

EMPLOYEES' PROVIDENT FUND ORGANISATION
MINUTES OF THE 221st CBT MEETING
(DELHI, 13th April, 2018 AT 03:00 PM)

The 221st meeting of the Central Board of Trustees, Employees' Provident Fund was held under the Chairmanship of Hon'ble Shri Santosh Kumar Gangwar, Chairman, Central Board of Trustees, Employees' Provident Fund and Minister of Labour and Employment.

Following members attended the meeting:-

1.	Sh. Upendra Pratap Singh, Secretary, Ministry of Labour & Employment (additional charge).	VICE CHAIRPERSON
2.	Shri Heera Lal Samariya, Addl. Secretary, Ministry of Labour & Employment	CENTRAL GOVERNMENT REPRESENTATIVES
3.	Shri Arun Goel, Addl. Secretary & Financial Advisor, Ministry of Labour & Employment	
4.	Shri R. K. Gupta, Joint Secretary, SS-II, Ministry of Labour & Employment	
5.	Shri Bala Subrahmanyam Kamarsu	EMPLOYERS' REPRESENTATIVES
6.	Shri Ravi Wig	
7.	Shri Sushanta Sen	
8.	Shri K.V. Sekhar Raju	
9.	Shri U.D. Choubey	
10.	Shri G. P. Srivastava	
11.	Shri A.D. Nagpal	EMPLOYEES' REPRESENTATIVES
12.	Shri Sankar Saha	
13.	Shri Ashok Singh	
14.	Shri A.K. Padmanabhan	
15.	Shri Virjesh Upadhyay	
16.	Shri P.J. Banasure	
17.	Shri Ramen Pandey	
18.	Shri Ramendra Kumar	
19.	Shri M.J. Rao	
20.	Dr. G. Sanjeeva Reddy	
21.	Shri D. Lal, Addl. Secretary (Labour), Kerala.	STATE GOVERNMENT REPRESENTATIVES
22.	Shri P. Marimuthu, Addl. Labour Commissioner, Tamil Nadu.	
23.	Shri Dinesh Kumar, Deputy Labour Commissioner, Haryana.	
24.	Shri R. H. Vasava, Deputy Secretary, Labour Department, Gujarat.	
25.	Shri V. K. Singh, Asst. Labour Commissioner, Delhi.	
26.	Shri J. P. Sohal, Asst. Labour Commissioner, Punjab.	
27.	Shri R. K. Tiwari, Principal Secretary (Labour), Uttar Pradesh.	

28.	Dr. V.P. Joy, Central PF Commissioner.	MEMBER SECRETARY
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Following members could not attend and were granted leave of absence:-

1.	Director General, Labour Welfare	CENTRAL GOVERNMENT REPRESENTATIVES
2.	Joint Secretary, Ministry of Finance	
3.	Shri J.P. Chowdhary	EMPLOYERS' REPRESENTATIVES
4.	Shri Vijay Padate	
5.	Shri B. P. Pant	
6.	Dr. S. S. Patil	
7.	Principal Secretary (Labour), Andhra Pradesh	STATE GOVERNMENT REPRESENTATIVES
8.	Principal Secretary (Labour), Chhattisgarh	
9.	Principal Secretary (Labour), Madhya Pradesh	
10.	Principal Secretary (Labour), Karnataka	
11.	Principal Secretary (Labour), Himachal Pradesh	
12.	Principal Secretary (Labour), Rajasthan	
13.	Principal Secretary (Labour), Maharashtra	
14.	Principal Secretary (Labour), West Bengal	

The list of officers who attended the meeting is appended as **Annexure A** to the minutes.

CPFC welcomed all the members. The contribution of Ms. M. Sathiyavathy as Vice Chairperson, was appreciated by all the members and placed on record. CPFC welcomed Sh. Upendra Pratap Singh, Secretary, Ministry of Water Resources, who has the additional charge of Secretary, Labour & Employment. CPFC then requested the Chairman to give his inaugural remarks.

The Chairman gave an outline of the agenda items to be discussed during the meeting. He said that the main aim of today's meeting is to discuss the issues related to pension. He gave an overview of Employees' Pension Scheme and the issues related to it such as grant of minimum pension, pension on salary above the wage ceiling, restoration of commutation, etc.

The Chairman also informed the members that a decision has been taken to provide medical facility to EPS pensioners in Delhi. He then asked CPFC to take up the agenda items.

Sh. M. J. Rao raised concern that in a reply to a Parliament Question, it has been informed that for around 8 crores members, date of birth is not available. CPFC clarified that this problem is mainly because of the legacy data which was collected in paper form prior to computerisation. He said that now for new members, the Aadhar data is also being linked at the time of enrolment.

