

February 16, 2023

CIRCULAR - "JOINT OPTION" FOR HIGHER PENSION

Subject: "Implementation of guidelines with reference to the Hon'ble Supreme Court judgement dated 4th November, 2022 in the matter of Employees' Pension Scheme, 1995 (EPS'95) and subsequent EPFO Circulars dated 29th December, 2022, 5th January, 2023 and 25th January, 2023"

1. This has reference to the judgement of the Hon'ble Supreme Court dated 04-11-2022 regarding Employees' Pension Scheme-1995 (EPS-95) which is applicable to the EPS-95 members for the exempted establishments also as per paragraph 38, 39 and 44 (ii) of the judgement.
2. In our Company, all employees are covered under exempted Provident Fund Trust i.e. Asian Paints Office Provident Fund Trust and Asian Paints Factory Employees Provident Fund Trust. All employees contribute to the Provident Fund trust at prescribed contribution rate on their actual PF wages as applicable from time to time. Company also makes matching employer's contribution on actual PF wages. However, contribution to the EPS-95 has been made @ 8.33% of prescribed wage ceiling under EPF Scheme 1952 i.e., INR 5,000/- till May-2001, INR 6,500/- w.e.f. June-2001 till August 2014 and INR 15,000/- w.e.f. September 2014 onwards. As per the rule, EPS-95 contribution is deducted from the employer's contribution to PF and is remitted to the concerned office of the Employees Provident Fund Organization (EPFO).
3. EPFO has issued Circular No: Pension/2022/54877/15149 dated 29-12-2022 and corrigendum no: Pension/2022/54877/15238 dated 05-01-2023, Circular No: Pension/2022/55893/15785 dated 25-01-2023 in compliance of the Para-44(ix) read with Para-44(v) and (vi) of the Hon'ble Supreme Court Judgement dated 04-11-2022. Para 5 of the EPFO circular dated 29-12-2022 specifies the employees who are eligible to exercise option as per the Hon'ble Supreme Court judgement in R.C. Gupta case.

As per EPFO circular dated 29-12-2022, Para 5 pertains to such ex-employees who contributed on higher PF wages under paragraph 26(6) of EPF Scheme, and further exercised their option under the proviso of erstwhile para 11 (3) prior to their retirement, but their option request under the proviso to paragraph 11(3) was explicitly denied by concerned office of the RPFC and / or contribution on higher wages was refunded / diverted back to provident fund accounts.

Accordingly, it is hereby informed that all such **eligible and willing ex-employees of our Company who have retired prior to 1st September 2014** and who are meeting the following criteria specified in the above referred EPFO circulars, may submit their option as per the procedures and along with the supporting documents as specified in Para 6 and 7 of the EPFO circular dated 29-12-2022 and corrigendum 05-01-2023. Necessary undertaking shall be provided by Employer as required under Clause-iv of Para-7 of the circular dated 29-12-2022.

The pensioners (ex-employees who have retired prior to 1st September 2014) meeting the following criteria may apply digitally / online at www.epfindia.gov.in for validating their options, if any, by the concerned Regional Office:

- i) The pensioners who as employees had contributed under paragraph 26(6) of EPF scheme on salary exceeding the prevalent wage ceiling of Rs. 5000/- or Rs.6500/-; **AND**
 - ii) Exercised joint option under the proviso to Para 11(3) of the pre-amendment scheme while being members of EPS 95; **AND**
 - iii) Their exercise of such option was declined by PF authorities
4. As per Para 44 (v) of the Hon'ble Supreme Court judgement, employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already existed from the membership thereof. They would not be entitled to the benefit of this judgement.
5. As per paragraph 43 read with paragraph 44(iv) of the SC judgement, **all employees, who continue to be the members of the EPS-95 as on 01-09-2014 AND currently on service as on date or retired post 01-09-2014 who could not exercise higher pension option**, as contemplated in the proviso to paragraph 11(3) of the Pension Scheme to contribute to EPS-95 on actual PF wages instead of applicable wage ceiling, for getting pension on actual Pensionable Salary as defined in the EPS-95, would be entitled to exercise option now under paragraph 11(4) EPS-95 within a period of four months from the date of judgement i.e. **on or before 03.03.2023. It is hereby informed to all such eligible and willing existing employees / ex-employees (retired post 01-09-2014) that as per the Hon'ble Supreme Court judgement, they now have a one-time chance to exercise this option.**
6. The circular with detailed instructions / guidelines is still awaited as on date from the Employees Provident Fund Organization on exercising the option on or before 03-03-2023 for the employees who continue to be the members of the EPS-95 as on 01-09-2014 and currently on service as on date or retired post 01-09-2014 and could not exercise higher pension option.

In view of the timelines prescribed by the Hon'ble Supreme Court i.e. 03-03-2023 and thereafter considering the time period required for scrutiny / onward submission to RPFC concerned, **eligible and willing employees / ex-employees are hereby informed to submit the duly filled and signed Joint Option Form in "TRIPLICATE" along with KYC documents [copy of PAN, Aadhar, PPO (if pensioner), copy of Bank Passbook / Cancelled Cheque] by 24.02.2023 [Friday] as per the defined procedure below:**

- "Joint Option Form" is classified into two categories as below:
 - **Annexure-A:** Joint Option under the Employees' Pension Scheme, 1995 for employees who are members of the EPS-95 as on 01-09-2014 and currently on service as on date.

