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कर्मचारी भविष्य निधि संगठन

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)

Employees' Provident Fund Organisation

(Ministry of Labour & Employment, Govt. Of India)

मुख्य कार्यालय/ Head Office

भविष्य निधि भवन, 14-भीकाजी कामा प्लेस, नई दिल्ली-110066

Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066

Website: www.epfindia.gov.in



No. Pension 3(2)2006/Para 9&10(i)

22303 Through - web Administrator
MAC

Dated: 23 OCT 2012

To,

All Regional P.F. Commissioners Incharge of Regions
All Officers-In-Charge of Sub Regional Offices

Sub: Implementation of Para10(2) of EPS, 1995- Criteria for deciding eligibility.

Sir,

Now a days a number of representations are being received from Employees' Pension Scheme members/Pensioners, demanding 2 years bonus on the basis of 'eligible service' i.e. "past Service + Pensionable Service"/Actual Service).

While some of the offices have been successfully convincing such Employees Pension Scheme members/ pensioners about the facts that 2 years bonus is admissible only in case of completion of 20 years of pensionable service i.e. contributory service under Employees Pension Scheme 1995, others offices at times have not defended the scheme provision with full justification .

Accordingly, it is requested that such representation shall be disposed off appropriately at your level as follows –

- (1) 2 years weightage will be admissible only after completion of 58 years and 20 years pensionable service under Employees Pension Scheme 1995 i.e.weightage is due, to be given only in the year 2015 (November) onwards in such cases.
- (2) As past service is not pensionable service, therefore, unless one has completed 20 years pensionable service 2 years bonus cannot be given.
- (3) 'Past service' i.e. contributory service under EFPS 71 prior to 16-11-95, when contribution rate was only 1.16% +1.16%+1.16% is totally different than 'Pensionable Service' i.e. contributory service under EPS 95 after 16-11-95 when contribution rate is 8.33% + 1.16%. As benefits cannot be same for different contributory rates, therefore the provisions of EPS 95 specifically provide different benefits for past service and pensionable service

Contd...

- (4) The 'Past service' and 'Actual service' is added only to decide eligibility for pension and EPS 95 explicitly provides for the same.

The above guidelines shall be used suitably & selectively depending upon the exact representation made by the EPS member / pensioner.

Important

Further, please also find enclosed copy of a reply written by RPFC, Chikmagalur in respect of one such representation. The copy of order of the DCDRF, Chikmagalur is also enclosed which may please be used in such cases.

(This issues with the approval of ACC (Pension))

Encl.: As above

Yours faithfully,



(JAGMOHAN)

REGIONAL P.F. COMMISIONER-I (PENSION)

Copy to:

1. PS to CPFC
2. FA & CAO.
3. CVO
4. All Addl. CPFCs Zones/Head Office
5. Director (NATRSS)
6. Director/Deputy Director (Audit)
7. All Zonal Training Institutes
8. All Zonal Audit Offices
9. RPFC-II (IS) – With request to web cast the above circular
10. All Officers of Head Office

Complaint filed on: 05.07.2011

Disposed on: 15.03.2012

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
FORUM, AT CHIKMAGALUR.**

**Consumer Case Nos. 221 to 244/2011, 274/2011, 293 to 300,
309 to 311, 318 to 321/2011.**

Dated on this the 15th day of March – 2012

PRESENT:

SRI RAVISHANKAR, B.A.L, LL.B.,PRESIDENT
SMT. K.K. PUSHPALATHA, B.A., LL.B.,F.MEMBER
SRI. H.S. RUDRAPPA, M.A., LL.B.,MEMBER

COMPLAINT NO: 221/2011

COMPLAINANT:

Sri. Raju.
R/o Kannika Nilaya
3rd main, 4th cross, shanthi nagar,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
Commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 222/2011

COMPLAINANT:

Sri. B.N. Shivaraj, S/o.
S/o. B. Y. nanjappa,
4th cross, Hemavathi nagar,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
Commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 223/2011

COMPLAINANT:

Sri. K. Parameshwar, No.6009,
Jyothi Krupa,
Laxmipuram, 1st main,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.



