



Ref: GUVNL/PENSION/EPS-95/1169

Date: 07.02.2023

## CIRCULAR

**Sub: Submission of Joint Option under pre-amended paragraph 11(3) and amended paragraph 11(4) of Employees Pension Scheme, 1995 in pursuance of the Hon'ble Supreme Court's Order dt. 4.11.2022.**

Ref.: 1. Our Circular No. GUVNL/PENSION/EPS-95/1144 dt. 27.01.2023.  
2. EPFO Circular No. Pension/2022/54877/15149 dt. 29.12.2022.  
3. Hon'ble Supreme Court order in Special Leave Petition (C) Nos. 8658-8659 of 2019 dt. 04.11.2022.

This is in continuation to our Circular issued under Ref. GUVNL/PENSION/EPS-95/1144 dt. 27.01.2023, explaining the provisions in brief about the judgement of Hon'ble Supreme Court dt. 04.11.2022, arising out in the matter of Employees Provident Fund Organization & Anr. etc. vs Sunil Kumar B. & Ors. etc.

1. GUVNL and its six Subsidiary Companies are exempted establishments under Section 17(1) of the EPF & MP Act, 1952. As per para 44 (ii) of the Order dt. 04.11.2022 of Hon'ble Supreme Court passed in SPL No. 8658-8659 of 2019, amendment to the Pension scheme brought about by the Notification No. G.S.R. 609 (E) dt. 22.08.2014 shall apply to the employees of the exempted establishments in the same manner as to the employees of the regular establishments. Therefore, employees of GUVNL and its six Subsidiary Companies are also eligible for submission of **“Joint Option Form”** for availing pension on actual/higher salary.
2. **Employees who had attained the age of 58 years prior to 1<sup>st</sup> September 2014 without exercising any option** under paragraph 11(3) of the pre-amendment scheme have already exited from the membership and **therefore would not be entitled to the benefit of this judgment.**
3. As per para 43 read with para 44(iv) of the Hon'ble Supreme Court's Order, **serving employees who are members of EPS-95 and employees who have exited the Pension Scheme after 01.09.2014 and could not exercise the option**, as contemplated in the proviso to pre-amended paragraph 11(3) and amended paragraph 11(4) of the Pension Scheme to contribute to EPS-95 on actual salary, **are also eligible for submission of Joint Option for availing pension on higher salary.**

**However, no instructions / guidelines have been issued by EPFO in respect of these category of employees till date.**

4. As per the provisions explained in the above stated Circular, the Joint Option has to be exercised by members & pensioners and submitted to EPFO latest by 3<sup>rd</sup> March, 2023, as per Judgement of Hon'ble Supreme Court. **However, EPFO is yet to issue any format for Joint Option or any clarification/guidelines in this regard. Hence, it may be noted that arrears to be paid and pension payable cannot be ascertained as of now.**
5. **As a precautionary compliance and in order to meet the deadline stipulated in the aforesaid Order in the interest of our employees/ex-employees, it has been decided to seek "Option" from eligible employees/ former employees as required under pre-amended paragraph 11(3) and amended paragraph 11(4) of EPS'95 for claiming pension on actual salary i.e. exceeding statutory wage limit decided by EPFO from time to time under the Employees' Pension Scheme from 16.11.1995 or from the date of joining as member of Employees' Pension Scheme.**
6. All eligible employees / former employees who wants to exercise the option are required to fill the attached "**Joint Option Form**" (**Annexure-A & B**) and submit hardcopies in original (in triplicate) to CPF Section, Corporate Offices/Circle Offices/Power Stations of respective Companies for onward submission to concerned Regional Provident Fund Commissioners' Office.
7. Employees who are not members of EPS'95 i.e. who have joined service on or after 01<sup>st</sup> September, 2014 are not eligible / required to exercise the joint option.
8. **The last date of receipt of "Joint Option Form" complete in all respect is 24.02.2023 at CPF Section, Corporate Offices/Circle Offices/Power Stations of respective Companies.**
9. Employees/former employees who have joined GUVNL and its six Subsidiary Companies (Erstwhile GEB) from other organization(s) are required to fill both Annexures A & B.
10. On acceptance of Joint Option by respective Regional Provident Fund Commissioners' Offices, 8.33% of employer's contribution on actual salary along with interest prescribed by EPFO or contribution as mandated by EPFO will be required to be remitted to EPFO within the timeline and in the manner as directed by EPFO. Former employees who would exercise this option and have already withdrawn their Provident Fund from GEB's Contributory Provident Fund Trust shall have to arrange their own funds for payment of arrears to EPFO, within the prescribed time. Mode & manner of deposit of arrears shall be informed in due course as per directives of EPFO.
11. Serving employees/ Former employees / EPS-95 Pensioners may also note that revision in EPS-95 Pension may take considerable time as the pension payment under EPS-95 is made by the concerned office of EPFO/RPFC and is beyond the control of GUVNL or its Subsidiary Companies.

