

**BENGAL CHEMICALS & PHARMACEUTICALS LTD., KOLKATA**

**CIRCULAR**

Ref.: EPS-95/2022-23/01

Date:23/02/2023

**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 of 2019 titled EPFO Vs Sunil Kumar B. & Ors. etc.**

1.) As per para 44 (11) of the Order dated 04th November 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) dated 22 August 2014 shall apply to the employees of the exempted establishments in the same manner as the employees of the regular establishments. Therefore, it is presumed that employees/ex- employees of Bengal Chemicals & Pharmaceuticals Ltd.(BCPL) are also eligible for submission of joint option form for availing pension on actual/higher salary as (BCPL) is contributing on actual/higher salary exceeding the statutory wage ceiling of Rs. 6500/- or 15000/- in the Provident Fund for its employees which makes it eligible for diversion of 8.33% of salary exceeding Rs. 6500/- or 15000/- to the pension fund.

2.) However, contribution to the EPS-95 has been made @8.33% of prescribed wage ceiling i.e. Rs. 5000/- till May 2001, Rs.6500/- w.e.f. June 2001 and Rs. 15000/- w.e.f. September 2014. As per rule, EPS- 95 contribution is deducted from employer's contribution to PF and is remitted to the concerned office of the Employees Provident Fund Organization (EPFO).

3.) The employees who have 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-amended scheme have already exited from the membership therefore such employees would not be entitled to the above benefit.

4.) Employees who have not attained the age of 58 years as on 1<sup>st</sup> September 2014, only are eligible for submission of joint option form under para 11(3) of the EPS'95 Scheme.

5.) All working/retired/superannuated/VRS employees of the Company who are/were members of the EPS'95 Scheme as on 1<sup>st</sup> September 2014 and are willing to exercise the option and contribute on actual wages in pension fund under EPS'95 are hereby advised to fill and submit requisite joint option form' and declaration (Annexure-A) to get the benefit of pension on actual salary as brought out above. The Employees/Ex-Employees who have worked previously in other Organization(s) including different units viz. Kanpur, Mumbai, etc. and were allotted multiple EPS codes should mention the same in previous organization EPS Account details in Annexure-A and should also fill up Annexure-B for every previous Organization(s)/Unit.

6.) New employees who are not members of EPS'95 i.e., who have joined service initially on or after 01 September 2014 are not required to exercise this joint option.

8.

28/02/2023

7.) Those Employees/Ex-Employees of (BCPL) who are covered in the para 4 above may exercise their option in triplicate duly signed in original (hard copies) and may submit in envelop earmarked as "Joint Option EPS'95" to the respective Projects/Units/Offices.

8.) The joint option form shall be subject to acceptance by respective Regional EPFO as per rules.

9.) On acceptance of Joint Option Forms of the employees/ex-employees by the concerned Regional PF Commissioner, 8.33% share of employers contribution in PF on such higher salary along with interest prescribed will be remitted as per the direction of subsequent Circular issued by RPFO.

10.) The PF Trust members have met with EPFO, Salt Lake, several times seeking guidelines & methodology for submission of Joint Option Form and remittance of balance contribution along with interest. No formality and obligation prescribed by the EPFO, Salt Lake shall be complied by the employees/ex- employees opting for option of pension on higher wages. However, now a Circular dated 20/02/2023 was issued by EPF, Head Office which the employees/ex-employees may follow.

11.) The option once exercised is irrevocable and change of option at a later date shall not be entertained under any circumstances.

12.) The Joint Option form duly filled in every manner should be submitted by employees/ex-employees concerned, mentioned hereinabove, latest by 27<sup>th</sup> of February, 2023 to the respective Units/Offices. The respective Units/Offices will forward the Joint Option form duly filled in respect of employees for whom remittance is being made at EPFO Salt Lake, to Head Office on or before 28<sup>th</sup> February 2023.

13) All efforts shall be made to submit the Joint Declaration of willing employees with EPFO within the time-line prescribed in the SC Judgment. As per the SC Judgment, payment of arrears shall follow the submission of joint declaration and arrears shall have to be remitted within timeline, if any, prescribed by EPFO in this regard. Accordingly, ex-employees who would exercise the option now and who have already withdrawn the Provident Fund from BCWL Provident Fund Trust shall have to arrange the fund for payment of arrears to EPFO, within prescribed time as per subsequent Circular of EPFO. Mode and manner of deposit of arrears shall be informed in due course as per further direction from EPFO. Ex-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 done by the concerned office of the EPFO and is not in the control of Company.

14.) In case of serving employees, payment of arrears shall be made from PF account of employee with BCWL Provident Fund Trust.

15.) Employees/ex-employees are liable to pay any shortfall in employer contribution to be remitted on account of opting joint option for higher pension under EPS' 95 in compliance of further direction of RPFO/EPFO.