4
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V/s

OPPONENTS

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V/s

OPPONENTS

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Sri. K.Parameshwar. No.6009,
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Hassan-573201.

V/s

OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.



COMPLAINT NO: 224/2011**COMPLAINANT:**

Sri.Ameer Jan. C/o.
Abdul Razak,
Behind Raja RAjeshwari Factory,
Saleem Nagar. Chippinkatte,

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 225/2011**COMPLAINANT:**

Sri. Beluregowda,C/o.
Channegowda,
Channapattana,
Holenarasipura Road,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 226/2011**COMPLAINANT:**

Sri.K.V.Surendra,
Shabari Nilaya,
H.No.C-73, 5th cross,
Vallabai Road.
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 227/2011**COMPLAINANT:**

Sri. H.G.Raju, H.No.5805,
PWD colony,
Behind college Road,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 228/2011**COMPLAINANT:**

Sri. Ramaiah,
1st main, vallabhai Road,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 274/2011**COMPLAINANT:**

Sri. B.N.Shivaraj,
S/O.B.Y.nanjappa, Hassan.



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COMPLAINT NO: 229/2011**COMPLAINANT:**

Sri.H.Ahmed Sharif,
Adarshnagar, II cross,
Sharif Manzil,adli mane road,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 230/2011**COMPLAINANT:**

Sri. P.Chandrashekar,
3rd main, 8th cross,
Shantinagar, Hassan.
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 231/2011**COMPLAINANT:**

Sri..A.Devarajegowda,
H.No.1284/2,
R.C.Road.
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 232/2011**COMPLAINANT:**

Sri. R.Range Gowda,
Wahyadri Theatre,
4th cross, D.No.1613/2
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 233/2011**COMPLAINANT:**

Sri. M.Noorkhan,
D.No.41, 11th cross,
Kubempu Nagar,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

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COMPLAINT NO: 234/2011**COMPLAINANT:**

Sri. Somashekhar Chary,
H.No.853, Range Gowda,
Kaliveera vasathigruh
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 235/2011**COMPLAINANT:**

Sri. Shri.Ravi,
Dodde,Mandiganahalli,
Koudali post,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 236/2011**COMPLAINANT:**

Sri. Rangaiyah,
S/o. late Channaiya,
K.Hasakoppalu,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 237/2011**COMPLAINANT:**

Sri. Syed Muneer Ahamed,
C/o. Suresh Rootonga,
H.No.7279, Geetha Nilaya,
Hassan-573201

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 238/2011**COMPLAINANT:**

Sri. H.S.Shikantaiah,
H.No.362, Kalakunhya, 10th
Cross, Kuvempu Nagar,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

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COMPLAINT NO: 239/2011

COMPLAINANT:
Sri. Nanjunda Shetty,
MpEW-12, N-373, 2nd main,
8th cross, Hemavathi nagar,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 240/2011

COMPLAINANT:
Sri. H.G.Range Gowda,
Uluvare, Masale Hosahalli
Post, Shanthinagar,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 241/2011

COMPLAINANT:
Sri. Abdul Mukheed Khan,
Nea, Alkbeer Medicals,
Hassan.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 242/2011

COMPLAINANT:
Sri. Syed Yasin,
Edge Badavane,
Chikkanal,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 243/2011

COMPLAINANT:
Sri. H.N.Ramesh, S/o.
H.N.Nagappa, D.No.1501,
Annapurneshwari nilaya,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

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COMPLAINT NO: 244/2011**COMPLAINANT:**

Sri. C.Vijakanatha,
N.R.pura Road,
Christian colony,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 293/2011**COMPLAINANT:**

Sri.H.B.Krishnamurthy,
E.W.S.453, 12th cross,
Kuvempu nagar,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 294/2011**COMPLAINANT:**

Sri. K.A.AbdulKhaleel,
S/o.Abdul Khadar,
Behind shashi masjid,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 295/2011**COMPLAINANT:**

Sri.S.N.Keshavamurthy,
So. N.R.Narashihnamurthy,
k.R.Puram.
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 296/2011**COMPLAINANT:**

Sri. M.S.Basave Gowda,
S/o.Siddappa,
Muddanahalli,
Hassan-573201.

