Decrypting EPS 95 Scheme

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EPS-95 buzz : What's it all about

I. Effective Date of EPS-95: The Employees' Pension Scheme, 1995 (EPS-95) came into effect on 16.11.1995.

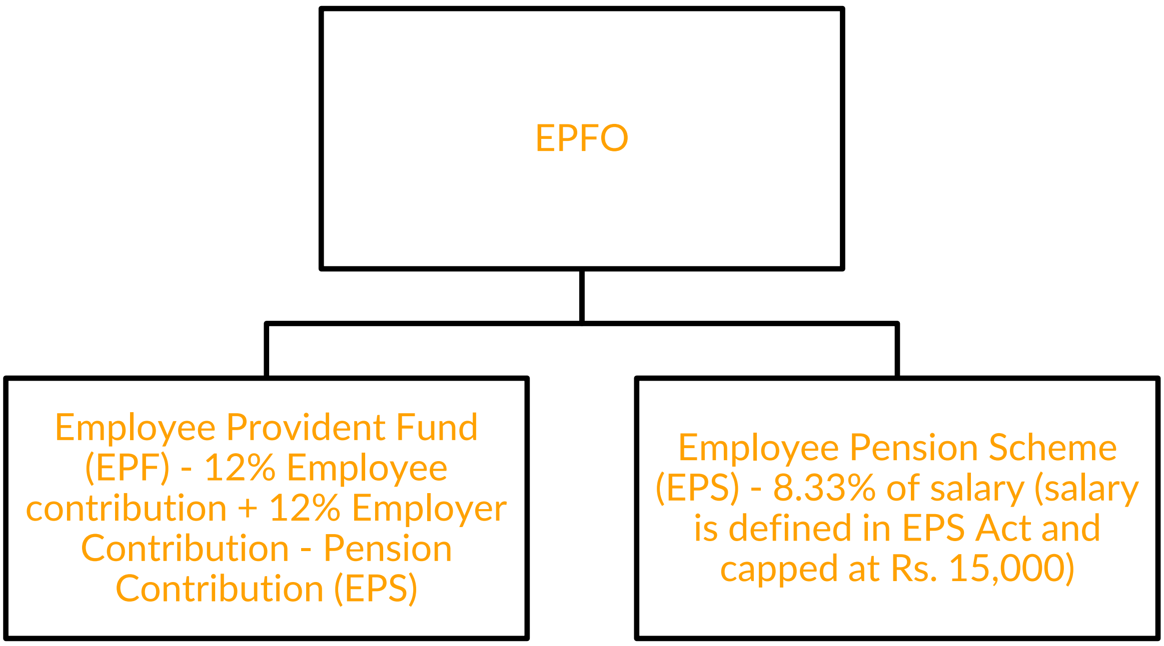
II. At present, the EPS 95 contribution is calculated based on a cap of Rs.15,000 pm at present, and the contribution on it is Rs.1,250 (i.e., 8.33%*15,000).

III. As of 01.09.2014, the clause on higher pensions has been removed. With effect from 16.03.1996, employers and employees have the option of contributing toward salaries exceeding the capped salary in order to receive a higher pension at retirement. However, as a result of General Service Regulation 609(E), issued on August 22, 2014, from September 1, 2014, this provision was deleted and annulled the right of an employee to earn a higher pension as a result of contributing to EPS on an increased/uncapped salary.

IV. Earlier judgements of Kerala High Court and Delhi High Court in October 2018 and May 2019 restored the option of higher/uncapped pensions. In the case of Employees' Provident Funds Organization (EPFO) & ANR etc. vs Sunil Kumar B &ORS etc., a three-judge bench of the SC also heard a review petition, and on November 4,2022, a three-judge bench of the SC exercised its judgment on that case.

V. Latest Supreme Court decision: The Supreme Court rendered its final verdict on 04.11.2022 upholding existing employees' right to contribute to EPS on higher salaries in order to receive a higher pension.

EPFO Schemes



EPS 95

The EPS-95 scheme comes into effect on 16.11.1995 and is called as employees' pension scheme 1995 (EPS-95). Just before EPS-95 began, employee family pension scheme 1971 covered EPS-95. When an employee reaches the age of 58 or 60, he or she is eligible to receive a pension. Those who contribute to the EPF, along with private trusts, are entitled to a guaranteed monthly pension after retirement. EPFO administers the pension accounts of all those who contribute to the EPF.

For the period 16.11.1995 to 07.10.2001, 8.33% of the EPS contribution would have been Rs. 417. For the period 08.10.2001 to 31.08.2014, 8.33% would have been Rs. 541. For the period from 01.09.2014 to currently, 8.33% has been Rs. 1250. Members are eligible for pension after ten years of service, and on his death, his descendants can receive his pension. Maximum pension is Rs.7,500 per month, minimum pension is Rs.1,000. There is a maximum of 35 years of service for the calculation of service.

Taxability - According to the Income Tax Act, 1961, pensions are taxable under the income from salary or other sources heading. EPS should not be confused with National Pension Scheme (NPS) or SABF; NPS is a scheme for which a separate deduction is available under Section 80CCD of Income Tax. There is no income tax deduction available for EPFO contributions under this scheme.

Illustration – How much Pension?

$$\text{Pension from EPS} = \frac{\text{Pensionable salary X years of service}}{70}$$

Suppose Mr. X worked for 30 years in a company, and his average basic and DA was Rs. 100,000 for the last 60 months. Upon retirement, he receives a pension –

$$= \frac{\text{Rs.15,000 X 32}}{70} = \text{Rs. 6,857*}$$

*For ease of understanding, pensionable salary is treated as Rs. 15000. The actuals will be on a prorated basis i.e., Rs. 6,500 until August 2014 and Rs. 15,000 thereafter.

What is Higher Pension Option?

The Supreme Court, in its verdict dated 04.11.2022, upheld existing employees' right to contribute to EPS on higher salaries.

Example: Mr. X has worked for 30 years at a company, and his average basic & DA for last 60 months is Rs. 100,000. Employees contribute to EPS based on capped salary or actual salary. At retirement, what is his pension if he exercises the joint option and what is his pension if he doesn't.

Option executed	Yes	No
Avg. salary	Rs. 100,000	Rs. 15,000
No. of years	30+2 bonus = 32	30+2 bonus = 32
Pension	((100,000 X 32)/70) = Rs.45,714	((15,000 X 32)/70) = Rs.6,857

What's next?

As of yet, EPFO has not issued guidelines for employees who retired post 2014 as well as active service members. Organizations have begun collecting Joint Option forms from employees in order to meet the deadline set by the Hon. Supreme Court on 03.03.2023. EPFO's guidelines will provide much clarity once they are received.

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