

AIRPORTS AUTHORITY OF INDIA

RPFC-I (Delhi)-North had issued a summon to AAI under Section-14B of EPF& MP Act, 1952 directing us to produce the copies of Challans, Acknowledgement of Bankers/PF Offices of payment made towards pension contributions and EDLI contributions alongwith Administration and Inspection charges inorder to quantify the interest and damages broadly for the period from 01.04.95(i.e date of coverage) to 22.08.2007(i.e date of granting coverage). Accordingly Asstt. Provident Fund Commissioner (Damages) vide his letter dated 30/05/2012 demanded Interest and Damages under Section 7Q and 14B of EPF & MP Act for Rs. 132,60,29,632 and Rs.227,16,79,272/- respectively. (It is mentioned that the interest/damages is calculated on the basis of option exercised by the employees).

It is also informed that so far 11 hearings have already been taken place and the last hearing was held on 24/08/2012 and the next hearing is scheduled on 24/09/2012.

In the meantime PF authorities vide their letter dated 13/08/2012 issued a communication stating that the option was not given or no communication was made by the concerned offices in terms of their internal Circular dated 22/11/2006 and the excess contribution will be considered as erroneous contributions and the pensionable salary will be restricted to the statutory ceiling. They have further informed that their office has decided to settle all the pension claims of AAI by restricting at the pensionable salary limit of Rs.6500/- per month and also directed

to submit the revised annual returns upto the maximum statutory rate of wages ceiling i.e. Rs.6500/- per month. The same was reminded vide their notices dated 22/08/2012, 27/08/2012 and 05/09/2012 to furnish the returns in the ceiling salary (and not as per the option exercised by the employees). A copy of the letter dated 13/08.2012 is enclosed.

It is evident that before conclusion of the proceedings, the RPFC has now taking a U turn and restricting the contribution and benefits on the ceiling salary. Hence AAI management is exploring all the possibilities including legal recourse against the action of PF authorities.



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कर्मचारी भविष्य निधि संगठन Employees' Provident Fund Organisation

श्रम एवं रोजगार मंत्रालय, भारत सरकार

(Ministry of Labour & Employment, Govt. of India)

(क्षेत्रीय कार्यालय, दिल्ली-उत्तर / Regional Office Delhi-North)

भविष्य निधि भवन, 28, सामुदायिक केन्द्र, वजीरपुर औद्योगिक क्षेत्र, दिल्ली-110 052

Bhavishya Nidhi Bhawan, 28, Community Centre, Wazirpur Industrial Area, Delhi-110052

क्रमांक / Ref. No...DL/36478/CPM-22/Annual Return/1533

दिनांक / Dated...13/08/2012..

To,

Mr. Vilas Bhujang
Airport Authority of India
Rajiv Gandhi Bhawan
Safdarjung Enclave
New Delhi- 110003

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13/8

Sub:- Option to contribute on salary exceeding the statutory limit under EPS'95 in respect of M/s AAI bearing code no- DL/36478 - regarding

Sir,

Please refer to the Head Office Circular No- Pension/Misc./2005/65836 dated 22/11/2006 (copy enclosed) on the above cited subject. As per the circular dated 22/11/2006, the establishment falls under category no-3 which says, "In the cases where no option was given or no commitment was made by the concerned office, but the contribution on higher was deposited by the establishment / employee on their own, such excess contribution will be considered as erroneous contributions and the pensionable salary will be restricted to the statutory ceiling existing from time to time". The establishment, M/s AAI as well as the members never applied to allow to contribute on more than the statutory limit of pay as provided under Para 26(6) of EPF Scheme 1952. Therefore this office has decided to settle all the pension claims of this establishment by restricting at the pensionable salary limit of Rs. 6500/- per month.

Hence the establishment M/s AAI is directed to submit the revised Annual Returns upto the maximum statutory rate of wages ceiling i.e. Rs. 6500/- per month latest by 24/08/2012.