V/s OPPONENTS
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

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COMPLAINT NO: 297/2011**COMPLAINANT:**

Sri. Puttaraju,
Jyothi Krupa,
Laxmipuram, 1st main,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 298/2011**COMPLAINANT:**

Sri.Syed Jaffar Hussain,
S/o.Syed Mukhakram,
RAjshree Match factory,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 299/2011**COMPLAINANT:**

Sri. K.U.Krshavamurthy,
Lakshmi Venkateshwara krupa,
1stmain, Shanthi Naga
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 3002011**COMPLAINANT:**

Sri. B.C.Channappa,
S/o. B.T.Chaluvaiah,
Near Aralikatte circle,
Hassan-573201.

V/s OPPONENTS


The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 309/2011**COMPLAINANT:**

Sri. C.V.Palakshayaiah,
S/o. C.Venkataramanappa shetty,
D.No.3813,
Hassan-573201.

V/s OPPONENTS

The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.


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COMPLAINT NO: 310/2011**COMPLAINANT:**

Sri. B.K.Venkateshaiah,
R/o. Rajappa compound,
KoteAgrahara Circle,
Chikmagalur District.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 311/2011**COMPLAINANT:**

Sri. D.Basavaraju,
Doddananjappa,
Channarayapattana,
Chikmagalur District.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 318/2011**COMPLAINANT:**

Sri. Ramachandra Rao,
H.Y.Rudraji road,
1499,
Hassan.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 319/2011**COMPLAINANT:**

Sri. Raghupathi Gowda,
Anne Gowda,
Dasarakoppalu,
Hassan.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 320/2011**COMPLAINANT:**

Sri. B.Satheesh Babu, S/o.
Bechalappa, B.D.M.
Building 2nd cross,
Hassan.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

COMPLAINT NO: 321/2011**COMPLAINANT:**

Sri. Anne Gowda, S/o.
Kalase gowda,
Salagame Road,
Hassan.

V/s **OPPONENTS**
The Regional Provident Fund
commissioner, IV, Yashoram
Chambers, Ratnagiri Road,
Chikmagalur District.

(By Smt. Geetha Bai, Adv.)

(By Sri.V.T.Thomas, Adv.)

Geetha Bai
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Complaint No: 221/2011 to 244/2011 are clubbed together for the purpose of common order:

Written by the President:

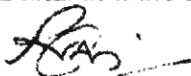
- ::: COMMON ORDER ::: -

1. The above complaints are clubbed together for the purpose of common order and the complainants have filed these complaints u/s 12 of the Consumer Protection Act, 1986 alleging deficiency of service against the opponent in not settling the pension in accordance with Para 12(4)(a) & (b) read with para 10 (2) of the Employee's Pension Scheme 1995. Hence prays for direction against opponent to refix the pension in accordance with para 12(4)(a) Employees Pension Scheme and to pay a difference amount till disposal along with 18 % interest and compensation of Rs.10,000-00 for deficiency in service.

2. The brief facts of the complaints is that:

3. They are the "workmen" of KSRTC, Hassan Division, and enrolled to the membership of the Employees Provident Fund Scheme 1952 and allotted code Number to the complainants. The Government of India formulated the Employees Family Pension Scheme, 1971 which came into force from 01-03-1971 and complainants had contributed to the said Employees Family Pension Schemes since from their membership to Employees Family Scheme 1971. And they have contributed to the Employees Pension fund as per the Para 9 of the said scheme. Subsequently, the Government of India again formulated the Employees pension Scheme 1995 on 16-11-1995 which came into force with effect from 01-04-1993. The said scheme has been opted by the complainants from the date of its inception. The contribution made by complainants towards Employees Family Pension Scheme 1971 was transferred to the Employees Pension Scheme 1995.

