



THE COMPLIANCE WATCH 2023

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UCS POV: Higher Pension Online Submission & Concerns

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The higher pension buzz is at its peak as the application to opt for the same will be closed by 3rd May 2023. In view of this, the Employees' Provident Fund Organisation (EPFO) issued a circular on 23rd April 2023 with clarification given on key issues faced by employees/pensioners while jointly applying for a higher pension from the Employees' Pension Scheme (EPS).

Some of the probable scenarios of concerns are briefed below:

- The process involved following the joint application form submission: For those cases where the details available with the field office and employers' details match, the dues will be calculated and an order will be passed by APFC/RPFC-II/RPFC-I for depositing/transferring the dues. In the cases where there is a mismatch, the same will be informed to the employer and the employee/pensioner by APFC/ RPFC-II. A one-month duration will be provided to address the mismatch.
- Scenario when the submitted application form/joint option is not approved by the employer: Before any rejection, an opportunity will be given to the employer for providing any additional proof or evidence or correct any mistakes/errors (including those made by employees/pensioners). Such an opportunity will be for one month and under intimation to the employees/pensioners.

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- Instances of error or mismatch in the joint application form: There may be instances of mismatch of data available with the field office and the information submitted by the employer and employee. Employees and employers will be intimated about the data mismatch to be rectified within one month. Similarly, if there is an error found in the submitted application or if the application is incomplete, then EPFO will seek information from the employers within one month of notifying the employees to rectify it. The joint application form will be accepted by the EPFO once the errors are rectified. The order will be issued regarding transferring/depositing dues. If the complete information is not provided within one month, the EPFO will pass an order on merit.
- Any grievance of an employee or pensioner can be registered on the EPFIGMS after submission of his/her request form and payment of due contribution, if any. The filing of such a grievance over the Supreme Court decision from November 4, 2022, shall fall under the designated category of higher pension.

In addition to the above-stated circular, on 24th Apr 2023, the employer login portal is enabled to approve/reject the higher pension application using the DSC. The EPFO has unexpectedly assigned an additional task to the employer of uploading the wage details while approving the higher pension application. The calculations on wage details, adjustment of pension workings, and the proportionate interest component to be recovered from the employee are also expected to be completed by the employee/employer without any clear directives by the EPFO. When the EPFO system is equipped to have all these details for the entire tenure of a pensioner, pushing this on the employer and employee is unwelcome. Although the deadline is pre-set, it is unclear as to why this new requirement is introduced in the fag-end and a question lingers in the mind on the intention of the EPFO in this context.

Inclusion of statutory obligations in the contract for protecting the rights of contractual employees engaged on outsource basis in Government Offices

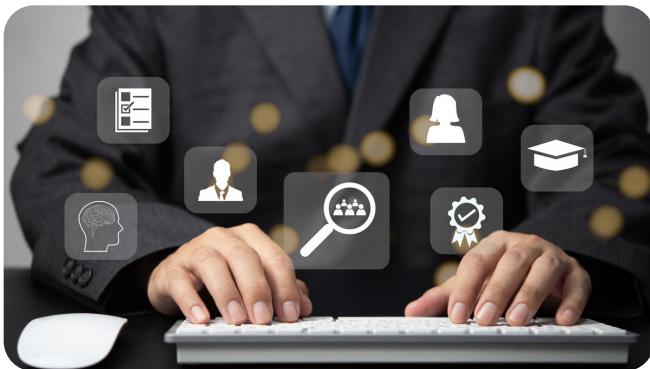
The Ministry of Labour and Employment has recently incorporated six statutory obligations on GeM(Government e Marketing)

portal in the contract of hiring manpower through outsourcing agencies in Government of India offices in order to protect the interest of the contractual workers. Of late in a letter addressed to Chief Secretaries/Administrators of all States/UTs, the Union Labour Secretary, Ms. Arti Ahuja has expressed concern about underpayment of contractual workers engaged in State/UT offices through outsourcing agencies due to unauthorized deduction in wages of such workers made by the manpower hiring agencies. Further, she also expressed concern of their delayed payment of monthly wages to such workers by the agencies and low deposit of EPF and ESIC contributions of the workers. In order to avoid such exploitation to the workers engaged through outsourcing agencies in State/UT Government offices, Union Labour Secretary has advised Chief Secretaries/Administrators of all States/UTs to incorporate following statutory obligations in their contract so that the rights of the workers could be protected:-

