

**India Tourism Development Corporation Ltd.**  
Scope Complex, Core-8, 7, Lodi Road, New Delhi

ITDC/PF Trust/ EPFO-Pension /2023

Date: 03.02.2023

**Circular**

**Subject :- Implementation of EPS 95 - Higher Pension on Salary/Wages in respect of Recent order of Hon'ble Supreme court and circular no. Pension/2022/54877/15149 Dt. 29.12.2022 issued by Addl. Central P.F. Commissioner (Pension) of EPFO.**

Hon'ble Supreme Court has passed judgment dated 04.11.2022 in the Civil Appeal titled the Employees Provident Fund Organisation. In this judgment Supreme Court has ordered EPFO to issue guidelines for implementation of the direction issued by the Hon'ble court. In this regard EPFO has issued circular no. Pension/2022/54877/15149 Dt. 29.12.2022. EPFO has given following directions:

**Eligible Employees/Member:**

*44(v) The employees who had retired prior to 1st September, 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment."*

*44 (vi) The employees who have retired before 1st September, 2014 upon exercising option under paragraph 11(3) of the 1995 scheme shall be covered by the provisions of the paragraph 11(3) of the pension scheme as it stood prior to the amendment of 2014.*

*44(ix) We agree with the view taken by the Division Bench in the case of R.C. Gupta (Supra) so far as interpretation of the proviso to paragraph 11(3) (pre-amendment) pension scheme is concerned. The fund authorities shall implement the directives contained in the said judgment within a period of eight weeks, subject to our directions."*

**1. Employees who had exited the Scheme before 01/09/2014 (i.e. attained age of 58 years before 01/09/2014):**

As per our interpretation of aforesaid Circular, it is currently addressing employees who have exited the Scheme (EPS-95) prior to 1<sup>st</sup> September, 2014, and had exercised the option for pension on higher salary under para 11(3) of 1995 Scheme and whose application for higher pension was rejected by EPFO.

*As per records available, no ex-employee of the Corporation who had exited the scheme before 01/09/2014 is covered under above provisions. Hence, the circular (issued by EPFO vide dated 29.12.2022) does not cover any of our employees who has retired before 01/09/2014.*

**2. Serving employees OR employees who have exited the scheme after 01/09/2014 (i.e who have attained age of 58 years after 01/09/2014)**

As per the para 44(iv) of the judgment of Hon'ble Supreme Court, time limit of four months (on or before 03<sup>rd</sup> March 2023) has been given to eligible employees to exercise joint option for contributions to EPS 95 Scheme on actual salary and consequent determination of higher Pension. It is expected that EPFO will issue a separate Circular/ Guidelines for these category of employees.





## DECLARATION TO BE SUBMITTED

For the Joint option under para 11(3) and Para 11(4) of employees' pension scheme, 1995 based upon the Hon'ble Supreme Courts' order in C.A No 008143-008144/2022 Titled EPFO vs Sunil Kumar pronounced on 04.11.2022, Sample of declaration form for Serving/Retired employees who wish to exercise such option is enclosed. Please note this declaration form is in compliance with Supreme Court Judgment order dated 04.11.2022 till the EPFO official implementation order is issued. The sample declaration form is subject to further clarifications and implementation order by the EPFO as no format for the joint option has been provided by the EPFO and same is also not available on EPFO website.

Existing/Superannuated employees of ITDC PF Trust who have rendered service in other organization/s prior to ITDC PF Trust and wish to exercise the joint option for contribution on higher wages under the EPS'95 are requested to collect the requisite information, documents and data as the same may be required from the respective previous organization/s for availing the benefit as per the Supreme Court order

All the data is to be provided month wise and the information may be certified by the respective organization as well as the employee. Data and information are required from all the previous organizations in which employee/ex-employee had worked and was the member of EPS-95.

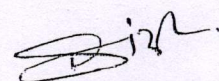
It is hereby informed that all employees who wish to exercise such option may send their declaration latest by the 15<sup>th</sup> FEBRUARY 2023 at the following Address:

Sh. Mukesh Kumar, Manager (F&A-PF),  
Room No 521, 5th Floor, Core-8,  
Scope Complex, New Delhi – 110003

**Disclaimer:** This circular is being issued for implementation of said judgment only to adhere to the time limit and is subject to any rectification(s)/guideline(s) that may be issued by EPFO from time to time. Since, the entire process of pension is under jurisdiction of EPFO, therefore, the joint option submitted by eligible employees does not confer any right to receive or any obligation upon ITDC to pay higher pension to them.

This issues with approval of Competent Authority.

Hindi version follows.