4. The complainants have attained 58 years for retirement from their service. And they have rendered 20 to 24 years of past service prior to 15-11-1995 as defined under Para 2(12) of the Scheme. Thus the complainants have rendered a total of more than 30 years of service and complainants are entitled


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for a pension which is required to be calculated as per para 12(4) read with para 10(2) of the Pension Employees Scheme 1995.

Para 10(2) reads as under:-

Determination of pensionable service -

- 1) The pensionable service of the member shall be determined with reference to the contributions (received or receivable) on his behalf in the Employees' Pension Fund.
- 2) In the case of the member who superannuates on attaining the age of 58 years, and/or who has rendered 20 years pensionable service or more, his pensionable service shall be increased by adding a weight age of 2 years.
5. Whereas the opposite party has not sanctioned the pension as per para 12(4) a & b of the Employees pension Scheme 1995.

Para 12(4) reads as under:-

In the case of an employee (who was a member of the ceased Family pension Scheme, 1971) and has attained the age of 48 years but less than 53 years on 16-11-1995 the superannuation/retirement pension shall be equal to the aggregate of:

- a) Pension as determined under sub-paragraph (2) for the period of service rendered from the 16th November, 1995 or Rs.438/- per month whichever is more.
- b) Past service benefit as provide in sub-Para (3) subject to a minimum of Rs.600/- per month provided the past service is 24 years.

5. Thus the opponent without considering the statutory provisions of para 12(4) read with 10(2) of the Employees Pension Scheme 1995 wrongly calculated the pension of complainants which amounts to negligence in interpreting the provisions of law resulting into a substantial financial loss to the complainants. This act of the opponent amounts to 'deficiency in service'. The complainants have issued a legal notice through their advocate for not sanctioning the monthly pension as stated above and called upon the opponent to reconsider the service particulars of the complainants and to refix the

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pension eligible to the complainants and to pay the difference amounts of pension along with interest at the rate of 18%. The opponent instead of refixing the pension has replied vaguely without admitting the facts. Thus there is a deficiency in service on the part of opponent in not applying the respective provisions of Para 10(2) and Para 12(4) of Employees pension Scheme 1995 in calculating the pension of the complainants. Hence prays for the pension after refixation along with payment of deference amount of pension with compensation for deficiency in service as prayed above.

6. After service of notice opponent appeared through his counsel and filed version and contended that, the complainants have misinterpreted the provisions of the scheme and filed the present case for personal gain. The Family Pension Scheme 1971 (old scheme) where the Employer used to contribute 1.16% and Employee used to contribute 1.16% of his salary. The old scheme ceased to exist and Employees Pension Scheme 1995 (hereinafter called New Scheme) has come into force with effect from 16.11.1995. The benefit as arrived above being added with Formula Pension as defined in Para 12(2) of New Pension Scheme. The sum total of both the benefits is being payable subject to minimum pension as per Para 12(3), 12(4) and 12(5) of the New Scheme.

7. The intention of the legislature for providing a minimum pension was to protect the quantum of benefits of all those employees who were members of Old Pension Scheme and later joined New pension Scheme. In the present case, the complainants have misinterpreted the rule provision by applying minimum pension to the past service benefit as defined above. This misinterpretation has occurred as the past service benefit and minimum pension has been written in the same Para 12(3), 12(4) and 12(5) of New Scheme.