- Mandatory contribution of EPF and ESIC by the agencies in timely manner.
- The service provider/contractor shall be responsible for paying wages to contract labour at rates not less than the minimum wages as notified by the Appropriate Government.
- The service provider/contractor shall not make any unauthorized deductions from the wages of the contract labour.
- As per the Contract Labour (Regulation and Abolition) Act,1970, the service provider/contractor shall be responsible for ensuring that wages are paid to the contract labour ontime. The principal employer/buyer shall ensure that the wages are paid on time to the contract labour by the service provider/contractor. In case the service provider/contractor fails to pay the wages on time or makes short payment, the principal employer/buyer shall be liable to pay the wages to the contract labour directly and recover the amount from the service provider/contractor.
- The service provider/contractor shall be responsible for paying bonus to contract labour in the manner prescribed by the Payment of Bonus Act, 1965 & shall get reimbursed from the buyer.
- The service provider/contractor shall be responsible for paying proportionate gratuity to contract labour who have rendered continuous service as per the provisions of the Payment of Gratuity Act, 1972.

Labour Ministry launches new features in eShram Portal

Union Minister for Labour & Employment and Environment, Forest and Climate Change, Shri Bhupender Yadav, launched new features in eShram Portal in presence of Ms. Arti Ahuja, Secretary, Ministry of Labour & Employment and other Senior officers of the Ministry. The new features added in eShram portal will enhance the utility of the portal and facilitate ease of registration for unorganised workers. The eShram registered workers can now connect with Employment opportunities, Skilling, Apprenticeship, Pension Scheme, Digital Skilling and States' schemes through eShram portal. A feature of capturing family details of migrant worker has been added to the eShram portal. This feature can help in providing Child education and women-centric schemes to the migrant workers who have migrated with family.



Further, a new feature on sharing of data of construction workers registering on eShram with the concerned Building and Other Construction Workers' (BOCW) Welfare Board, has been added to ensure registration of eShram construction workers with the respective BOCW board and access to the schemes meant for them.

The Union Minister also formally launched Data Sharing Portal (DSP) for sharing of eShram data with the State/ UT Governments. Data Sharing Portal will allow sharing of eShram beneficiaries data with the respective States and Union Territories in a secured manner for targeted implementation of social security/welfare schemes for the unorganised workers registered on eShram.

Recently, Ministry initiated mapping of different schemes data with eShram data to identify the eShram registrants who have not yet received the benefits of these schemes. This data is also being shared with States/UTs based on which, States/UTs can identify unorganised workers who have not yet received benefit of the social welfare/security schemes and provide schemes' benefit to them, on priority.

Ministry of Labour & Employment is continuously working for the welfare of workers in the country. In this endeavour, Ministry launched eShram portal on 26th August 2021 to create a comprehensive National Database of Unorganised Workers which is seeded with Aadhaar. As on 21st April 2023, over 28.87 crore unorganised workers have registered on eShram portal.

[Source : SightInPlus](#)

EPFO New Circular Issued: Big relief to EPFO pensioners! Date of giving pension fixed, will get pension on this day.

A big decision has been taken by the Central Government for millions of pensioners of the country. If you also take advantage of pension, then another good news has come for you. The government has made a special announcement regarding the date of pension. A big decision has been taken by the Employees Provident Fund Organization (EPFO Pension). Information about the date of pension has been given by issuing a circular on behalf of EPFO. Let us tell you from now on which day you will get pension.

Pension will be given on the last working day of the month

According to the circular issued by EPFO, the pensioners will be given pension on the last working day of the month i.e. from now on, those taking the facility of EPS will not have to wait even a day in a month for pension.

RBI gave this information

According to information received from media reports, the pension division has been reviewed. Along with this, RBI has decided that all the field officers can send the monthly BRS to the pension department.

In this, it was told that money should go to the account of all the pensioners on time. Along with this, the government has said that all orders should be strictly followed.

Pension is available after the age of 58 years.

Let us tell you that any employee gets the benefit of pension after 58 years. For this, it is mandatory for the employees to work for at least 10 years. Along with this, tell that employees who contribute to EPF are also eligible for EPS.



Pensioners have made a lot of complaints in the past

In the recent past, a lot of complaints have been received from the pensioners, in which it has been said that people have to wait for a long time for their pension. For this, the Employees' Provident Fund Organization has decided to fix the date of pension.

After this decision taken by EPFO, there has been a wave of happiness among the employees. Now those people will not have to wait long for pension. The amount of pension will be transferred to the account of all the pensioners on the last date of the month itself. The pension amount will be transferred on the last working day of the month. Many times the pensioners had to wait for a long time due to leave or any number of reasons.

