

HRM DEPARTMENT
REGISTERED OFFICE
BANGALORE

CIR NO: 01/23
DATE: 31/01/2023

Sub: Implementation Guidelines w.r.t. the Hon'ble Supreme Court Order dated 04/11/2022 in the matter of Employees' Pension Scheme, 1995.

This has reference to the judgment dated 04.11.2022 of Hon'ble Supreme Court in Civil Appeal Nos. 008 143-008144 of 2022 arising out of Special Leave Petition (C) Nos. 8658-8659 of 2019 in the matter of Employees' Provident Fund Organization & Anr. Vs. Sunil Kumar B. & Ors.

Can Fin Homes being an exempted establishment, the judgment is applicable to those employees/ex-employees of the Can Fin Homes who are eligible as per the Hon'ble Supreme Court's Judgement dated 04.11.2022

- 1.0 All employees of Can Fin Homes Ltd. are members of Can Fin Homes Employees Provident Fund Trust (Can Fin Homes EPF Trust) and contribute to the Provident Fund (PF) at the prescribed contribution rate on their actual salary, as applicable from time to time. Can Fin Homes also makes a matching employer's contribution on the actual salary to the Trust.
- 2.0 Can Fin Homes has been contributing in respect of eligible employees/ members of EPS95 towards EPS95 @ 8.33% of prescribed wage ceiling i.e. Rs. 5,000.00 till May 2001, Rs.6,500.00 w.e.f. June 2001 and Rs.15,000.00 w.e.f. September 2014 out of the employer's contribution towards PF. As per the rule, EPS-95 contribution is deducted from the employer's contribution towards PF and is remitted/deposited by Can Fin Homes to the concerned office of the Employees Provident Fund Organization (EPFO). Pension under EPS-95 is released by the concerned office of the EPFO to an employee of Can Fin Homes after the employee attains the age of 58 years.
- 3.0 Employees who joined Can Fin Homes after 01.09.2014 are not members of EPS-95 except those employees who were working elsewhere and already a member of EPS-95.
- 4.0 EPFO has issued Circular No: Pension /2022/54877/15149 dated 29.12.2022 and corrigendum no: Pension /2022/54877/15238 dated 05.01.2023, in compliance with Para 44(ix) read with Para 44(v) and Para 44(vi) of the Judgement. Para 5 of the EPFO Circular specifies the employees who are eligible to exercise the option as per SC judgement in R.C. Gupta 's case.

The following emerges from the above circulars:

- a) The employees who had exited EPS prior to 01.09.2014 and had not exercised the option for EPS-95 on higher salary under Para 11(3) of the EPS Scheme than the wage ceiling fixed by EPFO are not covered for the Pension on actual salary.



- b) The employees who had exited EPS prior to 01.09.2014 and had exercised the option for EPS on higher salary under para 11(3) of the EPS Scheme and whose application was rejected by the concerned EPFO office are entitled to the benefit of pension on actual salary. As per our records no such case.
- c) The circular is silent about employees who have either exited EPS after 01.09.2014 or are still in active service. There is a likelihood of additional clarifications/guidelines for such cases by EPFO as the same has been covered by the above judgement.
- 5.0 Ex-employee(s) of Can Fin Homes who attained the age of 58 years before 01.09.2014 and did not submit the joint option for enhanced pension on actual salary to EPFO are not covered under the above provisions.
- 6.0 It is informed that as per paragraph 43 read with paragraph 44(iv) of the SC judgement, all employees, who were Members of the EPS-95 as of 01-09-2014(i.e. were below the age of 58years) and who could not exercise the option, as contemplated in the proviso to paragraph 11(3) of the EPS-95 to contribute towards the scheme on actual salary instead of applicable wage ceiling, 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. The Joint option as per Appendix-A and Appendix-B as applicable is to be submitted.
- (a) The Joint Option Form may be duly & legibly filled, signed by the eligible employee/ ex- employee concerned and shall be submitted in triplicate (all three copies in original form to HR Dept, R.O.) The Receipt of original ink- signed Form is mandatory for taking the matter forward.
- 7.0 It is expected that EPFO may issue a separate circular/ guideline shortly specifying the mode and manner of deposit of exercising the option and for submission of joint option cum declaration and undertaking for depositing the differential amount as per paragraph 43 read with paragraph 44(iv) of SC Judgement dated 04.11.2022, in respect of eligible employee(s) who were a member of the EPS-95 as on 01-09-2014.
- 8.0 Since the time to exercise the option by the eligible employees is available only for a period of four (4) months from 04-11-2022, it is hereby informed to all eligible employees that as per Supreme Court judgement, they have a one-time chance to exercise their option to contribute towards EPS-95 on actual pensionable salary.
- 9.0 Employees(s) /Ex-employees /EPS -95 Pensioner(s) who opt to exercise the option now, would be required to deposit a differential amount i.e. the difference between the contribution @ 8.33% on the actual salary less contribution already deposited by Can Fin Homes on applicable wage ceiling from the date of joining the EPS-95. Additionally, such employee (s) shall be required to pay the interest due on the differential amount at the applicable rate till the month of remittance. Employees will also be required to contribute 1.16% of their actual salary exceeding Rs 15,000.00 as an additional contribution from September 2014. To enable eligible employees/ex-employees to take an informed decision the details of actual monthly salary, details of amount to be paid is being collated/compiled and the same shall be intimated shortly.
- 10.0 Employees /ex-employees who have joined Can Fin Homes from other organization(s) are required to obtain the actual salary details for the applicable service period from that organization(s).



- 11.0 In case of eligible resigned employee(s) who have joined other organization(s) from Can Fin Homes, HRM will provide the actual salary details, on their request, for the applicable service period in Can Fin Homes.
- 12.0 Can Fin Homes has already taken up with Regional Provident fund Commissioner EPFO-Bangalore about the specified format, if any, and undertaking to be given by employees /ex-employees (who opt) in the joint option cum declaration/undertaking format, etc. and the same shall be informed as and when clarifications or information in this regard is received from EPFO.
- 13.0 As per the Supreme Court judgement, payment of the differential amount shall follow the submission of a joint declaration and the same shall have to be remitted /deposited within the TimeLine, if any, prescribed by EPFO. Accordingly, eligible ex-employee(s) who would exercise the option and who have already withdrawn their Provident Fund from Can Fin Homes Employees Provident Fund Trust (Can Fin Homes EPF Trust) will have to arrange the differential amount for payment to EPFO, within the prescribed time. The mode and manner of deposit of the differential amount will be informed in due course as decided by EPFO.
- 14.0 Ex-employee(s) /EPS-95 pensioner(s) may also note that revision in EPS-95 enhanced pension may take considerable time as the pension payment under EPS-95 is released by the concerned office of the EPFO and will not be in the control of Can Fin Homes.
- 15.0 For serving employees (who opt for enhanced EPS-95 pension on actual salary), payment of differential amount will be released from the respective PF account of employee with the Can Fin Homes EPF Trust.

In view of the timelines prescribed by the Hon'ble Court for exercising option i.e., four months from the date of the Judgement, and thereafter considering the time period required for scrutiny / onward submission to the RPFC concerned and to avoid any possible rejection by the RPFC concerned on the ground of said timelines, willing eligible employees /ex-employees shall ensure receipt of the Joint Option Form by the HRM Dept. latest by 9th February 2023.

It may be noted that this Circular is being issued for implementation of the Hon'ble Supreme Court Judgement only to adhere to the time limit and is subject to any ratification(s) / guidelines that may be issued by EPFO from time to time and/or any judicial pronouncements / statutory amendments. Therefore, mere submission of the Joint Option Form by eligible employees / ex-employees does not confer any right to receive or any obligation on the part of Can Fin Homes Ltd to pay higher pension to them.

Further, for the benefit of ex-employees, this Circular is also posted in Can Fin Homes Ltd., Website.


Shamila. M
General Manager

JOINT OPTION UNDER THE EMPLOYEES' PENSION SCHEME, 1995

(For Serving Employees & EPS Pensioners on Rolls (attained 58 years but not 60 years.)

To

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,

Sub: Joint Option under the erstwhile Para 11(3) and Para 11(4) of Employees' Pension Scheme (EPS), 1995, based upon the Hon'ble Supreme Court's Judgment dated 04/11/2022 in SLP (C) Nos. 8658-8659 of 2019.

1. In line with Paras 43 & 44(ii) & (iv) of the Judgment dated 04/11/2022 of the Hon'ble Supreme Court of India, eligible employees are required to submit Joint Option under erstwhile Para 11(3) & 11(4) of EPS, 1995 within a period of 4 months from the date of Judgement.