8. Similar confusion has arrived at various parts of the country before various Judicial and Quasi Judicial Authorities. Therefore, the Scheme provision has been amended vide GSRNo.431(E)dated 15th June 2007 where it is clearly mentioned that this provision is deemed to have come into effect from the

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date from which Employees' Pension Scheme 1995 came into force i.e. 16.11.1995 where it is clearly mentioned as follows:-

Para 12(4):- In the case of an existing member and in respect of whom the date of commencement of pension is between the 16th November, 2000 and the 16th November, 2005.

i) Superannuation or early pension shall be equal to the aggregate of:-

a) Pension as determined under sub-paragraph (2) for the period of service rendered from the 16th November, 1995 or R.438/- per month whichever is more:

b) Past service pension as provided in sub-paragraph (3).

ii) The aggregate of (a) and (b) calculated as above shall be subject to minimum of Rs.600/- per month, provided the eligible service is 24 years, provided further, if it is less than 24 years, the pension shall be proportionately less subject to the minimum of Rs.325/- per month.

9. Therefore, in the present case, the complainants have no locus stadi for demanding the pension payable by applying minimum pension to past service benefit, and hence, the complainants are not entitled for any benefit as claimed.

10. Para 2(v) of New Scheme is read as below:-

Pensionable service means the service rendered by the member for which contribution has been received or are receivable.

11. In the above Para the contribution means, contribution payable under Section 6 and 6A of Employees provident Funds and Miscellaneous Provisions Act 1952 (EPF & MP Act 1952) and has been fixed @ Eight and one Third percent of basic wage and dearness allowances and retaining allowances. Therefore, the definition of contribution cannot be stretched to include the old pension scheme.

12. The definition of Pensionable service is distinct from the definition of past service which reads as follows,

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Para 2(xii): 'past service' means the period of service rendered by an existing member from the date of joining Employees Family Pension Fund till the 15th November, 1995.

It is amply clear that pensionable Service starts from 16.11.1995 only and not prior to that since service prior to 16.11.1995 denotes Past Service.

13. Therefore, it is amply clear that contribution at eight and one third percent can be received or receivable only from 16.11.1995 i.e from the date on which the new pension Scheme has come into effect but not from 1971. i.e when the old Pension Scheme was started. Therefore, the pensionable service means service rendered on or after 16.11.1995. This fact has also been reiterated in Para 10(1) of New pension Scheme which reads as follows;

14. Determination of pensionable service:

i)The pensionable service of the member shall be determined with reference to the contribution (receive or receivable) on his behalf in the employees pension fund.

ii) in the case of the member who superannuates on attaining age of 58 years and for who rendered 20 years pensionable service or more his pensionable service shall be increase by adding weightage of 2 years.

15. Hence the complainants are not entitled for the claim as claimed in their complaints. Opponent further contended that the complainants have erred to read Para 10(2) of the new scheme in isolation with Para mentioned above. When the pensionable service rendered on or after 16.11.1995 the benefit of adding 2 years weightage cannot be considered in this complaint. In the present case the complainants are seeking relief by adding services rendered in old scheme and new scheme together which they refers to be pensionable service. The assumption arrived by the complainants is totally contrary to the law and intension of the legislature. The pensionable service can only be referred to the service rendered in new pension scheme and the weightage of 2 years can be given only after putting 20 years of pensionable service. And

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the first eligible person who will be eligible for this benefit will be from 16.11.2015. Therefore the complainants were already got retired from their service. Therefore the assumption of the complainants in this regard is totally misunderstanding of the new scheme provisions. And there is no deficiency in service on their part. And prays for dismissal of the complaints.

16. The complainants have filed their affidavits in their respective complaints and marked documents as, in complaint Nos.221/11, Ex.P-1 to Exp-8. In CC.No:222/2011 to 244/2011 Exp-1 to Exp-28, in CC.No: 274/2011 , Exp-1 and Exp-2, in CC.No: 293/2011 to 300/2011 Exp-1 to Exp-11, in CC.No: 309/2011 to 311/2011 Exp-12 to Exp-14, in CC.No: 318/2011 to 321/2011 Exp-15 to Exp-18. OP also filed affidavit and filed memo with documents for perusal of this forum.

17. Heard the arguments.

18. In the proceedings, the following points do arise for our consideration and decision:

- i) Whether there is any deficiency in service on the part of the opponents?
- ii) Whether the complainants are entitled to get any relief as sought in complaints?
- iii) What Order?