[Source : BusinessLeague](#)

EPFO Claim Rule Changed: Good news! Now your EPF claim will not be rejected! PF money will be available immediately.

EPF Withdrawal Rules 2023: The government has directed that quick action should be taken on the account claims of all EPF subscribers. Also, the subscribers should get their claims soon.

You have claimed to withdraw EPF online. Waited for four days and then came to know that the claim was rejected. The reason for the rejection was also known, let's now fill the claim again. But, is this now the claim has been rejected for another reason. This has happened many times with no solution was found inspite of complaints registered with EPFO. The complaints reached the government and then a new order came. Withdrawal of EPF will now be easy for salaried individuals. The rules for claim settlement have been relaxed. If the claim is getting rejected again and again, it will not happen now.

EPF claim will not be rejected

The government has given instructions that quick action should be taken on the account claims of all EPF subscribers. Also, the subscribers should get their claims soon. The Ministry of Labor has instructed the EPFO that if the details of the applying subscribers match in the data base, then their claims should not be rejected for other reasons. If sources are to be believed, instructions have been given to strictly implement it in EPFO offices.

EPF withdrawal rules changed

Now the EPF claim of the account holders will not be rejected just like that. For a long time, account holders used to complain that when they need it, their claim gets rejected. The withdrawal rules are such that their withdrawal gets stuck. Taking action on this, the government has instructed EPFO that the claim should not be rejected. Also, the wait for the claim should not be long. If efforts are made, the claim should be settled as soon as possible. The Ministry of Labor has issued new guidelines considering all these points.

What are the new instructions regarding EPF claim?

The Ministry of Labor and Employment has given strict instructions to the EPFO to close the claims quickly. If there is any flaw in the claim or any mistake has been made while filing on behalf of the employee, then its feedback should be given soon. Apart from this, be asked to correct that mistake. With this, the claim settlement will be completed in less time. Apart from this, EPFO will have to review the rejected claims and will have to process the claim again in due time.

All the flaws have to be told at once

Under the new rules, EPFO will have to tell the employee all the flaws related to the account in one go, so that the claims are not rejected again and again. The Ministry of Labor has been receiving complaints for a long time that EPFO does not give all the information while rejecting the claim. Handles rejection in just one line. After this, even after filing the claim again, there are chances of getting rejected. If the account holder knows all the defects at once, then he will be able to get them rectified and claim them. Due to this the claim will not be rejected again and again.

[Source : BusinessLeague](#)

ILO to come up with India-specific report on working hours

As many states are opting to increase the working hours from 8 hours to 12 hours in India, International Labour Organisation will soon come up with its report reviewing the working hours and work schedules prevalent in the country. The report will also try to find the impact of long working hours on work-life balance.

According to an Economic Times report, ILO is reviewing the working hours and work schedules of people in India and will come up with its report on the same by July-August. ILO has commissioned the study and the report will come out soon, reported ET citing sources. Working hours and work-life-balance is a key aspect while framing labour-related policies, but it is highly neglected during policy formation. This makes it important to highlight the issue for drawing the attention of the government, the anonymous source told ET. The report will also assess overtime and undertime work hours in its report.



As of now, ILO hasn't come up with an official confirmation about the report. As per the rules under the Code on Occupational Safety, Health and Working Conditions (OSH&WC), it is proposed to extend daily work hours from 8 to 12 to maintain the weekly count to 48 hours to implement four days working system. As per the report, ILO will compare the India-specific findings of its analysis of working hours with the working conditions of other south-east Asian countries. After comparison, the report will also give recommendations to improve the work environment in the country.

Maintaining the weekly count of 48 working hours, ILO recommends a daily limit of eight hours of work for six days in a week. The report will analyse the working condition from different aspects ranging from under time and overtime. There will also be a comparison between the actual working hours and the duration preferred by workers.

As per the global report of ILO on work hours, one-third of the global population of workers regularly worked for more than 48 hours in a week, whereas, another one-fifth of the total workers' population worked for less than 35 hours per week. The global report stressed the drawbacks of long working hours, which are not only detrimental to health and personal life but are also known of reducing efficiency. The global report also recommended the need for flexible working hours and reduced hours of work to improve work-life balance.

[Source : LiveMint](#)

Express View on Tamil Nadu labour laws: Be mindful of workers' concerns

In February, the Karnataka state assembly passed amendments to The Factories Act of 1948 to bring flexibility in the labour regime for industry. The changes carried out, ostensibly aimed to facilitate greater investments by Apple's vendors such as Foxconn, permit firms to extend the working hours, increase overtime, and allow women to work during night shifts. Subsequently, in April, its neighbouring state, Tamil Nadu also passed similar amendments aimed at providing greater flexibility to industry in its production activities.

