

**(Revised) Frequently Asked Questions (FAQs) for the field offices for
Implementation of Judgment of Hon'ble Supreme Court dated 04.11.2022**

Proof of joint option under Para 26 (6) of the EPFS 1952

Ques. 1: The circulars no. Pension/2022/54877/15149 dated 29.12.2022 and circular no. Pension/2022/56259/16541 dated 20.02.2023 specify requirement of proof of joint option under Para 26(6) of EPF Scheme, 1952 duly verified by the employer. What documentary evidence can be considered as proof of joint option under Para 26(6)?

Ans. 1:

1. Permission under Para 26(6) uploaded by the applicant at the time submission of Application for Validation of Option / Joint Option or available in Office.
2. If permission under Para 26(6) is not readily available then Field Offices should verify that
 - a) Employer share of PF contribution has been remitted on employee's pay exceeding the prevalent statutory wage ceiling of Rs.5000/6500/15000 per month from the day the pay exceeded the wage ceiling or 16.11.95 whichever is later, till date/ till the date of retirement or superannuation as the case may be; and
 - b) Administrative charges payable by employer have been remitted; and
 - c) Provident Fund account of employee has been updated with interest as per Para 60 of EPFS,1952 on the basis of such contribution received; and
 - d) Any of the following documents have been submitted along with Applications for Validation of Option / Joint Options as proof of joint option and permission under Para 26(6).
 - Wage Details submitted by the employer along with Applications for Validation of Option / Joint Options
 - Any salary slip / letter from employer authenticated by employer
 - Copy of joint request and undertaking from employer
 - Letter from PF office issued prior to 04.11.2022 indicating PF contribution on higher wages

The applicants who qualify 2(a) to (d) above and are already contributing/ have contributed till retirement/superannuation on actual (higher) pay, if they have not submitted their joint requests and undertaking of employer, can submit the same at the time of final claim settlement through their last employer. Joint Request and Undertaking of employer for permission under Para 26(6) ([performa enclosed](#)) can be submitted by pensioners/members any time before the grant of pension on higher wages in accordance with decision of Hon'ble Supreme Court dated 04.11.2022.

Ques. 2: While filing online Application for Validation of Option / Joint Options, no documentary evidence has been submitted as proof of joint option under Para 26(6) of EPF Scheme, 1952. Whether this Application / Joint Option can be rejected on this ground?

Ans. 2: No. The RPFC will obtain any of the documents as mentioned in Answer 1 from the employer and no Application for Validation of Option / Joint Option can be rejected only on this ground if otherwise eligible. It will be the duty of the RPFC to make sure that any of the proofs as mentioned in Ans 1 above is obtained from the employer.

Members of Exempted PF establishments

Ques. 3: If a member/past member of a PF exempted establishment has not submitted Joint Request and undertaking from the employer to the Trust for contribution on higher wages under the rules of the Trust, how will such cases be governed?

Ans. 3: The cases shall be governed in the same manner as at Answers 1 and 2 above.

Computation of Pension

Ques. 4: What will be the applicable formula for member pension calculation?

Ans. 4: The pension calculation will be as per para 12 of EPS 95. The date of commencement of pension will determine the applicable formula for calculation of pensionable service, pensionable salary and pension.

Ques. 5: How will member pensionable salary be calculated for members of EPS, 95 eligible for pension on higher wages who retired prior to 01.09.2014, where the date of commencement of pension is prior to 01.09.2014?

Ans. 5: Since date of commencement of pension is prior to 01.09.2014, the pensionable salary shall be calculated based on the average monthly pay drawn during contributory period of service in the span of **12 months** preceding the date of exit from the membership of the pension fund.

Ques. 6: How will member pensionable salary be calculated for members of EPS, 95 eligible for pension on higher wages, who retired prior to 01.09.2014 but where the date of commencement of pension is on or after 01.09.2014?

Ans. 6: Since date of commencement of pension is on or after 01.09.2014, the member pensionable salary shall be calculated based on the average monthly pay drawn during the contributory period of service in the span of **60 months** preceding the date of exit from the membership of the pension fund.

Ques. 7: How will member pensionable salary be calculated for members of EPS, 1995 who have retired after 01.09.2014?