Sh. Ramen Pandey referred to item no. 17 of the 220th meeting of CBT regarding introduction of non-functional grades in respect of Lower Division Clerk (LDC), Stenographer and Upper Division Clerk (UDC) and said that the representations received in this regard from staff members of EPFO should be duly considered before taking final decision on this matter.

Sh. M. J. Rao and Sh. A. K. Padmanabhan said that important circulars should be sent by email to all CBT members. CPFC said that copies of important circulars are being circulated among CBT members on periodical basis and the same shall be ensured in future also.

Item No. 1: Confirmation of minutes of the 220th meeting of CBT, EPF held on 21.02.2018.

Sh. Virjesh Upadhyay said that the names of persons who participated in the discussion should also be recorded in the minutes.

Sh. M. J. Rao said that he had said during the discussion on item no. 15 in the 220th meeting of CBT that there should be a transfer policy for staff members also.

Sh. Ramendra Kumar said that members should communicate their objections and suggestions regarding minutes in writing and not during the meeting.

The Board confirmed the minutes of the 220th meeting of CBT.

Item No. 2: Action Taken Statement in respect of decisions taken in the CBT meetings held upto 21.02.2018 (220th CBT meeting).

Sr. no. 1 of ATR:-Constitution of Workers' Bank:

Sh. Ashok Singh said that the issue of constitution of workers' bank has been pending since many years and should be expedited as this is a beneficial measure for the workers. Sh. P. J. Banasure said that if workers' bank can not to be opened, the agenda item should be dropped or constitution of workers' bank should be expedited.

Shri R. K. Gupta, JS, MoL&E informed that a proposal is being forwarded to the Ministry of Finance to obtain their opinion on this issue.

Sr. no. 5 of ATR:-Amendments in EDLI Scheme, 1976 for introducing minimum assurance amount on death in service and loyalty cum life benefit to P F members on superannuation.:

Sh. A. K. Padmanabhan said that the decision regarding minimum assurance benefit has been taken but decision regarding loyalty cum life benefit has not been taken.

Sh. R. K. Gupta, JS, MoL&E informed that the issue of loyalty cum life benefit is being taken up with the Ministry of Law.

Sr. no. 8 of ATR Amendment in Section 2(b) of the EPF & MP Act, 1952 for definition of "wage" and corresponding amendment in other provisions of the Act and Scheme there under:-

Sh. Ramendra Kumar said that as the Sub-Committee was formed by the Central Board, the views of the Sub-Committee should not have been communicated to the Government without presenting its report before the Central Board. Sh. A. K. Padmanabhan and Sh. M. J. Rao also said that the views of the Sub-Committee should have been placed before the Central Board before sending it to the Government.

Sh. Virjesh Upadhyay said that the Board should have been informed about the circumstances under which the report of the Sub-Committee was sent to the Government before placing it before the Central Board.

Sh. R. K. Gupta, JS said that the report was urgently required to be placed before a Standing Committee of the Parliament.

CPFC said that the Central Board had authorised the Sub-Committee to communicate the views on behalf of employers and employees.

The Board noted the action taken status with these observations.

Item No. 3: Minutes of meetings of Sub-Committees of the Board- for information.

The Board took note of the information placed before it.

Item No. 4: Draft 64th Annual Report on the work and activities of the Employees' Provident Fund Organisation for the year 2016-17.

Sh. A. D. Nagpal referred to the Annual Report and expressed the following concerns:

- i. Regional Committees have not been constituted in time and representation is not given in these committees according to membership of the Unions. Further, many Regional Committees have not conducted the required two meetings during the year.
- ii. Compliance by establishments is not upto the mark.
- iii. Action should be taken against the exempted establishments which have declared rate of interest lower than the statutory limit.
- iv. Steps should be initiated to fill up vacant posts in all cadres in order to improve service delivery.
- v. The figures related to investment as given in Part B of Appendix 1 are not consistent.
- vi. Huge amount of arrears is locked up in stay cases before EPF Appellate Tribunal.

Sh. Ashok Singh said that main features of the Annual Report should be informed to the Board in a presentation as the Annual Report is voluminous and it is not feasible for all the members to go through the entire report. He also expressed concern about the increase in pendency in 7A cases, disposal of audit paragraphs, huge amount of default by exempted establishments and irregularities in declaration of interest by exempted trusts.

Dr.G. Sanjeeva Reddy expressed concern that some exempted establishments have declared lower than the statutory rate of interest. As advised, Sh. K. L. Taneja, ACC (HQ) (Exemption) clarified that in such cases action is taken against the employers for recovery of the short paid amount.

Sh. A. K. Padmanabhan and Dr.G. Sanjeeva Reddy expressed concern that Regional Committee for the state of Telangana has not yet been constituted.