However, following protests by political parties and labour unions, the state government has now unfortunately put the bill on hold. While the government had previously sought to assuage their concerns and Chief Minister M K Stalin has now said that worries of the unions will be taken into consideration, this entire episode only underlines the challenge facing governments – how to ease labour law restrictions to provide greater flexibility to industry while being mindful of the welfare of labour.

The attempts by these two states to ease certain contentious provisions of labour laws come at a time when multinational firms are looking to move their production out of China as part of their China plus one strategy in order to reduce their risks. India faces stiff competition in this regard from countries like Vietnam, Indonesia and Bangladesh. As the country steps up its efforts to attract foreign investments, not only the Union government, but state governments too need to take decisive steps. Since state governments exercise control over vexing issues like land and labour, they need to be equally motivated to undertake the necessary regulatory and administrative changes to attract investment. In this regard, the competition between these two states to attract foreign investment is welcome. Perhaps on seeing the benefits that flow from higher investment, others will be nudged into following suit.

[Source : IndianExpress](#)

Signboards of shops should be prominently in Odia else pay fine: Odisha govt



The Odisha government has asked all district labour officers and executive officers of municipalities to check if the shopkeepers are using signboards in Odia language and impose penalties on those who do not comply with the law. At a meeting chaired by additional chief secretary of Odia language literature & culture department Satyabrata Sahu, it was decided that shopkeepers who flout the Odisha Shops and Commercial Establishments (Amendment) Act, 2018 would first be given seven days. “If they fail to comply with the norms in these seven days, ₹5,000 penalty will be imposed for the first offence. If they still don’t listen, then penalty upto ₹25000 would be imposed on the shopowners,” said an official of the department.

According to the law, shops and commercial establishments can use any language on the signboards but the text in Odia should be prominent. Odisha amended the Orissa Shops and Commercial Establishments Act, 1956 in 2018 as there was no specific provision in the law to compel shops and commercial establishments to display signboards in Odia. The rules were issued in 2019. Apart from Odisha, several states such as Punjab, Karnataka, Tamil Nadu and Maharashtra have made it compulsory for business establishments to display signboards in local languages. The Bhagwant Mann government made it mandatory in February this year for shops to put up signboards in Gurmukhi script.

Last year, the Maharashtra government made it compulsory for shopowners to have signboards in Marathi language. The Supreme Court, however, ordered the authorities to maintain status quo on the provision in November on a petition by an association of retailers. A similar rule has been in force in Tamil Nadu since 2010 and in Karnataka since 2018. Opposition leaders from the Bharatiya Janata Party (BJP) and Congress said the latest move lacked commitment.

[Source : HindustanTimes](#)

Why EPFO must extend the deadline for EPS members to apply for higher pension

EPF members may have won the long-drawn legal fight in Supreme Court, but they are still a long way from realizing the fruits of their hard-fought battle. Given the magnitude of the issue, EPFO is left wanting on many fronts when it comes to implementing the SC order in its true spirit. Rather than being proactive it has mostly done last-minute stop-gap arrangements and has not provided any clarity on one of the most critical issues: Information about how the dues for the past missing contributions as well as future contributions will be calculated. On top of this, they are asking EPS members, who want to apply for higher pension, to agree, during the online application process, to pay or allow deduction from their EPF corpus of an unknown amount which will be based on a yet to be announced methodology. As of today, an EPS member would have to agree to the above-mentioned deduction without knowing how much would be deducted from his/her EPF and what is the approximate return/ amount of higher pension that he/she would get in lieu of that or the calculation formula that EPFO would use. Further, there are various queries, relating to eligibility, that remain unanswered as there are no FAQs issued by the EPFO on this subject. For example, an EPS member who was actively contributing prior to 2014 but was unemployed for some years (did not withdraw from EPS but remained an inactive member of EPS) and then took up employment later and became an active contributing member again: Would such a member be eligible to apply?



The issue started in 2014 when EPFO amended the rules to make it difficult for EPF members to contribute a percentage of their actual wages to get higher EPS pension. Members approached courts at various levels and the matter finally reached the Supreme Court which finally passed an order in their favour. However, the process of applying for/getting a higher pension since then has not been pleasant for most members. SC had given a 4-month window for EPFO to allow members to apply for higher pension. Just a few days before the original deadline (March 03, 2023) was to end, the EPFO came up with an online joint application form for those eligible members who were member prior to September 1, 2014 and continued to be in service on September 1, 2014, or after that. This form was made available on EPFO's website on February 27, 2023. Obviously, given the inadequacy of time left for the online application, EPFO had to extend the deadline. Therefore, the EPFO extended the application window by another 2 months to May 3, 2023.

