



ASSAM INDUSTRIAL DEVELOPMENT CORPORATION LIMITED
R. G. BARUAH ROAD: GUWAHATI-24

Ref.No. AIDC/Estt. /343(F)/ **8671**

Date: 21/02/2023

CIRCULAR

Sub : Submission of "Joint Option Form" under Para-11(3) and Para-11(4) of Employees' Pension Scheme' 1995 in line with the direction given by Hon'ble Supreme Court vide Order dated 04th November' 2022 passed in SLP No.8658-8659 titled EPFO vs Sunil Kumar B. & ors-regarding.

1. As per Para 44(ii) of the Order dated 04th November, 2022 of Hon'ble Supreme Court passed in SLP No. 7658-8659 of 2019, amendment to the Pension Scheme brought about by the notification No. GSR-609(E) dated 22nd August' 2014 shall apply to the employees of the exempted establishment in the same manner as the employees of the regular establishment. Therefore, it is presumed that the employees/ex-employees of Assam Industrial Development Corporation Limited, R. G. Baruah Road, Guwahati are also eligible for submission of joint option form for availing pension on actual/higher salary as the employees of Assam Industrial Development Corporation Ltd. has contributed to Provident Fund on the basis of actual salary irrespective of ceiling wages fixed by EPFO time to time.
2. However, contribution to EPS-95 has been made @8.33% of the prescribed ceiling wages i.e. Rs.5,000/- till May'2001, Rs.6,500/- from June'2001 to August'2014 and Rs.15,000/- from September'2014 to till date. As per rule, EPS-95 contribution is deducted from employer's contribution to PF and is remitted to the concerned office of the EPFO.
3. The employees who have attained the age of 58 years prior to 1st September'2014 without exercising option under paragraph 11(3) of the pre-amended scheme have already exited from the membership, therefore such employees would not be entitled to the above benefit as per judgement of the Hon'ble Supreme Court.
4. The employees who have attained the age of 58 years after 1st September'2014 and superannuated during September'2014 or later or continuing service till date are eligible for submission of joint option form under para 11(3) of the Scheme.
5. All the employees on roll/superannuated of Assam Industrial Development Corporation Limited, who are/were the member of EPS'95 Scheme as on 1st September'2014 and are willing to exercise option for Pension on higher salary and to contribute EPS on actual wages are hereby advised to fill and submit requisite "Joint Option Form" and deceleration as annexed herewith in Annexure-A to get the benefit of the revised scheme as above. The employee/ex-employees who have worked previously in other organization before joining

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Assam Industrial Development Corporation Limited and were allotted multiple EPS code, the same should be mentioned in Annexure-A and also should fill the Annexure-B for every previous organization.

6. Those employees/Ex-employees of Assam Industrial Development Corporation Limited who are covered under para-4 above may exercise their option in Annexure-A in triplicate duly signed along with self-attested Xerox copy of the required documents as mentioned in Annexure-A and Annexure-B where ever applicable to submit in Personnel Department of the Corporation **on or before 28th February'2023.**
7. On acceptance of the option of the employees/ ex-employees by the Regional PF Commissioner, the differential amount 8.33% on actual wages and ceiling wages along with prescribed interest will be remitted to Pension Fund by the concerned employees/ex-employees through Assam Industrial Development Corporation Limited.
8. The Joint Option shall be subject to the acceptance by EPFO as per rule.
9. A letter has already been sent to EPFO on 16.12.2022 seeking guideline and methodology for submission of joint option by the employees/ ex-employees of the Corporation for pension on higher wages.
10. The option once exercised is irrevocable and change of option at a later date shall not be entertained under any circumstances.
11. All effort shall be made to submit the Joint Declaration of opted employees/ ex-employees with EPFO within the time limit prescribed in the SC judgement. As per SC judgement, the payment of arrears shall follow the submission and acceptance of the joint declaration and the arrears shall have to be remitted within the timeline as prescribed by EPFO in this regard. Accordingly, the ex-employees who have opted for higher pension and who have already withdrawn the Provident Fund accumulation shall have to arrange the fund of his own for payment of arrear amount to EPFO within time limit through AIDC Ltd. Mode and procedure of deposit of the amount will be informed in due course after confirmation from EPFO. All the employees/ EPS-95 pensioners may kindly note that revision of pension may take considerable time as the payment of pension under EPS-95 is done by the concerned regional office of the EPFO and is not under the control of Assam Industrial Development Corporation Limited.
12. In case of the employees on roll, payment of arrears shall be made available from the accumulated balance of their PF Account under Establishment code of Assam Industrial Development Corporation Limited. For this purpose, the employees have to observe some in-office formalities allowing the Assam Industrial Development Corporation Limited, to remit his/her arrear dues to EPFO. This will be dealt by the Authorized Officer of the Assam Industrial Development Corporation Limited.
13. Employees/ex-employees are liable to pay any shortfall at any time in employees/employer contribution to be remitted on account of opting for higher pension under EPS-95.