Sh. P. J. Banasure said that the head for Audit section should be different from the head of Finance i.e. FA & CAO. He said that additional funds should be allotted for EPFO's foundation day celebrations. He said that certain frauds have been noticed in various offices of EPFO and enquired about the action taken in this regard. CPFC informed that special audit is being done and action is being taken on the reports of the special audit.

It was informed that certain computation errors in the table showing data related to investment have been rectified.

The Board approved the proposal as contained in the agenda.

Item No. 5: Information on Employees' Pension Scheme, 1995.

Dr. S. K. Thakur, ACC (HQ) (Pension) gave a presentation on the issues related to Employees' Pension Scheme, 1995. Through presentation the following points of the Agenda Note on this item were highlighted.

1. The Hon'ble Supreme Court in its order dated 4-10-2016 in the matter of R.C. Gupta Vs. RPFC, Shimla (SLP No. 33032-33033 of 2015) has emphasised that :-

- a) Exercise of the option under Para 26(6) of the Employees' Provident Fund Scheme, 1952 is necessary pre-cursor to the exercise of option under proviso to clause 11(3) of the Employees' Pension Scheme, 1995.
- b) The Provident Fund Commissioner is only required to do the adjustment of accounts from the PF account of the member to the Pension Fund account, both maintained by EPFO.

2. The provisions of option of contribution of provident fund on higher wage under Para 26(6) applies to the members of EPF Scheme, 1952 only. The employees of the establishments exempted from the EPF Scheme, 1952 are governed by their own PF Scheme and rules and not by EPF Scheme, 1952.

3. The financial implications on implementation of the order of the Hon'ble Supreme Court were also explained. It was explained that it would not be financially viable to provide pension to those members who have not made applicable contributions to EPFO in time.

Initiating the discussions on the agenda item after presentation Sh. Ramendra Kumar said that the agenda note highlights the reasons for not granting pension on higher wages to the employees of exempted establishments. He said that the matter of financial implication in respect of giving option to employees of exempted establishments will come later. First, the decision on this must be arrived by correctly interpreting the Hon'ble Supreme Court order.

Sh. A. D. Nagpal said that actuarial valuation report should be obtained regarding viability of Pension Fund consequent to implementation of decision on grant of pension on higher wages.

Dr. G. Sanjeeva Reddy said that it is the interpretation of EPFO that the judgement of the Hon'ble Supreme Court does not apply to exempted establishments. He said that the judgement should be implemented by keeping in view the objective of providing reasonable level of social security to all employees with special attention on the viability of the Pension Fund.

Sh. Ashok Singh said that the representation of the employees of exempted establishments for including them also within the ambit of the directions of the Supreme Court may be examined. The matter is already sub-judice in the Hon'ble Supreme Court.

Sh. Virjesh Upadhyay said that the confusion exists on the issue of pension on higher wages among the employees and also among the CBT members. He further mentioned that in the cases in which SLP have been dismissed by the Hon'ble Supreme Court few exempted establishments were also involved in those petitions. If the benefit has been given to the employees of some of the exempted establishments, the matter needs to be examined as to

how some employees of exempted establishments have been given the benefit of pension on higher wage.

It was clarified to the members of the Committee on this observation that the cases which were involved in the Writ Petitions and the SLPs belonging to exempted establishments are factually different than rest of the exempted establishments as already explained in the agenda note. In those cases the establishments had already deposited the pension contribution on higher wage to the Pension Fund and the concerned offices had returned additional amount to the PF Trust on the ground of the instructions issued vide HO letter dated 1-12-2014.

Sh. Sankar Saha said that it may be examined if there is differentiation between exempted and un-exempted establishment employees in the judgement of the Hon'ble Supreme Court. He further said that pension on higher wage may be examined from this angle provided the employees of exempted establishments have also contributed to EPFO in the same way as those of un-exempted establishments.

Sh. M. J. Rao said that whether the benefit of the judgement of the Hon'ble Supreme Court should have been provided to the employees of the exempted establishments also may be re-examined.

Sh. P.J. Banasure said that the provisions of Para 26(6) applies to employees of exempted establishments also and if it is correct, they may be given benefit of pension as per Hon'ble Supreme Court directions.

It was clarified by CPFC that the provisions of Para 26(6) of the EPF Scheme, 1952 are applicable to the members of the Fund under EPF, Scheme, 1952 only and not to the employees of exempted establishments, who are governed by their own PF Scheme and rules.

Sh. A. K. Padmanabhan said that CBT members should have been taken into confidence in the matter. He said that employees of exempted and unexempted establishments may be treated equally in the matter of grant of pension on higher wages provided they have contributed to EPFO identically. He also said that the financial implications of restoration of commuted pension should be considered and accordingly a decision taken on restoration of commuted pension.

Sh. Ramen Pandey said that if an eligible employee deposits the contribution as per directions of Hon'ble Supreme Court, pension on higher wages may be granted to him.