However, one of the important unclarified points in the higher pension application process for eligible members, who continued to be in service on or after September 01, 2014, is regarding the new EPS contribution methodology as the earlier methodology will have to be changed after the crucial SC order. The apex court asked EPFO to discontinue the practice of charging 1.16% additional amount on higher contribution above the prevailing wage ceiling of Rs 15,000, from the employees who applied for higher pension and it instructed EPFO to come up with a replacement mechanism. However, EPFO is yet to inform the public about this new method.

The new method or calculation will become a critical issue for eligible employees as any unexpected deduction from EPF balance or having to pay from their own pocket can severely impact their financial planning /funding of day-to-day expenses. Therefore, every member deserves a fair amount of time to go through the new methodology and analyse if they really want to go for higher pension application. Even if EPFO releases the new methodology now, people will hardly have adequate time to understand and assess its consequences given the very short time left before the deadline of May 3. Moreover, it will not be of any use to people who have already applied for higher pension.

Moreover, the advance consent does not leave any scope for members to withdraw from the higher pension application process if the calculations/payout required does not suit their financial needs. Regular assured income in retirement years is a matter of utmost importance for everyone. Asking members to blindly accept unknown computation of investment vs pension is hardly an accommodating approach by EPFO and fails to meet the spirit of the SC judgement. To fill the online joint application form, the EPFO is insisting on the proof of permission taken from the PF commissioner that allowed employer and employee to contribute to the EPF account if the wage exceeded the notified ceiling limit. However, practically it was seen that EPFO never insisted on such permission to allow the employer to deposit money into the employee's EPF account. The Kerala High Court in its interim order dated April 12, 2023, asked the EPFO not to insist on the documentary evidence. The EPFO is yet to come out publicly on how this interim order will be implemented by them.

Another thing to note is that the EPFO is asking the EPF members to provide a declaration empowering the central government to amend the EPS scheme from time to time. This declaration is important because when EPFO amended the EPF Act in 2014, it changed the pension calculation methodology which negatively impacted those who were active members or soon to retire. Hence, one does not know whether the future change will positively or negatively impact the EPF members on the basis of this declaration. Therefore, it would be only just for all eligible members to expect the EPFO to issue the new computation methodology in the public domain and also simplify the online process so that applications may be accepted without proof of prior approval. After that, it should give a fair amount of time to members to analyse the impact of the changes. The least that EPF members deserve is a further extension of the deadline to enable them to take a well-informed decision on a critical financial issue. EPFO should also give an exit window to people to review and withdraw their application after the publication of the new methodology especially those who have already applied earlier without knowing the new contribution methodology. This will allow them to review their application in light of the new computation methodology.

[Source : EconomicTimes](#)

Karnataka: May 10 paid holiday for non-voters too

To facilitate large-scale turnout of voters, the Election Commission of India (ECI) had directed the state government to declare a paid holiday for all employees on polling day, May 10. And the government did. But the big question being asked in the IT sector, fin-tech firms and other private companies is that shouldn't non-voters report for work on polling day and why should they get paid leave? Clearing the confusion, District Electoral Officer and chief commissioner of Bruhat Bengaluru Mahanagara Palike (BBMP) Tushar Giri Nath told STOI May 10 would be like a general holiday for all employees. "Regardless of the fact whether the employees are voters or non-voters, it will be a paid holiday if they are working in Karnataka. However, if any industry or factory is listed under essential services, they can continue to run operations by availing the services of non-voters employed in the company," Giri Nath explained. "In any establishment, it will be difficult to distinguish between voters and non-voters. Hence, we have declared paid holiday for all employees," he added. A senior electoral officer from Bengaluru Urban said, "Section 135B of the Representation of the People Act 1951 provides for granting of paid holiday to employees on the day of polling. Every person employed in any business, trade, industrial undertaking or any other establishment and entitled to vote, shall, on the day of polling, be granted a holiday. If any employer contravenes the provisions of the Act, such employer shall be punishable with a fine, which may extend to Rs 500." Referring to the essential services, the chief commissioner said, "The same provisions are not applicable to any employee whose absence may cause danger or substantial loss in respect of the employment in which he/she is engaged. I am sure there are many employees who are natives of other states and do not have voting rights in Karnataka. Companies with essential services can continue to operate with such workforce and must grant a paid holiday to those who have voting rights here."

[Source : TimesOfIndia](#)

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