

SAVE ENERGY FOR BENEFIT OF SELF AND NATION

ફોન નં. ૨૩૧૦૫૮૨-૮૩-૮૪
ફેક્સ : ૨૩૩૭૯૧૮/૨૩૩૮૧૬૪

ગુજરાત ઊર્જા વિકાસ નિગમ લી.,
સરદાર પટેલ વિદ્યુત ભવન, રેસકોર્સ,
વડોદરા-૩૯૦ ૦૦૭.

CIN U40109GJ2004SGC045195



Phone : 2310582/83/84
Fax : 2337918/2338164
Website : www.guvnl.com

Gujarat Urja Vikas Nigam Ltd.
Sardar Patel Vidyut Bhuvan
Race Course,
Vadodara - 390 007

Ref: GUVNL/PENSION/EPS-95/1144,

Date: 27.01.2023

CIRCULAR

Sub: Higher Pension benefit as per Supreme Court's Judgement dt. 04.11.2022.

**Ref: 1. Hon'ble Supreme Court's Order in Special Leave Petition (C) Nos.8658-8659 of 2019 dt. 04.11.2022.
2. EPFO Circular No. Pension/2022/54877/15149 dt. 29.12.2022.**

As per para 44 (ii) of the Order dt. 04.11.2022 of the Hon'ble Supreme Court passed in SLP No. 8658-8659 of 2019, amendment to the Pension scheme brought about by Notification No. G.S.R. 609 (E) dt. 22.08.2014 shall apply to the employees of "exempted establishments" in the same manner as the employees of regular establishments. Therefore, employees of GUVNL and its six Subsidiary Companies are eligible for submission of "Joint Option Form" for availing pension on actual/higher salary.

Employees who have attained the age of 58 years prior to 01.09.2014 without exercising any Option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership. Therefore, they would not be entitled to the benefit of this judgment.

Employees who have not attained the age of 58 years as on 01.09.2014, are only eligible for submission of Joint Option Form under para 11(3) of the EPS'95 Scheme.

All working/retired/superannuated/resigned/VRS employees of GUVNL and its six Subsidiary Companies who are/were members of EPS'95 Scheme as on 1st September 2014 and are willing to exercise contribution on actual wages in pension fund under EPS'95 are therefore required to fill and submit Joint Option Form and declaration as may be specified by EPFO to get the benefit of pension on actual salary as directed by the Hon'ble Supreme Court.

Further, new employees who are not members of EPS 95 (i.e. who have joined service on or after 01.09.2014) are not required to exercise this joint option.

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Further, EPFO is required to obtain Option Form/Joint Declaration from interested employees/ex-employees. If an employee/ex-employee opts for the same, the requisite differential amount (Contribution on actual salary less amount already remitted to EPFO based on corresponding wage ceiling since Nov'1995) is to be deposited to EPFO alongwith interest.

In this regard, GUVNL has written a letter on 24.11.2022 to RPFC, Baroda for providing exact modalities & procedure to be followed by GUVNL & its six Subsidiary Companies for its employees who wants to exercise higher Pension option, w.r.t. payment of differential EPS contribution (@8.33% on actual salary less 8.33% on ceiling salary); methodology for interest calculation on differential EPS Contribution; format of Option Form /Joint Declaration to initiate the process for higher pension on actual salary. However, till date RPFC, Baroda has not responded to our letter.

Recently, Employees Provident Fund Organisation (EPFO), New Delhi, vide Circular dt. 29.12.2022 has issued instructions in compliance to the orders contained in Para 44(ix) read with Para(v) & (vi) of Hon'ble Supreme Court's Judgement dt. 04.11.2022, in the matter of Special Leave Petition (C) Nos.8658-8659 of 2019. **The said Circular lays down the eligibility conditions for employees who can get higher pension, online process to apply for higher pension and to comply with the instructions issued by the Supreme Court in its Order dt. 04.11.2022. The relevant provisions of the said Circular are reproduced hereunder for your ready reference:-**

“5. Accordingly, the direction of Hon'ble Supreme Court in R. C. Gupta judgement pertains to such employees who contributed on higher wages under paragraph 26(6) of EPF Scheme, and had further exercised their option under the proviso to erstwhile para 11(3) prior to their retirement, but their option request under the proviso to paragraph 11(3) was explicitly denied by concerned office of the RPFC and/or contribution on higher salary was refunded/diverted back to provident fund accounts.

6. The following pensioners may apply digitally / online at www.epfindia.gov.in for validating their options, if any, by the concerned Regional Office:

- i. the pensioners who as employees had contributed under paragraph 26(6) of EPF Scheme on salary exceeding the prevalent wage ceiling of Rs 5,000 or Rs 6,500; and***
- ii. Exercised joint option under the proviso to para 11(3) of the pre-amendment scheme while being members of EPS-95, and***
- iii. Their exercise of such option was declined by the PF authorities.***

7. The way such pensioners would apply to the concerned Regional Office is as follows:

- i. *The request will be made in such form and manner, as may be specified by the Commissioner.*
- ii. *The application form for validation will contain the disclaimer as ordered in the aforesaid government notification.*
- iii. *In case of share requiring adjustment from Provident Fund to Pension Fund and if any, re-deposit to the fund, the explicit consent of the pensioner will be given in the application form.*
- iv. *In case of transfer of funds from exempted provident fund trust to pension fund of EPFO, an undertaking of the trustee shall be submitted. The undertaking shall be to the effect that due contribution along with interest-up to the date of payment, will be deposited within the specified period.*
- v. *The method of deposit of such funds will follow through subsequent circulars.*
- vi. *Aforesaid application form must contain the following specified documents for evidence and for further processing:-*
 - a. *Proof of joint option under Para 26(6) of the EPF Scheme duly verified by the employer; and*
 - b. *Proof of joint option under the proviso to erstwhile Para 11(3) duly verified by the employer; and*
 - c. *Proof of remittance in Provident Fund on higher wages exceeding the prevalent wage ceiling of Rs.5000/6500; and*
 - d. *Proof of remittance in Pension Fund on higher wages exceeding the prevalent wage ceiling of Rs.5000/6500, if any; and*
 - e. *Written refusal of APFC or any other higher authority of EPFO to such requests/remittance.”*

With reference to the Circular dt. 29.11.2022, vide Letter dt. 02.01.2023, GUVNL has once again requested RPFC, Baroda and Additional Central P. F. Commissioner, Ahmedabad to provide suitable guidelines in this matter.

Moreover, in order to enable our Employees/Ex-employees to take an informed decision, GUVNL has initiated the process for calculation of differential amount to be deposited to EPFO. Based on the salary data available in E-urja system since 01.04.2008, a calculation sheet will be generated from e-Urja system. But as regards the data, data entry in the system needs to be done manually from available records with respective offices of GUVNL & Subsidiary Companies. In absence of records, the said data would be required to be collected from the respective employees/ex-employees. Therefore, employees are requested to keep following documents available/ready with them:

1. Original PLA Sheets from Nov' 1995 to till date.
2. Salary Slips from Nov' 1995 to till date.
3. Retirement Order.
4. PPO Order (where applicable).
5. Any other proof of salary payment/ PF / EPS deduction.

The Circular dt. 29.12.2022 issued by EPFO, New Delhi is silent on the procedure to be followed by the Employees of Exempted Trusts to avail higher pension benefit. Therefore, EPFO may soon issue a different Circular providing suitable instructions/ guidelines in this regard.

This circular is being issued to inform the employees/ex-employees of GUVNL & its six Subsidiary Companies on the latest status of the Hon'ble Supreme Court's Order dt. 04.11.2022. Since RPFC, Baroda has not responded to our Letters dt. 24.11.2022 and 02.01.2023, we are unable to provide any guidelines as to how go forward in the matter. Employees / Ex-Employees who are interested to avail the benefit of higher pension in terms of Supreme Court's Order, may also write individually / collectively to all Regional PF Commissioner Offices in Gujarat to get further clarity on the matter.



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

To

01. GM (HR) / AGM (HR) / DGM (HR)
GUVNL / GSECL / GETCO / MGVCL / DGVCL / PGVCL / UGVCL
02. Power Stations / Zonal / Circle Heads
GSECL / GETCO / DGVCL / MGVCL / PGVCL / UGVCL
03. GM (F&A) / I/c. GM (F&A)
GSECL / GETCO / DGVCL / MGVCL / PGVCL / UGVCL

Copy to:

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

Copy fwscs to:

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