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14. These instructions are subject to the directions/ instructions of EPFO and or decision of the court of law (if any) issued from time to time in this regard.

Disclaimer : With reference to the Hon'ble SC's Judgement dated 4th November, 2022, Assam Industrial Development Corporation Limited has written a letter to Regional PF Commissioner, Guwahati seeking guideline for submission of Joint Option and other formalities to be observed for getting the benefit of higher pension on contribution on actual wages under EPS-95, but the reply of the same is still awaited. This circular is being issued for implementation of the said judgement only to adhere to the time limit and is subject to any rectification(s)/guidelines that may be issue by EPFO in future. Therefore, the joint option submitted by the employees do not confers any right to receive or any obligation upon Assam Industrial Development Corporation Limited to pay higher pension.

(Manvendra Pratap Singh, IAS)
Managing Director

Copy to:

1. All Head of Deptt./Cells for wide circulation.
2. AIDC website – for wide circulation
3. All G.S of Unions & Associations
4. All employees

(Manvendra Pratap Singh, IAS)
Managing Director

Annexure-A

To
The Regional PF Commissioner,
Employees' Provident Fund Organization
Bhavishyanidhi Bhawan, G S Road, Bhangagarh
Guwahati- 781005 (Assam)

Sir/ Madam,

Sub : Joint Option under erstwhile Para 11(3) and Para 11(4) of Employees' Pension Scheme'1995 based on Hon'ble Supreme Court's Order in SLP No 8658-8659 of 2019 titled EPFO Vs Sunil Kumar pronounced on 4th November'2022.

Reference is hereby invited towards Para 43 and 44 (ii) & (iv) of the aforesaid Order dated 4th November'2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal wherein the eligible employee/ex-employees and his/her employer are required to submit a joint option under erstwhile Para 11(3) & 11(4) of the EPS-95 within a period of 4 months from the date of the judgement.

Since, no prescribed format for joint option has been provided/circulated by EPFO till date , based on similar format issued by various RO's in the year 2017 & 2018 while implementing the R C Gupta case judgement, we the employees/ex-employees and the employer (AIDC Ltd) are submitting hereby the joint option as required under erstwhile Para 11(3) & 11(4) of the EPS-95 for claiming pension on actual/higher salary instead of ceiling wages of Rs. 5000/-, Rs.6,500/- and Rs.15,000/- declared by EPFO from time to time.

Sl No	Particulars	Details
1	Name	
2	EPF Account No.	
3	EPF Account No. of previous employer (if any)	
4	UAN No.	
5	PPO No. (attach self attested copy)	
6	Aadhaar No. (attach self attested copy)	
7	Date of exit from EPS/ Date of leaving service/ employee on roll	
8	Address for Correspondence: Mobile No : E-mail ID :	

Declaration by Employee/ex-employee

It is certified that immediately after joining in AIDC Limited, I had been contributing towards provident Fund on my actual salary/wages and an equal amount used to contribute by my Employer also as provided under Para 26(6) of EPS Scheme'1952. It is to further certify that an amount equal to 8.33% of the statutory wage ceiling, i.e. Rs. 5,000/-, Rs.6,500/- and Rs.15,000/- whenever applicable, was remitted by my employer towards EPS-95 since 16th November'1995 or from the date my joining in the organization to till date/date of my exit from EPS.