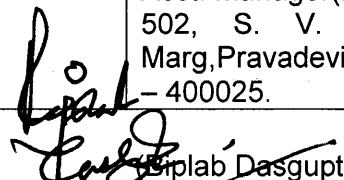
16.) These instructions are subject to directions/instructions of EPFO and further as per direction of any Competent Court of Law issued from time to time in this regard.

8.  
23/02/2023

**Disclaimer:** In reference to judgment dated 4th November 2022 of Hon'ble Supreme Court, BCPL has contacted to EPFO seeking guidelines for submission of joint option form for exercising the option and contributing of the EPFO higher pension on higher wages under EPS'95, for which the reply is still awaited. This circular is being issued for compliance of said judgment only to adhere to the time limit and is subject to any ratification(s)/guideline(s) that may be issued by EPFO from time to time. Therefore, the joint option submitted by eligible employees do not confer any right to receive or obligation upon BCPL to pay higher pension to them.

Those employees (existing as well as Ex-Employees who left the Organisation on or after 01/09/2014) of BCPL willing to submit the 'Joint Option Form' must submit it (Hard Copy) to the following Units (Offices) latest by 27<sup>th</sup> February 2023 in original, in triplicate, after duly filled up and ink signed in blue ball pen by the concerned employees.

Sl. No.	Present Employees, Ex-Employees left on or after 01/09/2014. Respective EPFO.	Presently Working and retired from	Concerned Office where to submit the 'Joint Option Form'
1.	Employees who are covered by EPFO, Salt Lake	Maniktala Factory	Shri Subrata Saha, Sr. Manager (HR & ADMN), 164, Maniktala Main Road, Kolkata - 700054
2.		Kolkata South Depot	
3.		Panihati Factory	Shri Raju Mukherjee, Sr. Manager(HR & ADMN), 4, B.T. Road, P.O.-Panihati, 24 Parganas (North), Kolkata - 700114
4		Corporate Office	Tapas Banerjee, Manager(HR), 6, Ganesh Chunder Avenue, Kolkata - 700013
5		Chennai Depot	-DO-
6		Hyderabad Depot	-DO-
7		Jaipur Depot	-DO-
8		Delhi Depot	-DO-
9		Ranchi Depot	-DO-
10		Guwahati Depot	-DO-
11		Bhubaneswar Office	-DO-
12		Raipur Office	-DO-
13	Employees who are covered by EPFO, Kanpur	Kanpur Factory	Siddhartha Mukherjee, Asst. Manager (Accounts), 84/23, Factory Area, Fazalganj, Kanpur - 208012, U.P.
14	Employees who are covered by EPFO, Mumbai	Mumbai Factory	Raghavendra Singh, Asst. Manager(Mktg.) 502, S. V. Savarkar Marg, Pravadevi, Mumbai - 400025.

  
Anuplab Dasgupta  
Asst. General Manager (Mktg., HR & Admin)

23/02/2023

**JOINT OPTION UNDER THE EMPLOYEES' PENSION SCHEME, 1995**  
**[For Serving Employees & EPS Pensioners on Rolls not attained 58 years]**

To,  
**The Regional Provident Fund Commissioner**  
**Employees Provident Fund Organisation,**

-----

-----

-----

Sir / Madam,

**Sub: Joint Option under erstwhile Para 11 (3) and Para 11 (4) of Employees Pension Scheme (EPS), 1995 based upon the Hon'ble Supreme Court's order in SLP No. 8658-8659 year 2019 dated 4<sup>th</sup> November 2022 Titled EPFO Vs. Sunil Kumar pronounced on 04th November 2022- Reg.**

Reference is invited towards Para 43 and Para 44 (ii) & (iv) of the aforesaid Order dated 04th November 2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal wherein the eligible employee/ex-employee 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 judgment.

Since no format for the joint option has been provided by EPFO (also not available on EPFO's website), based on similar formats issued by various ROS in the year 2017 & 2018 while implementing the R C Gupta Judgment; in order to comply with the above requirement, we (employee/ex-employee and employer) are, hereby submitting the joint option form as required under erstwhile Para 11 (3) & Para 11 (4) of employees' Pension Scheme- 1995 for claiming pension on actual salary instead of ceiling salary limit of Rs. 15000/-.

Particulars of Employees

SL. NO.	PARTICULARS	DETAILS
1.	NAME / Employee Code	
2.	EPS Account Number	
3.	BCPL Unit name and address	
4.	Date of joining BCPL	
5.	EPF A/c No.	
6.	EPS Account Number of Previous Organisation (if any)	
a)	Name and Address of the Previous Organisation	
b)	Related RPF Office	
c)	Date of joining the Organisation	
d)	Date of leaving the Organisation	

7.	EPS Account Number of Previous Organisation (if any)	
a)	Name and Address of the Previous Organisation	
b)	Related RPF Office	
c)	Date of joining the Organisation	
d)	Date of leaving the Organisation	
8.	Aadhar number (attach self attested copy)	
9.	UAN	
10.	Date of Leaving Service or attained the age of 58 years which was earlier (if applicable)	
11.	Address for correspondence  Mobile no.  Email ID:	

