



West Bengal State Electricity Distribution Company limited

(A Govt. of West Bengal Enterprise)

Registered Office: Vidyut Bhavan, Bidhannagar, Block-DJ, Sector-II, Kolkata-700 091

CIN: U40109WB2007SGC113473, website: www.wbsecl.in

Circular No.: 02/2023

Dated: 21-02-2023

Sub: Submission of 'Joint Option Form' under Para 11 (3) and Para 11 (4) of Employees Pension Scheme, 1995 in direction given by Hon'ble Supreme Court vide Order dated 04th November 2022 passed in SLP No. 8658-B659 of 2019 titled EPFO Vs Sunil Kumar B. & ORS. ETC.

As per Para 44 (ii) of the Order dated 04th November 2022 of the 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 22nd August 2014 shall apply to the employees of the exempted establishments in the same manner as the employees of the regular establishments. Therefore, employees of WBSEDCL are also eligible for submission of joint option form for availing pension on actual/higher salary.

EPFO had issued internal instructions in compliance of the Orders of the Hon'ble Supreme Court dated 04/11/2022 vide Circular No. Pension/2022/54877/15149 dated 29/12/2022 read with Corrigendum vide Circular No. Pension/2022/54877/15238 dated 05/01/2023, Circular No Pension/2002/55893/15785 dated 25.01.2023 and Circular No. Pension/2022/56259/16541 dated 20/02/2023

Prima facie it emerges that EPFO Circulars vide no Pension/2022/54877/15149 dated 29/12/2022 read with Corrigendum vide Circular No. Pension/2022/54877/15238 dated 05/01/2023 and Circular No Pension/2002/55893/15785 dated 25.01.2023 are addressing only those employees who have exited EPS, 1995 prior to 01/09/2014 (attained 58 years of age prior to the said date) and had exercised option for Pension on higher salary under the erstwhile Para 11(3) of the EPS 1995 and whose Application / Option was declined by EPF Authorities. As per available information, no ex-employee of WBSEB/WBSEDCL who had exited the EPS, 1995 before 01/09/2014 is covered under the provisions / conditions stipulated in the said EPFO Circulars. However, it is hereby informed that if any superannuated / retired ex-employee of WBSEDCL who are meeting the criteria specified in EPFO Circulars, if they so desire, may submit their option online in EPFO Portal as per the procedure alongwith the supporting documents as indicated at Paras 6 & 7 of the EPFO Circular dated 29/12/2022 read with Corrigendum dated 05/01/2023.

The Hon'ble Supreme Court Judgment dated 04/11/2022 also covers the employees of Exempted PF Trusts who are members of EPS and had/would attain 58 years of age on or after 01/09/2014 to exercise option for higher pension.

Further, those employees who were members prior to 01.09.2014 and continued to be a member on or after 01.09.2014 may submit joint option under para 11(3) and 11(4) as indicated at Sl. 5 of the EPFO Circulars vide no. Pension/2022/56259/16541 dated 20/02/2023.

Hence, all working/ retired/ superannuated/ resigned/VR employees of the Company who are /were members of the EPS'95 Scheme as on 01st September 2014 and are willing to exercise contribution on actual wages in pension fund under EPS'95 are hereby required to submit 'joint option form' online in EPFO Portal to get the benefit of pension on actual salary as directed by the Hon'ble Supreme Court.

Further, new employees who are not member of EPS'95 i.e. who have joined service initially on or after 01st September 2014 are not required to exercise this joint option.

The facility will be provided for which URL will be informed shortly by the EPFO Authority as indicated at Sl. 7(i) of the EPFO Circulars vide no. Pension/2022/56259/16541 dated 20/02/2023.

WBSEDCL has been contributing on higher wages 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.

On acceptance of options of the employees/ex-employees by the concerned Regional PF Commissioner, 8.33% share of employers on such higher salary along with prescribed interest will be remitted by WBSEDCL, PF Cell to the EPFO Authority.

The retired/resigned employees (after attaining 58 years of age on or after 01.09.2014) are required to return/pay back the differential amount (after adjusting the amount already transferred to the Pension fund upto the prescribed wages ceiling under the Act) from the date of joining under EPS 1995 till attaining the age of 58 years/ resignation etc with due interest to make them eligible for drawing pension on the basis of actual salary/wages in accordance with the aforesaid judgement. It is also applicable for the existing employees under EPS' 1995 who were withdrawn accumulation from employer contribution.

It may be noted that this Circular is being issued for implementation of the Hon'ble Supreme Court judgement only to adhere to the time limit and is subject to any ratification(s)/guidelines that may be issued by the EPFO from time to time and/or any judicial pronouncement/ statutory amendments. Therefore, mere submission of the Joint Option Form by employees/ex-employees does not confer any right to receive or obligation upon WBSEDCL to pay higher pension to them.


(A.K. Dutta)
Director (HR)