

## Employee Pension Scheme amendment in September 2014 and afterwards

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In 2014 August, EPFO came with 2 amendments:

1. PF ceiling wages enhanced from 6500 to 15000
2. Major amendments in Pension scheme

Major changes happened through this Amendment, (Gazette notification dated 22<sup>nd</sup> August 2014 (effective 1<sup>st</sup> September 2014)), are:

- i. PF ceiling wages enhanced to INR 15,000/month (applicable only to Domestic Workers)
- ii. First timers earning a monthly wage in excess of INR 15,000/month are mandatorily excluded from contribution to Employee Pension Scheme (EPS) – (applicable to both Domestic and International Workers)
- iii. Existing employees (at the time of notification) who were members of EPS have an option to contribute to higher salary – where such option should have exercised such option through a joint request by the employee and the employer by 28<sup>th</sup> February 2015 (which was later extended to 31<sup>st</sup> August 2015)
- iv. If no such option were made, the contribution already made in excess of the wage ceiling limit would be diverted to the PF account, along with interest.
- v. In case of the above said option to contribute on higher salary was exercised, additional contributions at the rate of 1.16% of wages exceeding INR 15,000 per month was required to be allocated to the EPS out of the Employee's share of contributions to the EPF Scheme
- vi. Pensionable wages were required to be calculated on average salary of 60 months (instead of 12 months as per earlier proviso) prior to the date of exit from the EPS.

Following example will show how the amendment changed the PF / Pension workings

PF Wages	EPE	EPS	EPF	EPS
	Employee Contribution		Employer Contribution	
<b>Pre-Amendment (before September 2014)</b>				
1,00,000	12,000	NIL	3670 (3.67%)	8330 (8.33%)
<b>Post 1<sup>st</sup> September 2014 - If option was not exercised before 31-08-2015</b>				
1,00,000	12,000	NIL	10750	1250 (8.33% restricted to 1250, which is 8.33% of PF ceiling wages of 15,000)
1,00,000 (first timer)	12,000	NIL	12,000	NIL

With the amendment of limitation to EPS contribution the pension portion was capped and the EPF was enhanced. Where the uncapped Pension contribution has substantially more, the limitation from 1<sup>st</sup> September 2014 (where the option was initially given to choose was only 6 months from the date of such notification), those workers who wanted to opt for higher pension have suffered.

Aggrieved with this a petition was filed against in the Hon'ble Kerala High Court's Judgment (WPC No. 13120/2015). The Hon'ble High Court has ordered:

1. *The Employee's Pension (Amendment) Scheme, 2014 brought into force by Notification No.GSR 609 (E) dated 22.08.2014 evidenced by Ext.p8 in WP (C) No.13120 of 2015 is set aside*
2. *All consequential orders and proceedings issued by the PF authorities/ respondents on the basis of the impugned amendments shall also stand set aside*
3. *The various proceedings issued by the Employees Provident Fund Organization declining to grant opportunities to the petitioners to exercise a joint option along with other employees to remit contributions to the EPS on the basis of the actual salaries drawn by them are set side.*
4. *The employees shall be entitled to exercise the option stipulated by paragraph 26 of the EPF scheme without being restricted in doing so by the insistence on a date.*

This order came in 2018, after 3+ years of entire computation of EPF and EPS with the new formula. Besides, new joinees who joined after such notification were not considered for Pension deduction. This becomes challenging task for the EPFO in,

1. Re-computing the employer contribution and consider a portion (more than 1250 of 8.33% of employer contribution needs to be brought back to the EPS)
2. Re-compute the EPF contribution and interest thereof after transferring such fund from EPF account to EPS account
3. Similar computation needs to be done in case of those new joinees (first timers), whose 12% employer contribution was transferred to EPF. Where 8.33% needs to be brought back to EPS and balance needs to be added to EPF fund. Re-calculation of the interest after such transfer needs to be considered
4. All the above needs to be done for active PF members and those who joined thereafter.
5. How the above computation to be done for those who got separated was the biggest challenge.
6. And any other challenges by the EPFO in working back.

Hopefully, with such challenges to be done in the EPF Accounting system, the Organization made an appeal to the Hon'ble Supreme Court and on April 1, 2019, and the Hon'ble court dismissed the SLP.

Against this the EPFO has filed a review petition in the Hon'ble Supreme Court, which was expected this month. Post this case, there can be 3 probable outcomes:

- a) If the Hon'ble Supreme Court allows the review petition (appeal against the Setting Aside of EPS (Amendment) scheme by Hon'ble Kerala High Court Judgment), then the current process of Pension restriction to PF ceiling wages and Exemption for those first timers who were more than the PF ceiling wages would continue. A relief for EPFO.
- b) If the Hon'ble Supreme Court rejects and dismisses the review petition also, then the major implications (tentative) will be, as per the above mentioned (6 points – which will have acute assignments not only for the EPFO but for the Employers also)
- c) Or any other suitable Directions by the Hon'ble Supreme Court.

**Let us wait for the Judgment.**

CHANGE OF WAGE LIMIT {PARA 2(f) OF EPF SCHEME 1952} – so far from the enactment of the legislation.

Period	Wage limit per month
01.11.1952 to 31.05.1957	Rs. 300/-
01.06.1957 to 30.12.1962	Rs. 500/-
31.12.1962 to 10.12.1976	Rs. 1,000/-
11.12.1976 to 31.08.1985	Rs. 1,600/-
01.09.1985 to 31.10.1990	Rs. 2,500/-
01.11.1990 to 30.09.1994	Rs. 3,500/-
01.10.1994 to 31.05.2001	Rs. 5,000/-
01.06.2001 to 31.08.2014	Rs. 6,500/-
01.09.2014 onwards	Rs.15,000/-

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