## DECLARATION BY THE EMPLOYEE

1. It is certified that immediately after joining in **Bengal Chemicals & Pharmaceuticals Ltd.**, I had been contributing towards the Provident Fund on my actual salary / wages and an equal amount used to be contributed in my Provident Fund by the employer also as provided under Para 26 (6) of EPS Scheme 1952. It is to further certify that an amount 8.33% of the statutory ceiling amount 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 16th November 1995 or the date of joining whichever is later onwards.
2. I, do hereby opt for diverting 8.33% of my actual salary/wages out of employers contribution towards pension fund (after adjusting the amount already remitted by the employer in EPS'95 on ceiling wages under the Act) from the date of joining the EPS' 95 till my attaining the age of 58 years/VRS/resignation. I do hereby authorise, PF Trust of Bengal Chemicals & Pharmaceuticals Ltd., 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 irrecoverable at any later date, and no claim to 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 / directives that may be issued from time to time.

\_\_\_\_\_  
(Signature)

Place;

Date:

**UNDERTAKING BY THE EMPLOYER**

I, \_\_\_\_\_ (Name & Designation) being the Authorized  
Signatory of Bengal Chemicals & Pharmaceuticals  
Ltd \_\_\_\_\_ (location) with Establishment  
PF Code Number \_\_\_\_\_ do hereby certify that Shri / Smt. / Ms.  
\_\_\_\_\_, is an employee of this establishment.

The member has 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 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 A/C to Pension Fund maintained by EPFO, these 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.

\_\_\_\_\_  
(Signature with name Designation & Office

Seal)

Place:

Date:

**JOINT OPTION UNDER THE EMPLOYEES' PENSION SCHEME, 1995**  
**[For Ex-Employees]**

To,  
**The Regional Provident Fund Commissioner**  
**Employees Provident Fund Organisation,**

-----

-----

-----

Sir / Madam,

**Sub: Joint Option under erstwhile Para 11(3) and Para 11(4) of Employees Pension Scheme (EPS), 1995 based upon the Hon'ble Supreme Court's order in SLP No. 8658-8659 year 2019 dated 4<sup>th</sup> November 2022 Titled EPFO Vs. Sunil Kumar pronounced on 04th November 2022- Reg.**

Reference is invited towards Para 43 and Para 44 (ii) & (iv) of the aforesaid Order dated 04th November 2022 of Hon'ble Supreme Court of India, in the above cited Civil Appeal wherein the eligible employee/ex-employee 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 judgment.

Since no format for the joint option has been provided by EPFO (also not available on EPFO's website), based on similar formats issued by various ROS in the year 2017 & 2018 while implementing the R C Gupta Judgment; in order to comply with the above requirement, we (employee/ex-employee and employer) are, hereby submitting the joint option form as required under erstwhile Para 11 (3) & Para 11 (4) of employees' Pension Scheme- 1995 for claiming pension on actual salary instead of ceiling salary limit of Rs. 15000/-.

Particulars of Ex-Employees :-

SL. NO.	PARTICULARS	DETAILS
1.	NAME / Employee Code	
2.	EPS Account Number	
3.	BCPL Unit name and address	
4.	Date of joining BCPL	
5.	EPF A/c No.	
6.	EPS Account Number of Previous Organisation (if any)	
a)	Name and Address of the Previous Organisation	
b)	Related RPF Office	
c)	Date of joining the Organisation	
d)	Date of leaving the Organisation	



7.	EPS Account Number of Previous Organisation (if any)	
a)	Name and Address of the Previous Organisation	
b)	Related RPF Office	
c)	Date of joining the Organisation	
d)	Date of leaving the Organisation	
8.	Aadhar number (attach self attested copy)	
9.	UAN	
10.	PPO number (if any) (attach self attested copy)	
11.	Date of Leaving Service or attained the age of 58 years which was earlier (if applicable)	
12.	Address for correspondence  Mobile no.  Email ID:	
13.	Name of Pension disbursing Bank and Branch.	
14.	Bank Account Number where pension is being credited with IFSC & MICR No.	

### **DECLARATION BY THE Ex- EMPLOYEE**

1. It is certified that immediately after joining BCPL, 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 Le Rs.15,000/- pm (eater Rs.5,000/ 6,500/-) out of the Employer's Contribution has been remitted by my employer every month towards EPS, 1995 since 16.11.1995 or my 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 upto 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 and/or further direction of EPFO or a competent Court of Law.
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

---

(Signature)

Place

Date:

### UNDERTAKING BY THE EMPLOYER

I, \_\_\_\_\_ (Name & Designation) being the Authorized signatory of Bengal Chemicals & Pharmaceuticals Ltd \_\_\_\_\_ (location) with Establishment PF Code Number \_\_\_\_\_ 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 attained the age of 58 years as on contributing towards Provident Fund on his 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 @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 as per erstwhile Para 16(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.

\_\_\_\_\_  
(Signature with name Designation &Office Seal)

Place:

Date: