

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

(Act No. 19 of 1952)

4th March, 1952

An Act to provide for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments.

2. Definitions. - In this Act, unless the context otherwise requires, -

(m) "Tribunal" means the Employees' Provident Funds Appellate Tribunal constituted under section 7D.

7D. Employees' Provident Funds Appellate Tribunal. - (1) The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act and every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal.

(2) A Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as a Presiding Officer of a Tribunal hereinafter referred to as the Presiding Officer, unless he is, or has been, or is qualified to be, -

(i) a Judge of a High Court; or

(ii) a District Judge.

7E. Term of office. - The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

7F. Resignation. – (1) The Presiding Officer may, by notice in writing under his hand addressed to the Central Government, resign his office;

Provided that the Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Presiding Officer shall not be removed from his office except by an order made by the President on the ground of proved misbehavior or incapacity after an inquiry made by a Judge of the High Court in which such Presiding Officer had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of the Presiding Officer.

7G. Salary and allowances and other terms and conditions of service of Presiding Officer. - The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after his appointment.

7H. Staff of the Tribunal. - (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries and all allowances and other conditions of service of the officers and other employees of a Tribunal shall be such as may be prescribed.

7 – I. Appeals to the Tribunal. – (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government, or any authority, under the proviso to sub-section 3, or sub-section 4, of section 1, or section 3, or sub-section 1 of section 7A, or section 7B except an order rejecting an application for review referred to in sub-section 5 thereof, or section 7C, or section 14B may prefer an appeal to a Tribunal against such order.

(2) Every appeal under sub-section 1 shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

7 – J. Procedure of Tribunals. – (1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

(2) A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

7K. Right of appellant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers. – (1) A person preferring an appeal to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or any other authority under this Act may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before a Tribunal.

7L. Orders of Tribunal. – (1) A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the tribunal may think fit, for a fresh adjudication or order, as the case may be, after taking additional evidence, if necessary.

(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section 1 and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal:

Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(3) A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.

(4) Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.

7M. Filling up of vacancies. – If, for any reason, a vacancy occurs in the office of the Presiding Officer, the Central Government shall appoint another person in accordance with the provisions of this Act, to fill the vacancy and the proceedings may be continued before a Tribunal from the stage at which the vacancy is filled.

7N. Finality of orders constituting a Tribunal. – No order of the Central Government appointing any person as the Presiding Officer shall be called in question in any manner, and no act or proceeding before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Tribunal.

7-O. Deposit of amount due, on filing appeal. – No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in section 7A:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

7P. Transfer of certain applications to Tribunals. – All applications which are pending before the Central Government under section 19A, shall stand transferred to a Tribunal exercising jurisdiction in respect of establishments in relation to which such applications had been made as if such applications were appeals preferred to the Tribunal.