2. Considering that no Format for Joint Option has yet been finalized by EPFO nor hosted in the EPFO Website, in pursuance of Formats issued by various ROs/EPFO in the years 2017 & 2018 while implementing the RC Gupta Judgment, we (employee and employer) are hereby submitting Joint Option Form as required under erstwhile Para 11(3) & 11(4) of EPS, 1995, for claiming pension on actual salary instead of the wage/salary ceiling limit of Rs. 15,000/- pm under the EPF Act, 1952.

3. Particulars of the employee are as under:

(i)	Name	
(ii)	Staff No.	
(iii)	Can Fin Homes Branch / Office & Location	
(iv)	Date of Joining Can Fin Homes Ltd.	
(v)	E.P.F Account Number	
(vi)	E.P.S Account Number	
(vii)	UAN Number	

(viii)	Mobile Number	
(ix)	Aadhar Number	
(x)	E-mail ID	
Additional Information in respect of employees who have attained 58 years of age but not attained 60 years (superannuation age in the Company) and are drawing Pension under EPS, 1995, are as under:		
(xi)	PPO Number	
(xii)	Date of attaining the age of 58 years of age (eligible for Pension under EPS 1995)	
(xiii)	Date of Actual Superannuation / Cessation of Service	
(xiv)	Name of Pension disbursing Bank and Branch	
(xv)	Bank Account Number where Pension is being credited with IFSC Code & MICR No.	

Declaration by Employee

1. It is certified that immediately after joining Can Fin Homes Limited, I had been contributing towards the Provident Fund on my actual wage/salary 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 limit i.e. Rs. 15,000/- pm (earlier Rs. 5,000 / 6500) out of the Employer's Contribution has been remitted by my employer every month towards EPS 1995 since 16/11/1995 / the date of my joining, whichever is later.

2. I do hereby opt for diverting 8.33% of my actual salary/wages out of Employer's Contribution from my PF A/c. towards Pension Fund (after adjusting the amount already remitted by the employer to the Pension Fund upto the prescribed wage ceiling under the Act) from the date of joining EPS 1995 till my attaining the age of 58 years. I also abide regarding additional contribution of 1.16 % as per the Court orders. I hereby authorize, PF Trust of Can Fin Homes Limited to transfer the differential amount with interest accrued thus making me eligible for drawing pension on the basis of actual salary/wages instead of on the salary/wages fixed as per prevailing ceiling under the Act, in accordance with the aforesaid judgment.

3. I also undertake that in case my corpus/balance in PF Account is insufficient to meet the aforesaid requirement, I am ready to pay the differential amount thus making me eligible for drawing pension on the basis of actual salary/wages instead of on the salary/wages as per prevailing ceiling under the Act, in accordance with the aforesaid judgment.

4.I understand that the Joint Option Form submitted by me shall be subject to acceptance by EPFO. I further understand that the Option exercised is irrevocable at any later date, and no claim for change of Option shall be entertained or considered under any circumstances.

5.I undertake that the Option exercised herein is subject to the EPFO instructions /guidelines/I directives that may be issued from time to time.

Place:

Date:

(Signature)

UNDERTAKING BY THE EMPLOYER

I, _____(Name & Designation)
being the Authorized Signatory of M/s. _____
_____(location) with Establishment PF Code Number BN\BNG\16246 do hereby
certify that Shri/Smt./Ms. _____ is an employee of
this establishment. The member has been contributing towards Provident Fund on his
actual salary/wages, as per the terms of Para 26(6) of the EPF Scheme, 1952. Equal
share is also contributed by this Establishment too. This Establishment has no objection
if he/she transfers/diverts the differential amount@ 8.33% of the employers share
w.e.f. 16/11/1995 or from his/her date of joining or when his/her salary/wages
exceeded the statutory limit, whichever is later, along with due interest as declared
under EPF Scheme, 1952 from time to time, from his/her PF Alc. to Pension Fund
maintained by EPFO, thus making him/her eligible for drawing pension on his/her
actual salary/wages, instead of on the statutory limit as per erstwhile Para 11(3) &
11(4) of EPS, 1995. This exercise is being carried out in consonance with the Judgment
of the Hon'ble Supreme court dated 04/11/2022.

I certify that the particulars furnished above are correct as per the available
Office Records.

Place:

Date:

**(Signature with Name,
Designation & Office Seal)**

JOINT OPTION UNDER THE EMPLOYEES' PENSION SCHEME, 1995

[For Ex. Employees]

To

The Regional Provident Fund Commissioner,
Employees Provident Fund Organization,

Sub: Joint Option under the erstwhile Para 11(3) and Para 11(4) of Employees' Pension Scheme (EPS), 1995, based upon the Hon'ble Supreme Court's Judgment dated 04/11/2022 in SLP (C) Nos. 8658-8659 of 2019.