12. Soft copy of "Joint Option Form" will be also made available on our website(s). Serving employees/former employees willing to avail higher pension on actual wages by depositing contribution and arrears along with interest may download the form, fill in the required fields and submit it to CPF Section, Corporate Offices/Circle Offices/Power Stations of respective Companies.
13. **The present Authorized Signatories for pension of each Corporate Offices/Circle Offices/Power Stations would sign the Joint Option Form submitted by employees/ex-employees and deposit the same with the concerned jurisdiction RPFC on or before 28.02.2023.**

***Disclaimer: All concerned please note that this "Joint Option Form" is being issued for the purposes of timely implementation of Hon'ble Supreme Court's Order dt. 04.11.2022, only to adhere to the time limit of 4 months directed in the Order. Since EPFO is yet to issue any format for Joint Option, the present Joint Option Form is subject to any clarification(s)/guideline(s)/circular(s) that may be issued by EPFO from time to time, including re-submission of Joint Option as directed by EPFO.***

***The Joint Option submitted by eligible employee/ former employee does not confer any right to receive higher pension nor does it create any liability / obligation of any kind on GUVNL and its six Subsidiary Companies as Employer in case the format is not accepted / not entertained/ is rejected by EPFO.***



**(Shubhadeep Sen)  
General Manager (F&A), GUVNL &  
Secretary & Trustee of GEB CPF Trust**

To

- |  |   |   |
|--|---|---|
| 01. GM (HR) / AGM (HR) / DGM (HR)<br>GUVNL/GSECL/GETCO/MGVCL/DGVCL/PGVCL/UGVCL   | } | For<br>necessary<br>action as<br>per Circular |
| 02. Power Stations / Zonal / Circle Heads<br>GSECL/GETCO/DGVCL/MGVCL/PGVCL/UGVCL |   |   |
| 03. GM (F&A)/ I/c. GM (F&A)<br>GSECL/GETCO/DGVCL/MGVCL/PGVCL/UGVCL               |   |   |

**Copy to:**

Managing Director  
GSECL / GETCO / DGVCL / MGVL / PGVCL / UGVCL

**Copy fwcs to:**

1. MD, GUVNL
2. Dir. (A), GUVNL
3. Dir. (F), GUVNL
4. Dir. (Tech.), GUVNL

**Annexure-A**

To,

**The Regional Provident Fund Commissioner,**  
Employees Provident Fund Organization,  
Regional Office,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Sub: Joint Option under pre-amended paragraph 11(3) and amended paragraph 11(4) of Employees Pension Scheme, 1995 in pursuance of the Hon'ble Supreme Court's order dated 4<sup>th</sup> November 2022 in the matter 'Employees Provident Fund Organization & Anr. etc. vs. Sunil Kumar B. & Ors. etc.; SLP No. 8658-8659 of 2019'**

Sir / Madam,

1. Reference is invited to Para 43 and Para 44 (ii) & (iv) of the above-referred judgement dated 4<sup>th</sup> November 2022 of the Hon'ble Supreme Court of India in the matter 'Employees Provident Fund Organisation & Anr. etc. vs. Sunil Kumar B. & Ors. etc.; SLP No. 8658-8659 of 2019', whereby the eligible employee/ex-employee and his/her employer are required to submit a joint option under pre-amended paragraph 11(3) and amended paragraph 11(4) of the EPS'95 within a period of 4 months from the date of judgement.
2. As a precautionary compliance and in order to meet the deadline stipulated in the aforesaid judgement, we (employee/ex-employee and employer) hereby submit this **Joint Option Form** as required under pre-amended paragraph 11(3) and amended paragraph 11(4) of the EPS'95 for claiming pension on actual salary, i.e. exceeding statutory wage limit from time to time decided by EPFO under the Employees' Pension Scheme from 16-11-1995 or from the date of joining as Member of Employees' Pension scheme, i.e. from \_\_\_\_\_ retrospectively under EPS'1995.