**Mukesh Kumar**  
Manager (F&A-PF)

Encls: a. Declaration by retiring employees  
b. Declaration by serving employees

### Distribution:

1. Director (C&M) / Director (F) / CVO
2. All VPs
3. All GMs of Corporate office / HCE Units
4. Co. Secy./ OSD to MD
5. All Notice Board
6. Manager IT – For uploading on the website



(Declaration from by **retired Employees**, retired after 1<sup>st</sup> September, 2014)

To  
Regional Provident Fund Commissioner,  
EPFO, Wazirpur, Delhi

Dear Sir,

**Subject : Joint option under para 11(3) and 11(4) of the Employees' Pension Scheme, 1995 in view of the judicial directions of the Hon'ble Supreme Court's order in CA No 008143-008144/2022 Titled EPFO vs Sunil Kumar pronounced on 04.11.2022**

Reference is invited towards Para 43 and Para 44(iv) of the aforesaid judgment dated 04.11.2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal where in the eligible employees and his/her employer are required to submit a joint option under erstwhile Para 11(3) AND Para 11(4) of the EPS'95 within a period of 4 months from the date of judgment.

Since no format for the Joint Option has been provided by EPFO and same is also not available on EPFO's website, based on similar formats issued by various ROs in the year 2017 & 2018 while implementing the RC Gupta judgement, in order to comply with the above requirement, I am, hereby submitting the joint option form as required under erstwhile Para 11(3) & Para 11(4) of Employees Pension Scheme-1995 for claiming pension on actual salary instead of ceiling salary limit of Rs. 5000/6500/15000.

Particulars of the employees are as under:

1.	Name & Designation of Retired Employee	
2.	EPF A/c No	
3.	EPS No.	
4.	EPS No. of previous organization (if any)	
5.	UAN No.	
6.	PPO No. (If any) (attach self-attested copy)	
7.	Mobile No.	
8.	Email ID	
9.	Aadhar No.	
10.	Date of Retirement (on attaining 58 years)	

**DECLARATION BY RETIRED EMPLOYEE :**

It is certified that immediately after joining, India Tourism Development Corporation Limited (name of establishment) I had been contributing towards the Provident Fund on

Omy actual salary/wages and an equal amount used to be contributed in my PF by the employer also as provided under Para 26(6) of EPF Scheme, 1952. It is to further certify that an amount @ 8.33% of the statutory ceiling amount, i.e., Rs. 15000/- (earlier Rs. 5000/6500/-) out of the Employer's contribution had been remitted by the Employer every month towards Employees' Pension Scheme, 1995 since 16.11.1995 onwards.

I do hereby opt for diverting 8.33% **or as per the direction of EPFO** of my actual salary/wages out of employer's contribution towards Pension Fund (after adjusting the amount already remitted in EPS'95 on ceiling salary/wages) from the date of joining the EPS'95 till my attaining the age of 58 years. Since I have already withdrawn the entire amount of Provident Fund on my retirement, I am ready to deposit the differential amount that I had withdrawn after retirement/exit along with interest and additional liability if any, thus making me eligible for drawing Pension on the basis of actual / wages instead of ceiling Salary/wages in accordance with the aforesaid judgment dated 04.11.2022 of the Supreme Court i.e. based on my actual salary/wages instead of being based on the statutory limit.

That I retired on attaining age of 58 years for the purpose of EPS 1995 after 01.09.2014 on-----  
-----, I also undertake that if any other legal formality is required in this regard, I am ready to do accordingly.

Copy of order issued by EPFO fixing my pension under EPS 1995 on attaining the age of 58 years is also enclosed herewith for your reference.

Place:

Date :

Signature \_\_\_\_\_

Name : \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NB: This application forthwith to be submitted to concerned RPFC/APFC through email , speed post and physically.**

(Declaration form by **Serving Employees**)

To  
Regional Provident Fund Commissioner,  
EPFO, Wazirpur, Delhi

Dear Sir,

**Sub: : Joint option under para 11(3) and 11(4) of the Employees' Pension Scheme,1995 in view of the judicial directions of the Hon'ble Supreme Court's order in CA No 008143-008144/2022 Titled EPFO vs Sunil Kumar pronounced on 04.11.2022**

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Particulars of the employees are as under :-

1.	Name & Designation of Employee	
2.	EPF A/c No	
3.	EPS No.	
4.	EPS No. of previous organization (if any)	
5.	UAN No.	
6.	PPO No. (If any) (attach self-attested copy)	
7.	Mobile No.	
8.	Email ID	
9.	Aadhar No.	
10.	Date of Retirement (on attaining 58 years)	

**DECLARATION BY SERVING EMPLOYEE :**

It is certified that immediately after joining, India Tourism Development Corporation Limited (name of establishment) I had been contributing towards the Provident Fund on



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I also undertake that if any other legal formality is required in this regard, I am ready to do accordingly.

Place

:

Date :

Signature \_\_\_\_\_

Name : \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NB: This application forthwith to be submitted to concerned RPFC/APFC through email , speed post and physically.**