



FOR WEB CIRCULATION

**कर्मचारी भविष्य निधि संगठन**  
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
**EMPLOYEES' PROVIDENT FUND ORGANISATION**  
(Ministry of Labour & Employment, Govt. of India)  
मुख्य कार्यालय / Head Office  
भविष्य निधि भवन, 14-भीकैजी कामा प्लेस, नई दिल्ली-110 066.  
Bhavishya Nidhi Bhawan, 14, Bhikaiji Cama Place, New Delhi - 110 066.

No. LC-2(1023)2017/BR

Dated:-6.7.2017

07 JUL 2017

To

All Additional CPFCs (Zones)

**Subject:-** Forwarding of proposals for filing SLP before the Hon'ble Supreme Court of India -regarding.

**Reference :** Head Office circular No. LC-9(12)2013/CPFC Ref/Pt/3865 dated 16.5.2014

Sir,

It has been observed that field offices/Zonal offices are forwarding the proposals for filing SLPs before the Hon'ble Apex Court in a routine and casual manner. It has also been observed that some proposals were received even after lapse of considerable period after expiry of limitation and in some cases after 3 or 4 years of date of passing of impugned order. This has been viewed very seriously by CPFC.

2. In this connection, Zonal ACCs may refer to the guidelines issued on proper handling of legal cases circulated vide Head Office circular dated 16.5.2014 referred above. The said circular clearly specifies that the proposal for filing of SLPs shall not be sent by field offices in routine or casual manner without examining the fact that substantial question of law is involved. Para 5(i) of the said circular also specifies that the Additional CPFC, Zone before sending the proposal for SLP at Head office shall examine thoroughly at their level to see the suitability of filing the same with their specific remarks.

3. As already stated above, it is seen that in the most of the cases, the proposals for filing SLP are being forwarded to Head office without examining the merit of the case and question of law which is to be agitated before the Hon'ble Apex Court. Such SLPs if filed, are dismissed by the Hon'ble Apex Court at the admission stage itself and the whole exercise gets futile. The judgements/orders pronounced against EPFO by the Hon'ble Apex Court have wide repercussion across all offices of EPFO.

4. Accordingly, Additional CPFC (Zones) are requested that the guidelines issued by Head Office vide circular dated 16.5.2014 may be followed by field functionaries in true spirit. Further, field offices may be instructed to forward the proposals for SLP in the format annexed, to Zonal Offices. Zonal ACCs are also requested to examine the proposals received from the offices under their jurisdiction in depth to assess as to whether a SLP or an Appeal actually lies and ensure that only the cases having merit which can be defended before the Hon'ble Court may be forwarded to Head Office well in time within the limitation period with specific recommendation of Zonal ACC clearly describing the question of law to be agitated before the Apex Court and complete in all respects. Necessary instructions may be issued to all field offices under your jurisdiction.

(This issues with the approval of CPFC)

Encl : As above

Yours faithfully

(R.M Verma)

Addl. Central P. F. Commissioner-II(Legal)

**FORMAT FOR FORWARDING PROPOSALS FOR SLP**

Legal question involved/dispute involved:

1. a. Crux of 7A Inquiry:

1b. Defence by the establishment:

1.c. Outcome of 7A order and its rationale/ratio:

2a. Crux of the petition before EPFAT :

2b. Contention of the Respondents :

2c. Decision of EPFAT and its rationale:

3.a Crux of the petition before Single Bench, Hon'ble High Court :

3b. Contention of the Respondents :

3c. Decision of the Single Bench, Hon'ble High court and its rationale:

4a. Crux of the petition before the Division bench, Hon'ble High Court :

4b. Contention of the Respondents : .

4c. Decision of the Division Bench, Hon'ble High Court :

4. Legal opinion of Panel Advocate :

5. Opinion of RPFC-I concerned :

6. ACC's recommendation and rationale behind such recommendation:



Web Circulation



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(कर्म एवं रोजगार मंत्रालय, भारत सरकार)

**EMPLOYEES' PROVIDENT FUND ORGANISATION**

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Bhavishya Nidhi Bhawan, 14, Bhikarji Cama Place, New Delhi - 110 066.

No. LC-9(12)2013/CPFC Ref./Pt./ 3265

Date : 16.05.2014

To

All Additional CPFCs (Zones)  
All Additional CPFCs (Head Office)  
All Regional PF Commissioners  
In Charge of Regional/Sub Regional Offices

16 MAY 2014

**Subject : Proper handling of legal cases in field offices-regarding.**

Sir,

A number of circulars were issued in past containing instructions on handling of legal cases of EPFO at various courts. Even then, it is observed that no proper attention is generally given to legal cases and this area of work has remained neglected over the years.