I do hereby opt for diverting the differential amount of 8.33% on my actual salary/wages and ceiling wages already contributed irrespective of different ceiling fixed by EPFO from the date of my joining in EPS to till date/date of my exit from EPS/ date of my attaining the age of 58 years etc.

I also hereby declare that (tick wherever is applicable) :

- a) Since I have already withdrawn my PF accumulation from EPFO on my retirement, I am ready to pay and deposit the differential amount as and ask for by the EPFO/Management.
- b) In case my Provident Fund balance is not sufficient to pay the differential amount as calculated, I am ready to pay the balance amount to make good the total amount payable at any time as ask by the EPFO/Management.

By the above option and declaration, I may kindly be permitted to draw pension based on my actual salary /wages as per the judgement of Hon'ble Supreme Court dated 4th November'2022.

I also undertake that if any other legal formalities are required in this regard, I am ready to observe accordingly.

Place :

Date :

Signature of employee :

Name :

Employee No :

Declaration by Employer

I,
 (Name & Designation) being the authorized signatory of AIDC Limited, Guwahati, do hereby declare that Sri/Smt (Name of the employee) is working in our organization/ was an employee of our organization and retired on and exited from EPS on after attaining the age of 58 years. He has/had been contributing towards Provident Fund on his/her actual salary as per terms of Para 26(60 of EPS Scheme'1952. Equal amount of has/had also been contributed by the company out of which 8.33% based on ceiling wages (Rs.5,000/-, Rs.6,500/- and Rs.15,000/- as and when applicable) has/had been remitted to the employees EPS Account. Now, the establishment has no objection on the option submitted by the employee for drawing higher pension based on actual salary/wages and to transfer the differential amount @ 8.33% of the actual salary and ceiling wages w.e.f. 16.11.1995 i.e. from the date of commencement of the scheme to till date/date of his exit from EPS.

This is in accordance with Para 11(3) & Para 11(4) of the EPS-95 as permitted by the judgement of the Hon'ble Supreme Court dated 4th November'2022.

I hereby certify that the particulars furnished above are correct as per our available records.

Place :

Signature :

Date :

Seal :

Annexure-B

To be filled by the employee/ex-employee who were joined in AIDC Limited from any other organization in which they were member of EPS-95 Scheme:

(Separate sheet should be filled for every previous organization, if any)

Sl No	Particulars	Details
1	Name of the employee	
2	Name of previous organization	
3	Address of previous organization	
4	PF Code of previous organization	
5	PF Account No held in previous organization and name of PF Office/Trust)	
6	Date of joining in EPS-95 in previous organization	
7	Date of exit from EPS-95 in previous organization	
8	EPS No of previous organization	
9	UAN of Previous organization	

NB - Supporting details of salary/wages w.e.f. 16.11.1995 or from the date of joining in EPS-95 in previous organization whichever is earlier duly certified by the previous employer may be attached.

While attaching the Salary details of my previous employer, I hereby certify that the above particulars are correct to the best of my knowledge and I am liable to abide by all the consequences arise based on the above declared facts.

Signature of the employee:

Name of the employee:

Employee No :

Declaration by Employer

I, (Name & Designation) being the authorized signatory of AIDC Limited, Guwahati, do hereby declare that Sri/Smt (Name of the employee) is working in our organization/ was an employee of our organization and retired on and exited from EPS on after attaining the age of 58 years. He has/had been contributing towards Provident Fund on his/her actual salary as per terms of Para 26(6) of EPS Scheme'1952. Equal amount of has/had also been contributed by the company out of which 8.33% based on ceiling wages (Rs.5,000/-, Rs.6,500/- and Rs.15,000/- as and when applicable) has/had been remitted to the employees EPS Account. Now, the establishment has no objection on the option submitted by the employee for drawing higher pension based on actual salary/wages and to transfer the differential amount @ 8.33% of the actual salary and ceiling wages w.e.f. 16.11.1995 i.e. from the date of commencement of the scheme to till date/date of his exit from EPS.

This is in accordance with Para 11(3) & Para 11(4) of the EPS-95 as permitted by the judgement of the Hon'ble Supreme Court dated 4th November'2022.

I hereby certify that the particulars furnished above are correct as per our available records.

Place :

Date :

Signature :

Seal :