Sh. Sushanta Sen said that grant of pension is a welfare measure. He said that according to the Hon'ble Supreme Court judgement there is no distinction between employees of exempted and unexempted establishments, if they made similar contribution to EPFO. He requested that the benefit of pension on higher wages may be examined for employees of exempted establishments also, provided timely contribution have been received in EPFO.

Sh. U. D. Choubey said that the financial condition of public sector employees is not very good and there are high expectations on this issue among the employees of public sector who are in exempted sector. He said that a decision should be taken without discrimination for all employees who have contributed to EPFO.

Shri Bala Subrahmanyam Kamarsu said that only one interpretation of the judgement of the Hon'ble Supreme Court has been presented before the Board. The other point of view should also be presented and the matter can be further discussed in the next meeting of CBT.

Sh. G. P. Srivastava said that a basic principle is that employees of exempted establishments may not be put to disadvantage, if they have made contributions. He said that the matter can be further discussed in the next meeting of the Board.

Shri Heera Lal Samariya, Addl. Secretary, MoL&E intervened and informed that a High Empowered Monitoring Committee has been constituted by the Minister of Labour & Employment, Govt. Of India for complete evaluation and review of the Employees Pension Scheme, 1995. The Committee will look into this aspect also. Further process of appointment of Actuary is in progress and on his appointment the Actuary will be entrusted to look into the issues raised on the Pension Scheme. He further said that the Committee will submit its report with a view to ensure that the objective of providing social security to the employees is met and it may also consider framing of new Scheme on the lines of New Pension Scheme (NPS) so that new Pension accounts of members are maintained separately and there is no cross subsidisation of the rich by the poor.

CPFC said that status note has been submitted before the CBT as Agenda item and through summary presentation. While deciding on whether to pay pension on higher wages, it should be kept in mind that the members of CBT are trustees of the Pension Fund and any decision taken by the Board should not make the Fund unviable and thereby put in danger the pensionary benefits guaranteed by the Scheme to employees to whom benefit is due in accordance with provisions of the Scheme. Pension fund will not be viable, if pension is paid to those from whom timely contributions have not been received. Holistic approach for the welfare of the members vis a vis the sustainability of the Fund and inter-category equity should be our paramount concern.

Hon'ble Minister of Labour and Employment and Chairman, Central Board of Trustees, summarising the discussions on this agenda item thanked all the members for contributing in the discussion with a view to secure the interests of the employees. He said that we should wait for the decision of the Hon'ble Supreme Court where petitions have been filed on the subject matter and on receipt of final decision of the Hon'ble Supreme Court, a meeting of the CBT will be convened as soon as possible to discuss the order of the Hon'ble Supreme Court. He said that the members of the Board may communicate their views if any in this regard.

Item No. 6: Modifications to the Accounting Policy for ETFs (equity and related instruments) for EPF Scheme.

The Board approved the proposal as contained in the agenda.

Item No. 7: Status note on Investment in Exchange Traded Fund (ETF) by EPFO.

The Board took note of the information placed before it.

Item No. 8: Appointment of a Consultant for Selection of Portfolio Manager, Custodian, Concurrent Auditor and Performance Evaluation of Portfolio Managers & Custodian.

The Board approved the proposal as contained in the agenda.

The Chairman thanked all the members for their contribution by active participation and discussion on all the issues. The meeting ended with vote of thanks to the Chair.

List of officers who attended the 221st meeting of Central Board (EPF) on 13-4-2018

Sl No.	Name	Designation
1.	Sh. S. K. Lohani	ACC, HQ
2.	Sh. Hemant Jain	FA & CAO
3.	Dr. S.K. Thakur	ACC(HQ)
4.	Sh. K.L. Taneja	ACC (HQ)
5.	Sh. K.L. Goyal	ACC (HQ)
6.	Sh. Chandramouli Chakraborty	ACC (HRM & PFD)
7.	Ms. Uditia Choudhary	ACC (Finance)
8.	Ms. Anita Sinha Dixit	ACC (Publicity)
9.	Sh. R. M. Verma	ACC (Pension)
10.	Sh. Samarendra Kumar	RPFC-I (HRD)
11.	Sh. Mukesh Kumar	RPFC-I (NDC)
12.	Sh. Sunil Yadav	RPFC-I (IMC)
13.	Sh. Amiya Kant	RPFC-I (Conference)
14.	Sh. Amul Raj	RPFC-I (Investment)
15.	Sh. Ajay Kumar	RPFC-I(Investment)
16.	Sh. Alok Kumar	APFC (Publicity)
17.	Sh. Ankur Gupta	APFC
18.	Sh. H. P. S. Gusain	SO(MIS)
19.	Sh. Kewal Kishan	SO(Conference)
20.	Sh. Shyam Lal	SO(MIS)