Yours faithfully

(Vikas Sodai)

Regional PF commissioner(Pension)
Delhi North

2086/CPM-22-120
14/8/12

5015/EPF(HR)
13/8/12

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Gm(HR)KD
DAM-KN

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कर्मचारी भविष्य निधि संगठन
(श्रम मंत्रालय, भारत सरकार)

Employees' Provident Fund Organisation

(Ministry of Labour, Govt. Of India)

मुख्य कार्यालय/ Head Office

भविष्य निधि भवन, १४-भीकाजी कामा प्लेस, नई दिल्ली-११००६६
Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066

No Pension/Misc./2005/165836

Dated: 22-11-2006

22 NOV 2006

To

All Regional Provident Fund Commissioners
Regional Offices/ Sub Regional Offices.

Subject:- Contribution on salary exceeding the statutory limit (Para 11(3)) of
EPS:95

Attention is invited to the following circulars:-

1. Circular No.Pen/4(2)96/SLP/Vol.V/16598 dated 26.6.2004.
2. Letter No. Pen.4 (38).96/WB/59867 dated 1.12.2004.
3. Circular No.Pen/Misc/2006/Vol.I dated 25.4.2006.

Instructions have already been issued by this office on the issue of contributing on a pay exceeding the statutory limit under Para 11(3) of the Employees' Pension Scheme, 1995. However, the field offices are finding it difficult to take decisions. As a result this office has been receiving a number of references from field offices, not to speak of the volley of grievances being aired by the members through various channels. Therefore, it has become necessary for this office to issue guidelines in a more clear term.

While deciding the issue the following provisions may be kept in mind:

- 1) Under EPS there is no contribution payable separately. Under Para 3 of the EPS, from and out of the contributions payable by the employer in each month under Section 6 of the Act, the employer shall remit a part of contribution representing 8.33 percent of the Employees pay to the EPS. Therefore, it is only the employer's share of contribution payable under Employees Provident Fund Scheme, 1952 that is being diverted to EPS to the extent as aforesaid.
- 2) Accordingly, the option to contribute on a pay exceeding statutory limit is available to a member only under Para 26(6) of the Employees Provident Fund Scheme, 1952 and not under Para 11(3) of the EPS.

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3) In fact Para 11(3) clarifies the methodology of determination of pensionable salary only.

4) Since opting to contribute on higher pay to EPS means a contribution on higher pay to Provident Fund as well, Para 11(3) provision will apply to only such of those employees who have been contributing on a higher pay under Para 26(6) of the Employees Provident Fund Scheme, 1952.

Accordingly the grievances may be classified into the following categories and the issues be decided.

1. In all such cases where the employee has contributed over and above the statutory limit either from 16.3.1996 or from the month in which his salary exceeded the limit after having exercised his option and the same having been accepted by the Office, the pensionable salary will be based on such salary.

If the option was not exercised at the time of salary crossing the statutory limit or on 16.3.1996, as the case may be and the contribution was deposited on salary exceeding the limit after receiving instructions from the Office before the date of issue of circular dated 22.6.2004, the department has the vicarious liability (restricted to the specific case only) of honouring such a commitment and hence the pensionable salary shall be on the actual salary i.e. on the salary (exceeding the statutory limit) on which the contribution was paid. However, this is subject to i) a satisfactory explanation to be obtained and taken on record from the officer who made such a commitment. ii) the employer having remitted the administration charges and other contributions on such higher salary.

3. In the cases where no option was given or no commitment was made by the concerned Office, but the contribution on higher pay was deposited by the establishment/ employee, on their own such excess contributions will be considered as erroneous contributions and the pensionable salary will be restricted to the statutory ceiling existing from time to time.

So all field offices are requested to consider the grievances voiced under Para 11(3) in accordance with the above clarification and decide the issues at their level without referring them to the Head Office unnecessarily.

(This issues with the approval of CPFC)

Yours faithfully,

(RAJESH BANSAL)

ADDL. CENTRAL P.F. COMMISSIONER (PENSION)

17/11/2006