



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

INTER OFFICE MEMO

No. GAIL/CO/HR/LLCC/EPS-1995/2022

Date: 29.11.2022

From: ED (Training & HR-Policy) GAIL, Corporate Office, New Delhi	To: All employees of GAIL (Through e-mail)
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Subject: Hon'ble Supreme Court Judgment dated 04.11.2022 on EPS-1995: Way forward in GAIL

As you may be aware that 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. has delivered a Judgement dated 04.11.2022. The decision of Hon'ble Supreme Court contained in the judgment is as under:

Quote:

The provisions contained in the notification no. G.S.R. 609(E) dated 22nd August 2014 are legal and valid.

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. In order to be entitled to the benefits of the pension fund, the employer and the employee, simultaneously with exercising option in terms of the said order shall also have to give an undertaking of transferring the employers' contribution at the stipulated rate maintained by the trusts, which shall be equivalent to and not lower than the sum which would have been transferable, had such fund been maintained by the provident fund authorities. Such transfer shall take place, immediately after exercise of such option, within such period as may be directed by the administrators of the pension fund.

The employees who had exercised option under the proviso to paragraph 11(3) of the 1995 scheme and continued to be in service as on 1st September 2014, will be guided by the amended provisions of paragraph 11(4) of the pension Scheme.

The members of the scheme, who did not exercise option, as contemplated in the proviso to paragraph 11(3) of the pension scheme (as it was before the 2014 Amendment) would be entitled to exercise option under paragraph 11(4) of the post amendment scheme. Their exercise of option shall be in the nature of joint options covering preamended paragraph 11(3) as also the amended paragraph 11(4) of the pension scheme. All the employees who did not exercise option but were entitled to do so but could not due to the interpretation on cutoff date by the authorities, ought to be given a further chance to exercise their option. Time to exercise option under paragraph 11(4) of the scheme, under these circumstances, shall stand extended by a further period of four months.

The employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the preamendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment.

The requirement of the members to contribute at the rate of 1.16 per cent of their salary to the extent such salary exceeds Rs.15000/per month as an additional contribution under the amended scheme has been held to be ultra vires the provisions of the 1952 Act. But the Hon'ble Supreme Court suspend operation of this part of the order for a period of six months to enable the authorities to make adjustments in the scheme so that the additional contribution can be generated from some other legitimate source within the scope of the Act, which could include enhancing the rate of contribution of the employers and opined that it would be for the legislature or the framers of the scheme to make necessary amendment. For the aforesaid period of six months or till such time any amendment is made, whichever is earlier, the employees' contribution shall be as stop gap measure. The said sum shall be adjustable on the basis of alteration to the scheme that may be made.

The Hon'ble Supreme Court did not find any flaw in altering the basis for computation of pensionable salary (under Paragraph 11 of the scheme) as brought about by the notification no. G.S.R. 609(E) dated 22nd August 2014. The said amendment stipulates the average monthly pay drawn over a span of 60 months preceding the date of exit as the pensionable service.

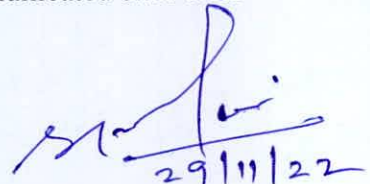
The fund authorities shall implement the directives contained in the said judgment within a period of eight weeks, subject to directions of Hon'ble Supreme Court mentioned in the said judgment.

Unquote:

The judgment has implications on EPS-1995 pensioners (retired/superannuated after 01.09.2014) and existing members of EPS 1995 in GAIL. The implementation of said judgment on GAIL employees /ex-employees is being looked into and accordingly a Task has been constituted to finalize the way forward in the matter.

The modalities for implementation of the judgment shall be firmed up and communicated once clear-cut guidelines are received from EPFO in the matter.

Regards,


29/11/22
(S K Ghulyani)

Copy to:

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