



**GAIL (INDIA) LIMITED  
CORPORATE HR DEPARTMENT  
NEW DELHI**

**Circular**

No. GAIL/CO/HR/LLCC/EPS-1995/2023

Date: 14.01.2023

**Subject: Hon'ble Supreme Court Judgment dated 04.11.2022 on EPS-1995**

1.0 This has reference to the judgment dated 04.11.2022 of Hon'ble Supreme Court in Civil Appeal Nos. 008143-008144 of 2022 arising out of Special Leave Petition (C) Nos. 8658-8659 of 2019 in the matter of Employees' Provident Fund Organization & Anr. Vs. Sunil Kumar B. & Ors. The gist of the judgment was communicated to all employees vide Corporate HR IOM No. GAIL/CO/HR/LLCC/EPS-1995/2022 dated 29.11.2022.

2.0 GAIL being an exempted establishment, the judgment is applicable to those employees/ex-employees of the GAIL who are eligible as per the Hon'ble Supreme Court's Judgement dated 04.11.2022.

3.0 All employees of GAIL are members of the GAIL Employees Provident Fund Trust (GAIL EPF Trust) and contribute to the Provident Fund (PF) at the prescribed contribution rate on their actual salary, as applicable from time to time. GAIL also makes a matching employer's contribution on the actual salary to the Trust.

4.0 GAIL has been contributing towards EPS-95 @ 8.33% of prescribed wage ceiling i.e. Rs. 5,000.00 till May 2001, Rs. 6,500.00 w.e.f. June 2001 and Rs. 15,000.00 w.e.f. September 2014 out of the employer's contribution towards PF. As per the rule, EPS-95 contribution is deducted from the employer's contribution towards PF and is remitted/deposited by GAIL to the concerned office of the Employees Provident Fund Organisation (EPFO). Pension under EPS-95 is released by the concerned office of the EPFO to an employee of GAIL after the employee attains the age of 58 years.

5.0 Employees who joined GAIL after 01.09.2014 are not members of EPS-95 except those employees who were working elsewhere and were already a member of EPS-95.

6.0 EPFO has issued Circular No: Pension/2022/54877/15149 dated 29.12.2022 and corrigendum no: Pension/2022/54877/15238 dated 05.01.2023, in compliance with Para 44(ix) read with Para 44(v) and Para 44 (vi) of the SC Judgement. EPFO circulars have been uploaded on GAIL Intranet and Golden Retirement Portal. Para 5 of the EPFO circular specifies the employees who are eligible to exercise the option as per the SC judgment in R.C. Gupta's case. The following emerges from the above circulars:

- a) The employees who had exited EPS prior to 01.09.2014 and had not exercised the option for EPS-95 on higher salary under para 11(3) of the EPS Scheme than the wage ceiling fixed by EPFO are not covered for the pension on actual salary.

- b) The employees who had exited EPS prior to 01.09.2014 and had exercised the option for EPS on higher salary under para 11(3) of the EPS Scheme and whose application was rejected by the concerned EPFO office are entitled to the benefit of pension on actual salary.
- c) The circular is silent about the employees who have either exited EPS after 01.09.2014 or are still in active service. There is a likelihood of additional clarifications/guidelines for such cases by EPFO as the same has been covered by the above judgment.

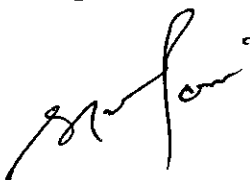
7.0 Ex-employee(s) of GAIL who attained the age of 58 years before 01.09.2014 and did not submit the joint option for enhanced pension on actual salary to EPFO are not covered under the above provisions.

8.0 It is informed that as per paragraph 43 read with paragraph 44(iv) of the SC judgment, all employees, who were Members of the EPS-95 as of 01-09-2014 (i.e. were below the age of 58 years) and who could not exercise the option, as contemplated in the proviso to paragraph 11(3) of the EPS-95 to contribute towards the scheme on actual salary instead of applicable wage ceiling, would be entitled to exercise option now under paragraph 11(4) EPS-95 within a period of four months from the date of judgment i.e. on or before 03.03.2023.

9.0 It is expected that EPFO may issue a separate circular/guideline shortly specifying the mode and manner of deposit of exercising the option and for submission of joint option cum declaration and undertaking for depositing the differential amount as per paragraph 43 read with paragraph 44(iv) of the SC Judgement dated 04.11.2022, in respect of eligible employee(s) who were a member of the EPS-95 as on 01-09-2014.

10.0 Since the time to exercise the option by the eligible employees is available only for a period of four (4) months from 04-11-2022, it is hereby informed to all eligible employees that as per the Supreme Court judgment, they have a one-time chance to exercise their option to contribute towards EPS-95 on actual salary instead of on applicable wage ceiling, for getting pension on actual Pensionable Salary.

