



REF: TCE/CORP/HR/CIRC/2022-23/03
10-02-2023

C I R C U L A R

EMPLOYEES' PENSION SCHEME (EPS), 1995 - OPTION FOR HIGHER PENSION

1. This has reference to the Supreme Court Judgement dated 04th November 2022 regarding Employees' Pension Scheme in Civil Appeal No. 8143-8144 / 2022 in case of the EPFO & Anr. vs. Sunil Kumar B & Ors. and other connected matters.
2. The Supreme Court upheld the Notification No. G.S.R. 609 (E) dated 22nd August 2014 (effective from 01st September 2014) issued by Ministry of Labour & Employment. However, Supreme Court has given an option to eligible employee to opt for enhanced pension by making higher contributions towards Employees Pension Fund within a period of 4 Months i.e. on or before **03rd March, 2023**.
3. Tata Consulting Engineers Limited (TCE) is an exempted establishment, and the judgement is applicable to those serving employees and former employees of TCE who are eligible as per Supreme Court Judgement dated 04th November 2022.
 - a) The employees of TCE are member of TCE PF Trust and contribute to the Provident Fund at prescribed contribution rate on their actual basic salary as applicable from time to time with Trust. TCE also makes matching employer's contribution on actual salary with the Trust.
 - b) Out of employer's contribution, an amount equivalent to 8.33% of the prescribed wage ceiling limit (as defined from time to time by EPFO) is remitted / deposited with Employees Provident Fund Organization (EPFO) towards Employees Pension Scheme in respect of the employees who are members of Employees Pension Scheme.
 - c) Pension under Employees Pension Scheme is released / paid by concerned EPFO Office directly to employee.
4. Pursuant to Supreme Court Judgement, EPFO had issued Circular No. Pension / 2022 / 54877 / 15149 dated 29th December 2022 read with corrigendum vide Circular No. Pension / 2022 / 54877 / 15238 dated 5th January 2023.
5. Prima facie it emerges that above EPFO Circular (referred at Para 4 above) is addressing only those employees who have exited EPS prior to 1st September 2014 (attained 58 years of age prior to the said date) and had exercised option for pension on higher salary under the pre-amended Employees Pension Scheme and whose Application was declined by EPFO Authorities.
6. As per available information, above EPFO Circular does not cover any of the former employee of TCE. However, it is hereby informed that if any former employee of TCE who are meeting the criteria specified in above EPFO Circulars, if they so desire, may submit their option to the concerned EPFO Office as per the procedure along with the supporting documents as indicated at Paras 6 & 7 of the above EPFO Circular dated 29th December 2022 read with Corrigendum dated 5th January 2023.

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7. As per the Supreme Court Judgement dated 04th November 2022, following categories of employees of TCE are eligible to opt for enhanced pension by making higher contributions towards Employees Pension Fund:
 - a) The serving employees of TCE who were the member of Employees Pension Fund as on 01st September 2014.
 - b) The former employees of TCE (who superannuated from TCE) who were the member of Employees Pension Fund as on 01st September 2014 and were below 58 years of age as on 01st September 2014 and those who could not exercise the option as contemplated in aforesaid Scheme / Notification.

Note: Former employees who separated from TCE and joined other organization may apply through their current / last organization and not through TCE.

8. As per the Notification dated 22nd August 2014, a Joint Option has to be exercise by the eligible employee and employer and as per the Supreme Court Judgement the Joint Option has to be submitted with EPFO on or before 03rd March, 2023. However, EPFO is yet to issue any format for Joint Option or any circular / guidelines in this regard. TCE will act on the Supreme Court Judgement in line with future order, guidelines or notification as may be released by the EPFO from time to time.
9. The eligible employees and former employees, who are desirous of exercising the option would be required to pay the arrears of contributions towards Employee Pension Scheme i.e. the difference between the contribution @ 8.33% on actual salary from the date of joining the Employee Pension Scheme less the contribution already deposited on applicable wage ceiling limit alongwith applicable interest as may be mandated by the EPFO in future.
10. In addition to above, the employees and former employees may also have to pay / transfer additional amount / percentage as per the Notification dated 22nd August 2014 and/or as may be notified by the EPFO in future
11. TCE has also taken up the matter with Assistant PF Commissioner, EPFO, Mumbai to get clarification for implementation of above judgement. However, no response / reply has been received so far from EPFO.
12. All concerned please note that, this circular is being issued for information to the employees and it is subject to any rectification that may be issued by TCE and/or guidelines / circular that may be issued by EPFO from time to time, including filling of the Joint Option Form issued by EPFO or filling Online Joint Option Form as may be prescribed by EPFO. Any instructions / directives that would be issued by Ministry of Labour & Employment, EPFO, Legal / Statutory Authorities, etc. in due course would prevail over the present circular. Further, Employees are also advised to visit Media-News section of TCE Website.

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