19. Our findings on the above points are as follows:-

- i) Point No.1: Negative
- ii) Point No.2: Negative
- iii) Point No.3: Point No.3: as per the order below:

- :: **REASONS** :: -

20. There is no dispute that all the complainants are the members of the family pension scheme 1971 who became member of old scheme 1952. Subsequently continued to be the members of the New Employee's Pension Scheme 1995. They made contribution since from 1971 and continued to contribute to the New Scheme. There is also no dispute that complainants are

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eligible members to get the pension as per New Employees Pension Scheme 1995. The only dispute raised by complainants is that the opponent is not fixed the pension of the complainants as per the provisions of the para 12(4)(a) (b) of the New Scheme and alleges that opponent has misinterpreted the provisions of New Scheme in fixing the pension of the complainants and also alleges that opponent has not given the 2 years weightage as the complainants have completed 20 to 25 years past service.

21. The learned advocate for complainants vehemently argued that complainants are entitled to get pension required to be calculated as per Para 12(3)(4)(5) (a) & (b) of the New Scheme such as

Pensionable salary x pensionable service = monthly member's pension

70

with addition to past service benefit as per Para 12(5)(b) and submitted a chart to show each complainant is entitled for pension and also submitted that opponent not considered the applicability of Para 10(2) of the New Scheme, but on contrary opponent has taken a contention that complainants have misunderstood the New Scheme provisions and misinterpreted. Opponent says that the New Scheme came into force from 16.11.1995. All the members were brought into preview of New Scheme and all members of the old scheme are compensated by providing past service benefit by arriving multiplying the slab as shown in Para 12(3) by factor in table B of the New Scheme the said benefit is added with formula as shown in Para 12(2) of New Scheme and submits that the sum total of both benefits are payable subject to minimum pension as per Para 12(3)(4) and (5) of the New Scheme and further submits that the complainants have misinterpreted the provisions and got confused with past service benefit and minimum pension. They have fixed the pension of the court as per the New Scheme.

22. We have perused the documents submitted by both complainants and opponent and we perused the provisions of the New Scheme the relevant provisions are required to be mentioned with for clarification.

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2(i) speaks about actual service:- It means the aggregate of periods of service rendered from 16th November 1995 or from the date of joining any establishment whichever is later to the date of exit.

(ii) Past service:- It means the period of service rendered by an existing member from the date of joining employees family pension fund till 15th November 1995.

23. We also perused the explanation to pensionable service which speaks that it is a service rendered by the member for which contribution has been received or receivable. This goes to give a meaning that the pensionable service has not included the past service. The new scheme has provided past service benefit as shown in para 12(3)(4) & (5) of the New scheme it reads as follows.

12(3) In the case of an existing member in respect of whom the date of commencement of pension is after the 16th November, 2005,-

i) *superannuation or early pension shall be equal to the aggregate of*

a) *Pension as determined under sub-paragraph (2) for the period of pensionable service rendered from the 16th November 1995 or Rs.635/- per month whichever is more.*

b) *past service pension shall be as given below:-*

The past service pension payable on completion of 58 years of age on the 16th November, 1995.

| Year of past service | Salary upto Rs.2500/- p.m. | Salary more than Rs.2500/- p.m. |
|---|----------------------------|---------------------------------|
| upto 11 years | 80 | 85 |
| More than 11 years but upto 15 years | 95 | 105 |
| More than 15 years but less than 20 years | 120 | 135 |
| Beyond 20 years | 150 | 170 |

The amount under Column (2) or (3) above, as the case may be, shall be multiplied by the factor given in Table 'B' corresponding to the

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period between the 16th November, 1995 and the date of exit to arrive at past service pension payable.