1. In line with Paras 43 & 44(ii) & (iv) of the Judgment dated 04/11/2022 of the Hon'ble Supreme Court of India, eligible ex-employees are required to submit Joint Option under erstwhile Para 11(3) & 11(4) of EPS, 1995 within a period of 4 months from the date of Judgement.

2. Considering that no Format for Joint Option has yet been finalized by EPFO nor hosted in the EPFO Website, in pursuance of Formats issued by various RO/EPFO in the years 2017 & 2018 while implementing the RC Gupta Judgment, we (ex-employee and employer) are hereby submitting Joint Option Form as required under erstwhile Para 11(3) & 11(4) of EPS, 1995, for claiming pension on actual salary instead of the wage/salary ceiling limit of Rs. 15,000/- pm under the EPF Act, 1952.

3. Particulars of the ex-employee are as under:

(i)	Name	
(ii)	Staff No.	
(iii)	Can Fin Homes Ltd. Branch / Office & Location last worked	
(iv)	Date of Joining Can Fin Homes Ltd.	
(v)	E.P.F Account Number	
(vi)	E.P.S Account Number	
(vii)	UAN Number	

(viii)	Mobile Number	
(ix)	Aadhar Number	
(x)	Full Postal Address with Pin code	
(xi)	E-mail ID	
(xii)	PPO Number	
(xiii)	Date of attaining the age of 58 years of age (eligible for Pension under EPS 1995)	
(xiv)	Date of Actual Superannuation / Cessation of Service	
(xv)	Name of Pension disbursing Bank and Branch	
(xvi)	Bank Account Number where Pension is being credited with IFSC Code & MICR No.	

Declaration by Ex-employee

1.It is certified that immediately after joining Can Fin Homes Ltd., I had been contributing towards the Provident Fund on my actual wage/salary 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 limit i.e. Rs. 15,000/- pm (earlier Rs. 5,000 / 6500) out of the Employer's Contribution has been remitted by my employer every month towards EPS 1995 since 16/11/1995 / the date of my joining, whichever is later.

2.Since I have already withdrawn the entire amount of Provident Fund on my retirement / resignation (after attaining 58 years of age on or after 01/09/2014) / optional retirement, etc. I am ready to return / pay back the due differential amount (after adjusting the amount already transferred to the Pension Fund up to the prescribed wage ceiling under the Act) from the date of joining EPS 1995 till my attaining the age of 58 years/ resignation, etc. with due interest to make me eligible for drawing pension on the basis of actual salary/wages instead of on the ceiling salary/wages in accordance with the aforesaid judgment. I also abide regarding additional contribution of 1.16 % as per the Court orders.

3. I understand that the Joint Option Form submitted by me shall be subject to acceptance by EPFO. I further understand that the Option exercised is irrevocable at any later date, and no claim for change of Option shall be entertained or considered under any circumstances.

4. I undertake that the Option exercised herein is subject to the EPFO instructions /guidelines/ directives that may be issued from time to time.

Place:

Date:

(Signature)

UNDERTAKING BY THE EMPLOYER

I, _____ (Name & Designation)
being the Authorized Signatory of M/s. _____,
(location) with Establishment PF Code Number BN\BNG\16246
do hereby certify that Shri/Smt./Ms. _____ who is the
holder of PPO No. _____ is an ex-employee of this
establishment. He/She had attained the age of 58 years as on ____/____/_____
(dd/mm/yyyy). The member had been contributing
towards Provident Fund on his/her actual salary/wages, as per the terms of Para 26(6)
of the EPF Scheme, 1952. Equal share has been contributed by this Establishment too.
This Establishment has no objection if he/she deposits/returns the differential amount
at 8.33% of the employers share w.e.f. 16/11/1995 or from his/her date of joining or
when his/her salary/wages exceeded the statutory limit, whichever is later, along with
due interest as declared under EPF Scheme, 1952 from time to time, thus making
him/her eligible for drawing pension on his/her actual salary/wages, instead of on the
statutory limit as per erstwhile Para 11(3) & 11(4) of EPS 1995. This exercise is being
carried out in consonance with the Judgment of the Hon'ble Supreme court dated
04/11/2022.

I certify that the particulars furnished above are correct as per the
available Office Records.

Place:

Date:

**(Signature with Name,
Designation & Office Seal)**