- **Annexure-B:** Joint Option under the Employee's Pension Scheme, 1995 (for Ex-Employees who retired post 01-09-2014).
- **Note:** The Joint Option Form as referred above is subject to change/modifications based on EPFO instructions, if any.
- **Procedure to submit the Joint Option Form - Annexure A or B, whichever is applicable along with other documents:**
 - **On roll employees covering all employees in HO / Executives and above in other locations** – Eligible and willing employees needs to fill and sign the Joint Option Form (Annexure A) in “TRIPLICATE” and upload the scan copy of the Annexure A along with documents on the link provided along with this circular. Further, the hard copies of Annexure A along with other relevant documents to be couriered immediately to the following postal address:

Mr. Amit Vapilkar
Executive – Corporate Accounts,
Asian Paints Limited, Asian Paints House,
6A Shantinagar, Santacruz (East),
Mumbai – 400055, Maharashtra.
 - **On roll employees (Plant Operators / Team Members)** – Submit the original filled Annexure A in “TRIPLICATE” along with other relevant documents to **Plant HR representative.**
 - **Ex-employees retired post 01-09-2014** - Eligible and willing ex-employees retired post 01-09-2014
 - employed in Plants to submit the Annexure B along with relevant other documents to the **respective Plant HR representative.**
 - employed in HO / other locations to send the original filled Annexure B in “TRIPLICATE” along with documents to **Mr. Amit Vapilkar as per the postal address mentioned above.**
- 7. Upon receipt of the original ink-signed documents from employees / ex-employees, Company will fill up the "**Undertaking by the Employer**" and after endorsing the signature of the Authorized Signatory along with Company seal shall return one acknowledged copy to the respective employee and submit remaining 2 copies to EPFO latest by **01-03-2023** with covering letter and the joint option forms of eligible and willing employees.
- 8. **Eligible and willing Employees / Ex-employees exercising the option for higher pension during the permissible time would be required to note the following:**

- a. Eligible and willing employees / ex-employees who opt for higher pension option on actual PF wages will be required to pay / transfer the past contribution from their PF Account to Pension Account @ 8.33% of PF wages along with interest from 16-11-1995 or from their date of joining in the Pension Scheme, whichever is later, till the date of regularizing the future monthly contribution @ 8.33% to Pension Fund based on the Joint Option in case of on roll employees and till the date of retirement in case of ex-employees.

In addition to 8.33% of PF wages, eligible and willing employees / ex-employees may also have to pay / transfer additional amount / percentage, if any, notified by EPFO in view of the direction of the Supreme Court.

- b. Such employees / ex-employees may also be required to contribute 1.16% of actual PF wages exceeding INR 15,000/- as additional contribution along with interest from 01-09-2014. However, as per the Hon'ble Supreme Court judgement, additional contribution of 1.16% can be recovered maximum for a period of six months from the date of judgement i.e. only till April-2023 or till such time any amendments is made to generate additional contribution from some other legitimate source within the scope of the Act, whichever is earlier, as a stop gap measure. The said additional contribution shall be adjustable based on alteration to the scheme that may be made by the PF authorities.

- c. Ex-employees who would exercise the option now and who have already withdrawn the Provident Fund amount from PF Trust shall have to arrange the fund for payment of differential contribution with interest to EPFO, within the prescribed time. Mode and manner of deposit of differential contribution with interest shall be informed in due course in consultation with EPFO.

- d. In case of current on roll employees who wish to exercise this option now should note that they are liable for payment of differential contribution along with the interest to pension fund. The amount will be adjusted against the balance from the PF account of the employee with the Trust. Employees / ex-employees are liable to pay any shortfall in the amount to be remitted on account of opting Joint Option for higher Pension under EPS'95.

- e. With respect to the past service as member of EPS'95 in other organisations, it is the responsibility of the employees / ex-employees to collect the requisite information, documents, etc., as may be required from the respective previous organisations while exercising this option.

9. **Employees who joined after 1st September 2014 and were not enrolled / member in EPS'95 scheme are not eligible to exercise this Joint Option for higher pension.**

10. **Employees who joined after 1st September 2014 and were member in EPS'95 scheme will not be required to exercise this joint option for higher pension as maximum pensionable salary has been limited to Rs.15000 per month as per 2014 EPS amendment.**

11. It may be noted that the joint option form for higher EPS-95 is being taken for implementation of the judgement of the Hon'ble Supreme Court dated 04.11.2022 in order to adhere to the prescribed time limit and is subject to any ratification / guidelines that may be issued by EPFO from time to time and / or any judicial pronouncements / statutory amendments. Therefore, mere submission



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of the Joint Option Form by eligible and willing employees / ex-employees does not confer any right to receive or cast obligation on the Company to pay higher pension to them.

12. The Joint Option Form shall be subject to acceptance by EPFO, as per their Rules / guidelines.

13. In respect of queries, employees / ex-employees may approach respective HR or can reach out to Central Payroll team at hiren.vora@asianpaints.com or shubham.naik@asianpaints.com.

For Asian Paints Limited

A handwritten signature in black ink, appearing to read 'Nishad Divekar', with a horizontal line extending to the right.

Nishad Divekar
General Manager – Human Resources