

एंड्रयू यूल एंड कंपनी लिमिटेड  
**ANDREW YULE & COMPANY LIMITED**

AYCL-03/C/04

February 15, 2023

**CIRCULAR**

**Sub : Submission of 'Joint Option Form' under para 11(3) & 11(4) of the Employee's Pension Scheme, 1995 in line with the directions issued by Hon'ble Supreme Court vide Order dated 4th November 2022 passed in Special Leave Petition (c) Nos. 8658-8659 of 2019.**

Ref: Hon'ble Supreme Court Judgment dated 04/11/2022 in the matter of Special Leave Petition (c) Nos. 8658-8659 Of 2019.

1. As per para 44(iv) of the order dated 4th November 2022 of the Hon'ble Supreme Court passed in SLP No. 8658-8659 of 2019, the members of the scheme, who did not exercise the 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 the option shall be in the nature of joint options covering pre-amended paragraph 11(3) as also the amended paragraph 11(4) of the pension scheme. Thus, all the employees who did not exercise the option even though they were entitled to do so but could not, due to the interpretation of the cut-off date by the authorities, ought to be given a further chance to exercise their option. The time to exercise option under paragraph 11(4) of the scheme, under these circumstances, shall stand extended by a further period of four months from the date of the judgement.
2. As per para 44(v), the employees who had retired prior to 1st September 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme have already exited from the membership thereof. They would not be entitled to the benefit of this judgment.
3. In accordance with Para 44(vi), the employees who have retired before 1st September 2014 upon exercising the option under paragraph 11(3) of the 1995 scheme shall be covered by the provisions of paragraph 11(3) of the pension scheme as it stood prior to the amendment of 2014.
4. In accordance with the above-mentioned directions of the Hon'ble Supreme Court, all employees who were Members of EPS-95 as on 01-09-2014 i.e. were below 58 years of age and who could not exercise the option, as contemplated in the proviso to paragraph 11(3) of the Pension Scheme to contribute to EPS-95 on actual salary instead of applicable wage ceiling, for getting pension on actual Pensionable Salary as defined in the EPS-95. would be entitled to exercise option now under paragraph 11(4) of EPS Act 1995 **within a period of four months from the date of judgement.**
5. It is expected that EPFO may issue separate circulars/guidelines specifying the mode and manner of exercising the option and for submission of joint declaration as per paragraph 43 read with paragraph 44(iv) of the Hon'ble SC Judgement dated 04.11.2022, in respect of eligible employees who are a member of the EPS95 as on 01-09-2014.

6. **Since the time limit to exercise the option by the eligible employees is only four months from the date of the said order, i.e. 04-11-2022, it is hereby informed to all eligible employees to submit the joint option before the stipulated date. It may also be noted that, as per the Hon'ble SC judgment, they have only one opportunity to exercise their option to contribute to the EPS-95 on actual salary instead of on the applicable wage ceiling, for getting a pension on actual pensionable salary, as defined in the EPS-95.**
7. Existing employee(s) or ex-employee(s)/EPS-95 Pensioners, exercising the option now would be required to pay/transfer the difference amount to EPS i.e. difference between the contribution @8.33% on actual salary and contribution already deposited on applicable wage ceiling from the date of joining the EPS-95.
8. Additionally, such employees shall also be required to pay interest on the difference amount at the applicable rate and an additional contribution of 1.16% of salary exceeding Rs. 15,000 /- from September 2014 onwards. However, as per the Hon'ble SC judgement, additional contribution can be recovered maximum for a period of six months from the date of judgment i.e. only till April-2023 or till such time any amendments are made to generate additional contribution from some other legitimate source within the scope of the Act, whichever is earlier.
9. All efforts shall be made to submit the joint declaration of a willing employee to EPFO within the timeframe prescribed in the Hon'ble SC judgment. As per the Hon'ble SC judgment, payment of arrears shall follow the submission of the joint declaration, and arrears shall have to be remitted within the timeline, if any, prescribed by EPFO, in this regard. Accordingly, employees who would exercise the option should give the undertaking to adjust/transfer the accumulation available in his / her PF account for payment of the due contribution to the EPS account or to deposit the contribution along with interest due till the date of payment through their last employer or through the mode decided by the EPFO authorities from time to time.
10. There is unconfirmed information from the EPFO authorities that an online form will be created for submission of Joint Option under para 11(3) & 11(4) of the Employee's Pension Scheme, 1995 in the EPFO portal. Similar to the provision provided for employees who retired prior to 01-09-2014. In such a situation, employees are required to submit on-line option, even if they have submitted manual option as per this Circular.
11. Since no provision for submission of Joint Option through online mode is created/provided in the EPFO employee portal so far, and close to 3 months' time has lapsed for submission of the joint option as per the directions of Hon'ble Supreme Court it is decided to submit the joint option form manually to the respective RPFO as an abundant precaution to lodge a claim for Pension on higher wages.
12. Considering the facts mentioned above, it is hereby informed to all those desirous employees, who are/were members of EPS-1995 i.e. all existing employees, ex-employees who retired after 01-09-2014, and ex-employees who retired prior to 01-09-2014 but meeting the criteria mentioned in para 3 above to exercising the joint option as per paragraphs 11(3) of pre-amended EPS-95 and 11(4)