Ans. 7: The member pensionable salary calculation shall depend on the date of commencement of pension. For example:-

- i. **'A'** retired from establishment **'X'** at the age of 60 years on 01.01.2015. Even though his date of retirement is 01.01.2015, for the purpose of EPS, 1995 he will be treated as superannuated at the age of 58 i.e. prior to 01.09.2014. Accordingly, his pensionable salary shall be calculated based on the average monthly pay drawn during contributory period of service in the span of **12 months** preceding the date of exit from the membership of the pension fund.
- ii. **'B'** retired from establishment **'X'** at the age of 50 years on 01.01.2012. Even though he retired in 2012, he can opt to take pension at the age of 58 i.e. after 01.09.2014. Accordingly, his pensionable salary shall be calculated based on the average monthly pay drawn during contributory period of service in the span of **60 months** preceding the date of exit from the membership of the pension fund.

Ques. 8: A member will be retiring in future (say for example 2030). How will his pension be calculated?

Ans. 8: The pension will be calculated based on the provisions of EPS, 1995 that will exist as on the date of commencement of pension.

Payment of Arrears of Pension

Ques. 9: Will my pension arrears be paid to me or adjusted against the demand of the contributions on the higher wages?

Ans. 9: Arrears of pension will be paid to the pensioners in accordance with the existing process to comply with income tax provision relating to TDS.

**PERFORMA FOR JOINT REQUEST UNDER PARAGRAPH 26(6) OF THE EPF
SCHEME 1952**

(For implementation of Hon'ble Supreme Court judgment, dated the 04th November, 2022, in Civil Appeal No. 8143-8144 of 2022 [SLP (C) Nos. 8658-8659 of 2019] in the matter of the Employees' Provident Fund Organisation and others versus Sunil Kumar B. and others)

To,

The Regional Provident Fund Commissioner

Regional Office...

Iam an existing member of the EPF Scheme, 1952 having UAN I have read and understood the provisions of paragraph 26(6) as well as the definition of 'pay' under paragraph 2 of the Scheme. I wish to contribute towards my EPF on actual (higher) pay exceeding the statutory wage ceiling (presently Rs 15,000/ per month) w.e.f.and accordingly, submit my option to contribute on my actual (higher) pay

OR

I..... having read and understood Para 26(6) and the definitions of 'pay', and 'excluded employee' as mentioned under Para 2 of EPF Scheme, 1952, hereby declare that I am an 'Excluded Employee' as per Para 2(f)(ii) of the Scheme and am not enrolled as a member of the Scheme as my 'pay' from the date of joining my establishmenthaving PF Code.....has been above the statutory wage ceiling (presently Rs.15,000/- per month).Now, I wish to become a member of the EPF Scheme, 1952 w.e.f.....and accordingly hereby exercise my option for the same. I undertake to contribute to Employees' Provident Fund on actual (higher) pay.

I... , being the employer as per the provisions of Section 2(e) of the EPF & MP Act 1952, in respect of the above-mentioned employee and am submitting a joint request for the purpose of enrolling the member/existing member who has been paying contribution on actual pay exceeding statutory wage ceiling/existing members whose actual pay exceeds statutory wage ceiling.

Place:

Signature of Employer

Name, Designation of the employer

Name & Signature of the employee

(For implementation of Hon'ble Supreme Court judgment, dated the 04th November, 2022, in Civil Appeal No. 8143-8144 of 2022 [SLP (C) Nos. 8658-8659 of 2019] in the matter of the Employees' Provident Fund Organisation and others versus Sunil Kumar B. and others)

UNDERTAKING BY THE EMPLOYER

I... , being the employer as per the provisions of Section 2(e) of the EPF & MP Act 1952, in respect of the above-mentioned employee, hereby undertake to pay the administrative charges payable at prescribed rates towards EPF contribution made by/ in respect of the said employee, including his/ her contribution on pay exceeding the statutory wage ceiling.

I further undertake to comply with all the statutory provisions under EPF & MP Act, 1952 and Schemes framed there under in respect of such employee with effect from.....

Place:

Date:

Signature of Employer
Name, Designation of the Employer

(For Office use)

OFFICE OF THE REGIONAL PROVIDENT FUND COMMISSIONER

The above Joint Request is accepted with effect from_____with a direction to make necessary entries in the records of the establishment and the Account of the Employee/Member*.

DA

AO

APFC

To

The Employer (Establishment) for information to member