2. Very often the work related to legal matters in field offices are handled by the lower functionaries, may it be an administrative issue or a compliance issue or a pension issue or a finance issue. Officers in charge of the various divisions are not getting themselves involved and allow the same to go as like that only. They fail to bestow their personal attention. The para-wise comments prepared by the lower functionaries are not properly scrutinized and sent to the advocate in a routine and casual manner. Many a time, para-wise comments do not contain important points and are found to be incomplete and inappropriate. Even those suffer from conceptual fallacy. The panel advocates are not properly briefed and timely instructions are not given to them. As a result most of the cases are adjudicated against the department by issue of adverse orders, strictures, observation on the functioning of the organisation and sometimes even result in imposition of costs also by the Hon'ble Courts. Consequently, reviews and appeals filed before higher judicial forum and Appellate Authority rarely succeed and organisation is stuck with unfavourable orders. The adverse orders have long term implication and ramification for the organisation combined with financial repercussions in many of the matters.

3. As legal matters impact the functioning of the organisation and stake-holders, it is imperative that these ought to be handled with utmost care and responsibility by all concerned.

4. Keeping that in view, it is thought proper to issue some guidelines for improving the manner in which the legal cases are dealt at present. Accordingly, the following guidelines are issued for proper handling of legal cases before various courts

**a) Meticulous handling of cases at their original level:**

It is a fact that any legal case has the best chance of succeeding at the first stage of litigation. Contrary to that, very little attention is accorded to the cases at the levels of original trial i.e. at the District Consumer Forum, Lower courts, EPFAT etc. resulting in adverse decisions. These adverse orders rarely get reversed in spite of being dragged up to the level of the Supreme Court. This is so because the infirmities set in at the inception of the case get perpetuated at the appellate levels. For example, facts not submitted at the initial trial level are not allowed to be brought in at the appellate stages. Thus, even with the best of efforts later on, it becomes hardly successful to convince the court at appeal level. Therefore, it should be our endeavour to succeed at the initial level of trial itself instead of depending on appeals to repair the damage suffered at the initial stages. The Regional PF Commissioners-In-Charge of Regional/Sub Regional Offices shall ensure that the cases are sincerely defended at the original levels through an effective counsel or an Enforcement Officer depending upon the requirement of the case. This is the most important step towards defending a legal matter and should be scrupulously followed. It may also be ensured that proper para-wise comments are sent to the advocates and counter replies are prepared duly incorporating the facts and provisions of the Act and the Schemes. Advocates are briefed properly by the concerned officer whose action /order is challenged or is the subject matter of litigation without shifting the onus on the officials posted in the legal cell. An entry to this effect shall invariably be made in the legal file as well as in the file of concerned section so that the advocate could be asked in case the matter is not argued as per briefing. It may be noted that losing a case at the original level shall reflect negatively against the performance of the concerned Officer/Officer-In-Charge.

**b) Timely filing of Counter Reply:**

Timely filing of counter reply is an important step towards disposal of legal cases. Due to non-filing of counter affidavits, the cases are pending before different courts for long period of time with stay granted on statutory actions. In many of the cases, the assessment is held up or recovery action is stayed by the Courts. By the time the case is disposed of, the employees who were eligible for the benefits leave the establishment, become untraceable or even expire. The establishments claim to have no details of their whereabouts. Hence, the whole purpose and the mandate of Act are defeated due to delayed disposal of legal cases. In order to expedite early disposal of cases, counter affidavits shall be filed within the time stipulated by the Courts or within one month of the order, whichever is earlier without fail and no extension of time should be sought. Additional CPFCs (Zones) and RPFCs must scrutinise such files where delayed counters are filed and fix responsibility on the erring officials.