- ii) *The aggregate of (a) and (b) calculated as above shall be subject to a minimum of Rs.800/- per month, provided the eligible service is 24 years. Provided further, if it is less than 24 years, the pension as computed above shall be reduced proportionately subject to a minimum of Rs. 450/- per month.*

4. In the case of an existing member and in respect of whom the date of commencement of pension is between the 16th November, 2000 and the 16th November, 2005,-

i) *superannuation or early pension shall be equal to the aggregate of:-*

a) *pension as determined under sub-paragraph (2) for the period of service rendered from the 16th November, 1995 or Rs.438/- per month whichever is more:*

b) *past service pension as provided in sub-paragraph(3)*

ii) *The aggregate of (a) and (b) calculated as above shall be subject to a minimum of Rs.600/- per month, provided the eligible service is 24 years. Provided further, if it is less than 24 years, the pension shall be proportionately less subject to the minimum of Rs.325/- per month.*

5. In the case of an existing member and in respect of whom the date of commencement of pension is before the 16th November, 2000,

i) *The superannuation or early pension shall be equal to the aggregate of:-*

a) *pension of determined under sub-paragraph (2) for the period of service rendered from the 16th November, 1995 or Rs.335/- per month whichever is more:*

b) *past service pension as provided in sub-paragraph(3)*

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service is 24 years. Provided further, if it is less than 24 years the pension shall be proportionately lesser but subject to the minimum of Rs. 265/- per month.

23. Thus on going through the provisions of the paras it is clear that the complainants have got the past service benefits by way of minimum pension to be payable. In this regard the Government of India has given clarification regarding the amendment G.S.R No.431(e) dated 15.06.2007 that the provisions is deemed to have come into effect from the date which E.P.S. 1995 came in to effect i.e 16.11.1995. Therefore it is clear the complainants have confused regarding past service benefit and minimum pension payable as per para 12(3)(4) & (5) and we are of the opinion that complainants themselves have wrongly interpreted the provision of the para 12(3)(4) & (5) of the New Scheme and not by opponent. Opponent has implemented the provisions as per the clarification given by Government as such we found no deficiency in service on the part of opponent.

24. Another aspect the learned advocate for complainants emphasized is that all the complainants have completed 20 to 24 years past service and they are entitled to get benefit of 2 years weightage as per para 10(2) of the New Scheme 1995 which reads as follows:-

Determination of pensionable service: 10(2)(2): In the case of the member who superannuates on attaining the age of 58 years, and who has rendered 20 years pensionable service or more, his pensionable service shall be increased by adding a weightage of 2 years.

25. Therefore when the pensionable service is the service rendered by employee from the date on which the New Scheme came into effect i.e on 16.11.1995 onwards. As such none of the complainants are entitled to get the benefit of 2 years weightage according to Para 10(2) of the New Scheme one who superannuates attaining age of 58 years or who rendered 20 years of pensionable service from the date of 16.11.1995 shall be increased by adding 2 years weightage i.e the benefit shall be payable only after 16.11.2015 after completion 20 years of service from 16.11.1995. therefore in this regard also

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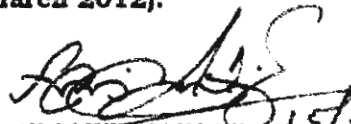


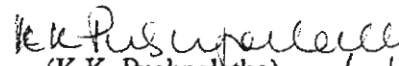
~~15/3/12~~ ~~Therefore in this regard also~~ we found no deficiency in service on the part of opponent as such we are of the opinion that the complainants have failed to understand the provisions of the New Scheme and also failed to establish a deficiency in service on the part of opponent. As such complainants are liable to be dismissed for the above said reasons. We answer point No1 & 2 in Negative.

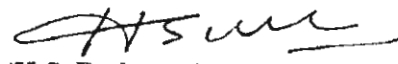
---:ORDER:---

1. The complaints are filed by the complainants against the opponent is hereby dismissed.
2. Having regard to the facts and circumstances of the case there is no order as to costs.
3. Send the copies of this Order to the parties.