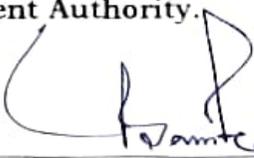
of amendment EPS scheme in the Annexure and **submit two copies of the form to their respective UNIT/DIVISION PF SECTION on or before 25<sup>th</sup> February 2023** for onward submission to RPFO along with the undertaking by the Employer (Annexure A for retired employees and Annexure B for employees on the rolls of the Company).

13. It may be noted that the submission of the joint option form through manual mode is to hold on to the timelines provided by the Hon'ble Supreme Court in the referred case and in the event of any guidelines being issued by EPFO in due course with respect to the submission of Joint Option by EPS members, the same need to be adhered.
14. All employees are advised to regularly check the EPFO website for the guidelines / circular being issued with respect to the mode of submission/ process of joint option under reference and to follow the same irrespective of whether the manual form is submitted or not within the stipulated timelines prescribed by the Hon'ble Supreme Court. It may also be noted that M/s. AYCL shall not be liable if the employee/ member fails to follow the procedures laid down by EPFO for the submission of an option for claiming a higher pension and mere submission of the joint option form alone may not guarantee higher pension.

*Disclaimer: EPFO guidelines / circular for submission of Joint Option Form as specified above are still awaited. This Circular is being issued for implementation of said judgement only to adhere to the timeline and is subject to any ratification(s)/ guideline(s) that may be issued by EPFO from time to time. Therefore, mere submission of the Joint Option Form by employees on rolls / Ex-employees does not confer any right on them to receive or any obligation on the Company to pay higher pension. The Joint Option Form as referred above is subject to change / modification based on EPFO instruction, if any.*

All Units/Divisions may note the above for Uniform Compliance and for dissemination among Employees on rolls / Ex-employees.

This Order is issued with the approval of the Competent Authority.

  
CHINMOY RANJAN BASISTHA  
DY. GENERAL MANAGER (P&A)

15.02.2023.

1. PS to Chairman & Managing Director.
2. PS to Director (Personnel)
3. PS to Director (Planning) with Additional Charge of Director (Finance).
4. Executive Director, NR.
5. General Manager (Retail Marketing), Tea Division.
6. General Manager (Engg. & E-KO).
7. General Manager, E CO.
8. Company Secretary.
9. Dy. General Manager (F&A) – Corporate Finance.
10. Dy. General Manager (Operations & Marketing), Tea Division.
11. Vigilance Department.
12. Notice Board – Office/Unit.

