

EY PAS Alert

Online facility released by the Employees' Provident Fund Organisation for members to opt for higher pension under the Employees' Pension Scheme, 1995

Executive summary

This Alert summarizes the requirement of filing the online application form for availing higher pension benefit by domestic employees contributing to the Employees' Pension Scheme, 1995 (Pension Scheme) pursuant to the Supreme Court of India ruling¹ dated 4 November 2022 and the circular issued by the Employees' Provident Fund Organisation (EPFO) dated 20 February 2023.

Basis the said Supreme Court ruling and the EPFO circular, the employees who satisfy the following conditions may, along with their employers, submit joint option application with the EPFO under the Pension Scheme to avail higher pension:

1. Employees and employers who had contributed to the Provident Fund Scheme on salary exceeding the prevalent statutory ceiling
2. Who did not exercise the option for higher pension earlier
3. Who were members of the Pension Scheme prior to 1 September 2014 and continued to be members on or after 1 September 2014

The applications were required to be filed within 4 months from the date of the ruling (i.e., on or before 3 March 2023). For further details on higher pension option, the Supreme Court ruling of 4 November 2022 and the EPFO circular of 20 February 2023, please refer to our previous alert dated 21 February 2023 - please [click here](#).

On 27 February 2023, the EPFO has activated an online facility for members to submit the higher pension option application form. Further, the EPFO has specified on the online portal that such option can be exercised till 3 May 2023 (as against 3 March 2023 as per the Supreme Court ruling).

Employees need to submit specific personal details, Pension Scheme membership details, provide response to various questions relating to joint option and transfer of corpus from the Provident Fund Scheme to the Pension Scheme, attach documents showing contributions to the Provident Fund Scheme on higher salary and confirm on various declarations.

The EPFO is yet to issue guidelines on how these applications will be processed, method of deposit / adjustment of past corpus and method of computation of pension.

¹ Special Leave Petition (C) Nos. 8658-8659 of 2019

Online application form for higher pension option released by EPFO on 27 February 2023

- The EPFO on 27 February 2023 activated the online facility for members to submit the application for joint option (Link - <https://unifiedportal-mem.epfindia.gov.in/memberInterfacePohw/>). The members can access the form after validating the UAN and the details as per Aadhaar. Members are also required to carry out an OTP authentication process through their Aadhaar linked mobile number to access the form.
- A member needs to complete the application form on the EPFO member portal by providing various details / confirmation, including:
 - Confirmation on whether the employer's contribution to the Provident Fund Scheme was made on salary exceeding the statutory ceiling prior to 01 September 2014
 - Confirmation on whether the member wants to use the balance from his / her account under the Provident Fund Scheme for payment of contribution due towards the Pension Scheme
 - The balance under the Provident Fund Scheme on the date of filing the online application
 - Where there is no balance under the Provident Fund account or such balance is insufficient to pay the differential contributions towards the Pension Scheme, confirmation on whether the member is giving an undertaking to deposit such contributions towards the Pension Scheme along with interest till date of payment through his last employer
- Members are also required to submit the following documentation as attachments in the online form:
 - Permission granted under para 26(6) of Provident Fund Scheme whereby the EPFO has allowed the employee to contribute towards the Provident Fund Scheme on an amount more than the statutory ceiling
 - Documentary proof showing the amount of balance in the Provident Fund account - such as Account Slip / pages of the Passbook etc.
 - Undertaking from the member to deposit the contributions due under the Pension Scheme along with interest till date of payment, through the last employer (where the Provident Fund account does not have sufficient balance)

► A member is also required to submit a declaration acknowledging that the member:

- has read and understood the Supreme Court ruling;
- understands that his / her rights to claim pension are limited to the scope of the Supreme Court ruling and the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the schemes framed thereunder
- understands that the Central Government is empowered to amend the scheme as it may deem fit
- agrees that the details of contribution and interest given by his / her employers are essential for the computation of dues payable and that this is the full and final submission
- undertakes that the service details are correct and no material facts have been misrepresented or hidden
- agrees to pay due contribution in a single tranche as specified by the EPFO along with interest at rates declared by the Central Government or by the Trust (in case of exempted establishment) on a year on year basis
- jointly, along with the employer, opts to pay full contribution on salary exceeding the statutory ceiling along with interest up to the last date of the month in which payment is made and within such period as may be directed by the EPFO. If the full amount payable is not deposited by member's last employer within such period as may be directed by the EPFO after verification of joint option, the said joint option shall be liable to be treated as null and void
- undertakes that all the facts / details submitted are true. If the details are found incorrect, the joint option shall be treated as null and void
- is aware that in case of false declaration and willful misrepresentation, appropriate penal action may be taken by the EPFO

► The EPFO is yet to issue guidelines on how these applications will be processed, method of deposit / adjustment of past corpus and method of computation of pension.

Comments

The Supreme Court had specified a timeline of 4 months (i.e., 3 March 2023) to submit the joint option application. However, the EPFO online portal specifies the due date for filing the joint option application as 3 May 2023. The EPFO is yet to issue an official notification / circular on extension of the due date which was prescribed by the Supreme Court in its ruling.

The online application form notified by the EPFO requires an employee to fill various details and provide some documentary evidence. There may be some practical challenges faced by employees and employers while submitting the online form, such as:

1. An employee who does not have an Aadhaar linked UAN and / or mobile number may not be able to complete the authentication process to access the online form.
2. The EPFO has not clarified whether offline / physical applications will be accepted for cases where there is genuine hardship in filing the online form, such as a retired employee who may not be able to file an online application.
3. The online application form requires the employee to submit the permission obtained under para 26(6) of the Provident Fund Scheme. However, such specific permission is not generally obtained for making contributions toward the Provident Fund Scheme on a full basic salary. In the absence of such formal approval under para 26(6), whether the application will be considered valid remains to be seen.
4. One of the declarations to be confirmed by the employee state that he / she understands that the Central Government is empowered to amend the scheme as it may deem fit. However, the aspects on which the scheme may be amended, including the method of calculation of monthly pension and its impact on the benefits available to employee if he / she opts for higher pension under the Pension Scheme have not been clarified. Employees may note that where a decision to file a higher pension application is made basis the current format of the Pension Scheme, the said format may change in the future.
5. One of the other declarations to be confirmed by the employee states that he / she agrees that the details of contribution and interest given by his / her employers are essential for the computation of dues payable and that this is the full and final submission. However, there is no clarity on the manner in which past contribution details will be verified, especially where the employee has been employed with other employers in the past.

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