS AFTER REVISION IN WAGE CEILINGAfter revision in wage ceiling from Rs. 5,000 to Rs. 6,500 per month, the Government will continue to contribute 1.16 per cent. upto the actual wage of maximum @ Rs. 6,500 per month towards Employees' Pension Scheme and the employer's share in the Pension Scheme will be Rs. 541 (8.33 per cent.) with effect from 1-6-2001.Under the Employees' Deposit-Linked Insurance Scheme, the contribution @ 0.50 per cent. is required to be paid upto a maximum limit of @ Rs. 6,500. The employer will pay administrative charges @ 0.01 on a maximum limit of Rs. 6,500.The employer will also pay administrative charges @ 0.01 per cent. on maximum limit of Rs. 6,500 whereas an exempted establishment will pay inspection charges @ 0.00.5 per cent. out of the total wages paid.N.B.-(1) The above clarification is given by taking wages upto maximum of Rs. 6,500 towards wage (basic+DA).(2)Since an excluded employee, i.e., drawing wages more than Rs. 6,500 can also become member of the Fund and the Schemes on joint request and if, for instance, such an employee is getting Rs. 10,000 per month, his share towards provident fund contribution will be Rs. 1,200, e.g., 12% and employer's share towards provident fund contribution will be Rs. 659 and Rs. 541 towards Employees' Pension Fund.FORMULAE FOR CALCULATING THE CONTRIBUTION OF EMPLOYEES AND EMPLOYERS TO THE EMPLOYEES' PROVIDENT FUNDSection 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 sets out the formulae for calculating the contribution of employees and employers to the Fund

At the rate of 10%

Contribution is 10% of the basic wages, dearness allowance and retaining allowance of the employee

Example

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Pay Scale

Rs. 2,000

Rs. 3,000

Rs. 5,000

Rs. 8,500

Rs.10,000

At the rate of 12%

Contribution is 12% of the basic wages, dearness allowance and retaining allowance of the employee

Example

EPF Contribution

Rs.200

Rs. 300

Rs. 500

Rs. 850

Rs.1,000

| {| -| Pay Scale| EPF Contribution|-| Rs. 2,000| Rs. 240|-| Rs. 3,000| Rs.360|-| Rs. 5,000| Rs. 600|-| Rs. 8,500| Rs. 1,020|-| Rs.10,000| Rs.1,200|} }*Enhanced by Amendment Act 10 of 1998 (w.r.e.f. 22-9-1997).