**ANNEXURE – A**

**Joint Option under Para 11(3) & Para 11(4) of EPS, 1995**

[Application by Ex-employees (attained 58 years) of M/s. AYCL (Estt Code \_\_\_\_\_) for contribution on actual wages under the EPS'95 Scheme on actual wages exceeding the wage limit of Rs. 5,000/- (16/11/1995 to 31/05/2001)/ Rs. 6,500/- (01/06/2001 to 31/08/2014) Rs. 15,000/- (w.e.f. 01/09/2014 & onwards)] p.m. w.e.f. 16/11/1995.

To,

The Regional Provident Fund Commissioner

\_\_\_\_\_

\_\_\_\_\_

**(Through Employer \_\_\_\_\_ )**

**Sub: Joint Option under Para 11(3) and Para 11(4) of Employees Pension Scheme, 1995 based on the Hon'ble Supreme Court' order in C.A. No. 008143-008144/2022 titled EPFO Vs Sunil Kumar pronounced on 04-11-2022.**

Hon'ble Supreme Court of India in the above cited judgement has allowed eligible employees and pensioners to opt for pension on actual salary on submitting joint option form by Employee/Pensioner and Employer as per sec 11(3) & 11(4) of EPS 95 Scheme.

In pursuance of the above order by the Hon'ble Supreme Court, I opt for contribution on actual salary w.e.f. 16-11-1995 with consent of my Employer.

My particulars are as under:

1.	Name of Pensioner	
2.	EPF A/c. No.	
3.	EPS A/c. No.	
4.	PPO No. (For pensioners)	
5.	UAN No.	
6.	Mobile No.	
7.	Aadhar No.	
8.	Date of attaining 58 years (For pensioners).	
9.	Correspondence Address	
10.	E-mail ID.	

**Declaration by Employee**

I, ..... am pensioner of EPF and an amount @ 8.33% of the statutory ceiling amount i.e. Rs. 15,000.00 [earlier of Rs. 5,000.00 (16-11-1995 to 31-05-2001)/ Rs. 6,500.00 (01/06/2001 to 31/08/2014)/ Rs. 15,000.00 (w.e.f. 01/09/2014 & onwards)] out of the Employer's contribution was being remitted towards Employee's Pension Scheme, 1995.

I had been contributing towards EPF on my actual salary from date of my joining EPF scheme, in compliance with 26(6) of the EPF & MP Act, 1952.

I, do hereby opt for diverting/depositing 8.33% of actual wages due/out of employer's contribution towards Pension Fund w.e.f. 16-11-1995 till my attaining the age of superannuation (58 yrs.).

The differential amount of 8.33% of actual wages for the period 16/11/1995 upto reaching the age of 58 yrs shall be deposited by me through my Ex-employer along with its accrued interest in respect of previous contributions, thus making me eligible for drawing pension along with arrears after my attaining the age of superannuation (58 Yrs.) on the basis of Pensionable salary based on my actual wages instead of on statutory limit.

Place :

Signature : \_\_\_\_\_

Date :

Name & Address : \_\_\_\_\_

**Undertaking by the Employer**

**(For pensioners)**

I .....(Name & Designation) being the Authorized Signatory of AYCL do hereby certify that Mr./Ms. .... was an employee of the establishment with EPF A/c. No. .... and has attained age of 58 years on ..... He/She has contributed towards Provident Fund on his/her actual salary, as per the terms of Para 26(6) of the EPF Scheme 1952.

This establishment has no objection if Mr./Mrs. .... deposits an amount of 8.33% on his actual wages from his own sources/divert from his Provident Fund towards his Pension Fund w.e.f. 16/11/1995 i.e. from the date of commencement of the Scheme or when his salary exceeded the statutory limit whichever is later along with interest as declared under EPF Scheme, 1952 from time to time making him eligible for drawing pension on the basis of pensionable salary based on his actual/higher wages instead of on statutory limit as per Para 11(3) /11(4) of the EPS,1995 Scheme., w.e.f. reaching the age of 58 yrs.

I certify that the particulars furnished above are correct as per the available records.