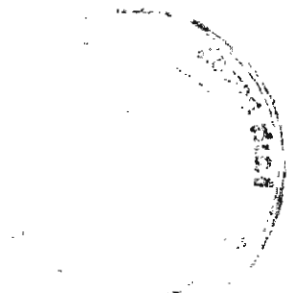
(Dictated to the Stenographer transcribed typed by her, transcript corrected by us and then pronounced in Open Court on this the 15th day of March 2012).

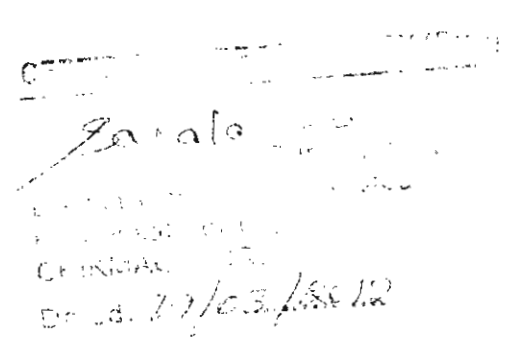

(RAVISHANKAR) 15/3/2012
President.


(K.K. Pushpalatha) 15/3/2012
F. Member.


(H.S. Rudrappa) 15/3/12
Member.

(SMB)





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कर्मचारी भविष्य निधि संगठन

EMPLOYEES' PROVIDENT FUND ORGANISATION

श्रम मंत्रालय, भारत सरकार (Govt. of India, Ministry of Labour)

उप क्षेत्रीय कार्यालय/SUB-REGIONAL OFFICE

आर. जी. रोड, चिकमगलूर R.G Road, Chikmagalur - 577 101

No.KN/CKR/SRO/Legal / 146 /2011-12

Dt. 18/05/2012

Sub: Enhancement of monthly pension under EPS 95-Reg.**Ref:** Your representation to this office.

Madam/Sir,

Please refer to the your representation for granting enhanced pension under Para 10(2) of Employees' Pension Scheme 1995, where you have referred the judgement of National Commission order in Revision Petition 3970/2009 and its subsequent judgement by Supreme Court in Civil Appeal No. 30844/2010. The Supreme Court has ordered as follows:

"The Special Leave Petition is dismissed leaving the question of law open to be decided in an appropriate case"

Therefore, it is very clear that the order of National Commission is applicable only for Sri.Mallikarjuna Devendrappa Veerapur and not for all EPF pensioners in the country. Had the intention of Supreme Court would have been to allow the benefit to all EPF pensioners then the Supreme Court would never have ordered "question of law open to be decided in appropriate case".

While passing the order by National Commission, there was an error of judgement while interpreting the various provisions of Employees Pension Scheme 1995. While interpreting Para 10(2) of Employees Pension Scheme the Commission has wrongly interpreted the word received or are receivable(which has been brought by amendment vide GSR 134 dated 28.02.1996 w.e.f 16.03.1996). By the same GSR No. 134 Para 16A has been inserted for guaranting the pensionary benefits. The meaning of the word received or are receivable is only to safeguard the interest of EPF pensioners against the defaulting employer. The word received or are receivable can never be interpreted as the transfer of net assets of ceased Family Pension Scheme 1971 into the new Employees' Pension Scheme 1995.

In the present case, the National Commission Order has become redundant on pronouncement of judgement by Supreme Court of India while disposing Civil Appeal No. 30844/2010. The matter can only be examined afresh by any consumer Forum or any other judicial bodies. The same question has arised before the Consumer Dispute Redressal Forum, Chikmagalur while dealing with CC No.221/2011 to 244/2011, where above mentioned issues has been discussed elaborately. While disposing of the matter, the Forum has ordered that the weightage of additional 2 years as mentioned in Para 10(2) cannot be claimed while clubbing the past service in the pensionable service.

Therefore, it is informed that you are not entitled for any further benefit . For any further clarification you may approach the undersigned on any working day.

Yours faithfully,

Sd/-

(GANESH KUMAR)

Regional P.F.Commissioner-II

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