3. Particulars of the employee (s) are as under:-

Sr. No.	Particulars	Details (FILL IN CAPITAL LETTERS)
1.	Name	
2.	EPS Account Number / Member ID	
3.	EPS Account Number of Previous organization (if any)	
4.	Aadhaar Number (attach self attested copy)	
5.	Date of Birth	
6.	UAN Number	
7.	PPO Number (If any) (attach self attested copy)	
8.	Date of Joining under Employees Pension Scheme 1995	
9.	Date of Leaving service or attaining the age of 58 years whichever was earlier (if applicable)	
10.	Address for Correspondence	
11.	Contact / Mobile Number	
12.	Email ID :	

**Declaration by Employee / Ex-employee**

It is certified that immediately after joining in \_\_\_\_\_ (Company name), I had been contributing towards the Provident Fund on my actual salary / wages and

an equal amount was being contributed to my Provident Fund by the Employer as provided under Para 26 (6) of EPF Scheme 1952. It is to further certify that an amount @ 8.33% of the statutory wage ceiling i.e. Rs.15000/- (earlier Rs.5000/- or Rs.6500/-) out of the employers' contribution had been remitted every month towards Employees' Pension Scheme 1995 since 16<sup>th</sup> November 1995 or the date of joining whichever is later.

I, do hereby opt for diverting/depositing 8.33% of my actual salary/wages out of employer's contribution towards the pension fund (after adjusting the amount already diverted/deposited in pension fund) from the date of joining EPS' 95 till my attaining the age of 58 / Retirement / VRS / Resignation.

[Tick (√) whichever is applicable]

Since I have already withdrawn entire Provident Fund on my Retirement/VRS/ Resignation, I am ready to pay the differential amount along with the up to date interest that I had taken/withdrawn after my Retirement / VRS / Resignation;

In case my Provident Fund amount (out of the Employer's contribution) falls short on account of any advance, I am ready to pay the differential amount that I had taken / withdrawn along with the interest due.

Thus, making me eligible for drawing pension on the basis of my actual salary / wages instead of being based on the statutory wage ceiling as declared by EPFO from time to time.

That I retired on attaining the age of superannuation for the purpose of EPS 1995 after 01.09.2014 on ..... (strike out if not applicable)

I also undertake that if any other legal formality is required in this regard, I am ready to do accordingly. **I shall also be ready to bear any financial liability arising out of the option availed for higher pension on actual salary / wages.**

**Place:**

**Signature :**

**Date:**

**Name:**

**CPF No. :**

## **Declaration by the Employer/Establishment**

Mr./Mrs \_\_\_\_\_, having  
EPF Account No. \_\_\_\_\_ was/is an Employee of  
\_\_\_\_\_  
\_\_\_\_\_  
**(Company name)**.

He/She has contributed to the Provident Fund on his/her actual salary/higher wages, as per the terms of Para 26 (6) of the EPF Scheme 1952. This establishment has no objection if an amount of 8.33% on his/her actual salary/higher wages is diverted/deposited from his/her Provident fund towards his/her Pension Fund from the date of commencement of the Scheme i.e. 16/11/1995 or from the date his/her salary exceeded the statutory limit or from the date of joining the scheme, whichever is later, along with the interest upto the date of payment to till date or upto date of Retirement/VRS/Resignation.

### **Disclaimer**

All concerned please note that this "Joint Option Form" is being issued for the purpose of timely implementation of Hon'ble Supreme Court's Order dated 4<sup>th</sup> November 2022, only to adhere to the time limit of 4 months directed in the Order. Since EPFO is yet to issue any format for Joint Option, the present Joint Option Form is subject to any clarification(s)/guideline(s)/circular(s) that may be issued by EPFO from time to time, including re-submission of Joint Option as directed by EPFO.

The Joint Option submitted by eligible employee/ former employee does not confer any right to receive higher pension nor does it create any liability/obligation of any kind on GUVNL and its six Subsidiary Companies as Employer in case the format is not accepted / not entertained/ is rejected by EPFO.

**NAME & DESIGNATION OF AUTHORIZED SIGNATORY**

**SIGNATURE WITH ESTABLISHMENT SEAL**

### Annexure-B

**To be filled by the employee/ ex-employee who joined GUVNL or its Subsidiary Companies from any other organization in which they were member of EPS' 95:**

**(Note: Separate sheet should be filled in for every previous organization in which employee was member of EPS'95)**

<b>Sr No</b>	<b>Particulars</b>	<b>Details (FILL IN CAPITAL LETTERS)</b>
1.	Name of the Employee	
2.	Previous Establishment Name	
3.	Previous Establishment Address	
4.	Previous Establishment PF Code	
5.	PF Account is held by: (Name of EPF Office / PF Trust)	
6.	Date of Joining EPS' 95 - Previous Establishment	
7.	Date of Exit EPS' 95 - Previous Establishment	
8.	EPS number of Previous Establishment	
9.	UAN of Previous Establishment	

Supporting PF Slip indicating EPS number and UAN should be attached and self attested.

The above particulars are correct, and I am liable to bear if any consequence arises based on the above declared facts.

**Place:**

**Signature :**

**Date:**

**Name:**

**CPF No. :**



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### **NAME & DESIGNATION OF AUTHORIZED SIGNATORY**

### **SIGNATURE WITH ESTABLISHMENT SEAL**