Place :

Date :

(Signature with Official Seal)

**ANNEXURE – B**

**Joint Option under Para 11(3) & Para 11(4) of EPS, 1995**

[Application by serving employees of M/s. AYCL (Estt Code \_\_\_\_\_) for contribution on actual/higher wages exceeding the wage limit of Rs. 5,000.00 (16/11/1995 to 31/05/2001)/ Rs. 6,500.00 (01/06/2001 to 31/08/2014) Rs. 15,000.00 (w.e.f. 01/09/2014 & onwards)] p.m. w.e.f. 16/11/1995.

To,

The Regional Provident Fund Commissioner

\_\_\_\_\_  
\_\_\_\_\_

**(Through Employer \_\_\_\_\_ )**

**Sub: Joint Option under Para 11(3) and Para 11(4) of Employees Pension Scheme, 1995 based on the Hon'ble Supreme Court' order in C.A. No. 008143-008144/2022 titled EPFO Vs Sunil Kumar pronounced on 04-11-2022.**

Hon'ble Supreme Court of India in the above cited judgement has allowed eligible employees and pensioners to opt for pension on actual salary on submitting joint option form by Employee/Pensioner and Employer as per sec 11(4) of EPS 95 Scheme.

In pursuance of the above order by the Hon'ble Supreme Court and in exercise of relief granted by Hon'ble Supreme Court in the said judgement, read para 44(iv) along with para 43, I opt for contribution on actual salary w.e.f. Date of joining the EPS 1995 Scheme, with consent of my Employer.

My particulars are as under:

1.	Name of Employee	
2.	EPF A/c. No.	
3.	EPS A/c. No.	
4.	EPS Account No. of Previous Organization (if any).	
5.	UAN No.	
6.	Mobile No.	
7.	Aadhar No.	
8.	Date of Birth	
9.	Date of Joining	
10.	Correspondence Address	
11.	E-mail ID.	

**Declaration by Employee**

I, ..... am a member of EPF and an amount @ 8.33% of the statutory ceiling amount i.e. Rs. 15,000.00 [earlier of Rs. 5,000.00 (16-11-1995 to 31-05-2001)/ Rs. 6,500.00 (01/06/2001 to 31/08/2014)/ Rs. 15,000.00 (w.e.f. 01/09/2014 & onwards)] out of the Employer's contribution is being remitted towards Employees' Pension Scheme, 1995.

I have been contributing towards EPF on my actual salary from date of my joining EPF scheme, in compliance with 26(6) of the EPF & MP Act, 1952.

I, do hereby opt for diverting/depositing 8.33% of actual wages out of employer's contribution towards Pension Fund w.e.f. date of my joining the EPS 1995 Scheme, till my attaining the age of superannuation (58 yrs.).

The differential amount may be diverted from my Provident Fund account to Pension Fund account along with its accrued interest in respect of previous contributions and henceforth, similar amount i.e. 8.33% of actual wages out of employer share be remitted towards Pension Fund, thus making me eligible for drawing pension after my attaining the age of superannuation (58 Yrs.) on the basis of Pensionable salary based on my actual wages instead of on statutory limit.

Place :

Signature : \_\_\_\_\_

Date :

Name & Address : \_\_\_\_\_

**Undertaking by the Employer**

**(For serving employee)**

I .....(Name & Designation) being the Authorized Signatory of AYCL do hereby certify that Mr./Ms. .... is an employee of the establishment with EPF A/c. No. .... He/She is contributing towards Provident Fund on his/her actual salary, as per the terms of Para 26(6) of EPF Scheme 1952.

This establishment has no objection if an amount of 8.33% on his actual wages is diverted from his Provident Fund towards his EPS'95 Pension Fund w.e.f. 16/11/1995 i.e. from the date of commencement of the Scheme or when his salary exceeded the statutory limit/date of joining the scheme, whichever is later along with interest as declared under EPF Scheme, 1952 from time to time making him eligible for drawing pension on the basis of Pensionable salary based on his actual/higher wages instead of on statutory limit as per Para 11(3)/11(4) of the EPS,1995 Scheme.

I certify that the particulars furnished above are correct as per the available records.

Place :

Date :

(Signature with Official Seal)