11.0 Employee(s) / Ex-employee(s) / EPS-95 Pensioner(s), who opt to exercise the option now, would be required to deposit a differential amount i.e. the difference between the contribution @8.33% on the actual salary less contribution already deposited by GAIL on applicable wage ceiling from the date of joining the EPS-95. Additionally, such employee(s) shall be required to pay the interest due on the differential amount at the applicable rate till the month of remittance. Employees will also be required to contribute 1.16% of their actual salary exceeding Rs. 15,000.00 as an additional contribution from September 2014.



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12.0 To enable the eligible employee(s)/ex-employee(s) to take an informed decision for exercising the option, the actual monthly salary of all the eligible employees from November 1995 till March 2005 and the monthly actual salary from April 2005 onwards as available in SAP system, is being collated/compiled. The same will be made available on the GAIL Intranet for information & confirmation by serving employees. The same will also be made available on the Golden Retirement portal for information & confirmation by the eligible ex-employees.

13.0 The salary information which will be made available on the GAIL Intranet/Golden Retirement Portal along with the remarks entered by the concerned employee(s)/ex-employee(s), will be subsequently made available to Work center HR for verification and confirmation. Thereafter, the duly verified data will be finalized for submission to EPFO.

14.0 In case of any discrepancy in the salary data, employee / ex-employee may submit their remarks on the GAIL Intranet/Golden Retirement portal and provide relevant proof towards the discrepancy such as PF statement(s) or salary slip(s) for the relevant period/months to their Work Centre HR. To complete the exercise, employee(s)/ex-employee(s) shall have to confirm their salary data latest by 31.01.2023.

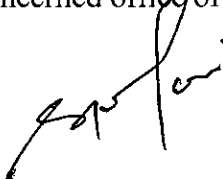
15.0 Employees /ex-employees who have joined GAIL from other organization(s) are required to obtain the actual salary details for the purpose, from those organization(s) for their relevant service period in that organisation(s).

16.0 In case of the eligible resigned employee(s) who have joined other organization(s) from GAIL, the Work Centre HR will provide the actual salary details, on their request, for the applicable service period in GAIL.

17.0 GAIL has already taken up with the EPFO, Delhi West about the specified format, if any, and undertaking to be given by employees / ex-employees (who opt) in the joint option cum declaration /undertaking format, etc. and the same shall be made available on GAIL Intranet and Golden Retirement portal, as and when clarifications or information in this regard is received from EPFO.

18.0 As per the Supreme Court judgment, payment of the differential amount shall follow the submission of a joint declaration and the same shall have to be remitted/deposited within the timeline, if any, prescribed by EPFO. Accordingly, eligible ex-employee(s) who would exercise the option and who have already withdrawn their Provident Fund from GAIL Employees Provident Fund Trust (GAIL EPF Trust) will have to arrange the differential amount for payment to EPFO, within the prescribed time. The mode and manner of deposit of the differential amount will be informed in due course as decided by EPFO.

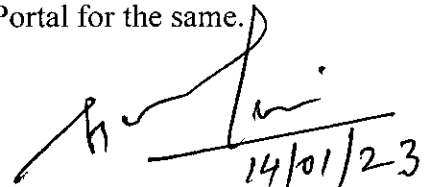
19.0 Ex-employee(s) / EPS-95 pensioner(s) may also note that revision in EPS-95 enhanced pension may take considerable time as the pension payment under EPS-95 is released by the concerned office of the EPFO and will not be in the control of GAIL.



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20.0 For serving employees (who opt for enhanced EPS-95 pension on actual salary), payment of differential amount will be released from the respective PF account of employee with the GAIL EPF Trust.

21.0 All employees are requested to visit GAIL Intranet (link : *Intranet - > Department - > HR - > EPS 95*) for various information /notifications etc. available therein on EPS-95. Eligible ex-employees may visit the EPS95 Section in the Golden Retirement Portal for the same.



(S. K. Ghulyani)

Executive Director (Training & HR-Policy)

**Distribution:**

1. All employees through E-mail
2. All eligible superannuated employees through Golden Retirement Portal
3. All eligible resigned employees through E-mail (list to be provided by Corporate HR-ES)
4. ED (F&A)/ ED (BIS)
5. CGM (HR), C.O. / CGM (F&A), C.O.
6. All OICs, GAIL
7. All HR in-charges, GAIL
8. GM (CMD SECTT)/ GM (DIR BD SECTT.) / GM (DIR MKTG SECTT.) / GM (DIR FIN.SECTT.)/ GM (DIR HR SECTT.)/DGM (DIR PROJ SECTT)/ ES(CVO Office)
9. Members of EPS-1995 Task Force – with a request to conclude the collation of data by 18.01.2023 positively.

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