### **c) Preparation and Vetting of counter affidavits by RPFC I/OIC:**

It has been the experience that the field offices do not observe due diligence with regard to the preparation, vetting and timely filing of the counter affidavits. There is a tendency to distance from the ownership of the case by the concerned divisions within the office with a feeling that all the responsibility lies with the legal cell only. This contention needs to be changed. The Branch Officer of the Regional/Sub Regional Office, APFC or RPFC-II of the work area as the case may be, to whom the case pertains to, shall bear the overall responsibility of preparation of the counter affidavit, its timely filing and adequate follow up till its conclusion. The Counter reply shall be vetted and filed with the approval of RPFC-In-Charge of Regional or Sub Regional Office as the case may be. For instance, in case of Regional Office, if the counter reply of the case relates to Compliance and Recovery, the same shall be prepared by the APFC (Compliance) concerned, vetted by RPFC-II (Compliance and Recovery) and filed with the approval of RPFC-In-Charge of Regional Office. Similarly, if the counter reply of the case relates to Finance and Account or Pension, the same shall be prepared by APFC (Accounts) or APFC(Pension) and vetted by RPFC-II(F&A) or RPFC-II (Pension), as the case may be. In case of Sub Regional Office, RPFC-In-Charge shall personally vet and file all counter replies under his/her own sign and seal. This responsibility shall not be further delegated down below. Similarly, in case of Head Office, the counter replies shall be prepared by the concerned Section Officer or RPFC-II concerned, vetted by the concerned RPFC-I and Additional CPFC of the Division. For instance, RPFC-I ( F & A ) shall vet the counter reply related to Finance matters ,RPFC-I(Vigilance) for Vigilance matters, RPFC-I(HRM) for the HR matters, RPFC-I(HRD) for HRD matters, RPFC-I( Exemption) for Exemption matters, RPFC-I( Compliance) for Compliance matters, RPFC-I(IS) for IS matters, RPFC/AE/JE /CE for PFD related matters and so on. It has to be ensured that the counter replies are placed before CPFC for perusal and approval wherever a policy decision or a substantial question of law is involved. The involvement of senior level officers is required depending on gravity of cases like contempt, writ, SLP, personal appearance etc. where approval of Head Office or Ministry is required.

### **d) Use of Preamble in Counter Affidavits:**

An essential ingredient of a well drafted counter is the preamble containing the spirit of the Act and the perspective in which the cases originate. As such, all counter affidavits should begin with the preamble. The Preamble has to be followed by the brief history of the case vis-a-vis the provisions of the Act and Schemes ,rules or instructions raised in the petition ,court decision etc. and the questions of law involved so that the Hon'ble courts may appreciate the subject matter in view of the mandate of the Act.

### **e) Proper briefing of advocates :**

It is generally observed that there is lack of communication between the advocates and the officers. Often responsibility of briefing is shifted to the junior functionaries leading to casual and negligent handling of cases by the advocates. The counsel engaged in the cases shall always be comprehensively briefed by a senior official well acquainted with the case. At the same time, the advocates should also be provided with all other assistance to defend the cases. The favourable case laws etc. should also be informed and discussed so that the cases are argued effectively. There shall be proper noting in the file after briefing the counsel.

**f) Empanelment of competent ,knowledgeable and reputed advocates:**

In order to defend the cases properly, it is necessary to have good panel counsels who could present the case in an effective manner before the court. It has been the experience that in most of the Regions, a handful of advocates have monopoly over the panel and get maximum number of cases assigned to them in the name of being senior most in the panel. However, performance and success rate of these senior most advocates are not very much encouraging. Therefore, efforts shall be taken to induct good advocates in the panel from time to time by revamping the panel. While going for empanelment wide publicity in inviting applications of advocates should be made so that sufficient number of applicants are there to select from. An interaction prior to empanelment requires to be conducted to have a fair assessment of their knowledge, communication skills, legal acumen and analytical ability by a Committee of Officers consisting of at least one officer with law background preferably. The recommendation for empanelment, to the extent possible, shall be avoided for friends and family members of the employees of the Organisation. The advocates must also be compulsorily quizzed on the provisions of Limitation Act 1963, Civil Procedure Code 1908 and Principles of natural justice including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. It has also been the experience that advocates continuing in the panel for a long time, work against the interest of the organisation and do not defend the cases with sincerity. As a result the cases are disposed with unfavourable orders. They do not stop at that but also misguide the office on further course of action which would suit the opposite party. Such advocates should not to be allowed to continue in the panel at any cost.

**g) Eligibility criteria for empanelment may be not less than five years :**

While empanelling advocates, their knowledge, general legal acumen including drafting ability must be assessed. The panel should be enriched by induction of new advocates from time to time. In order to induct freshers in the panel who may defend the cases without vested interest, the advocates having not less than five years practicing experience, may also be considered for empanelment instead of ten years, after assessment by a Committee of Officers. Advocates with outstanding past record and administrative /legal experience/expertise in Public Sector enterprises may also be considered without insisting for five years' experience. However wide publicity must be ensured while inviting applications for empanelment by publishing in prominent newspapers and from other sources as deemed fit.

**h) Monitoring performance of panel counsels:**

It has also been noticed that the performance of panel counsels are not monitored and reviewed. As a result, the non-performers continue in the panel. The advocates who are unable to defend the interest of the Organisation shall not be allowed in the panel as non-performing advocates severely damage the prospects of our cases. Also monopoly of one or two advocates in the panel shall not be allowed in any case.

The power to empanel advocates for the field offices was delegated to the Additional CPFCs (Zones) with a view that decentralisation would improve the monitoring and result in better outcome in legal cases. But the position does not appear to have improved further. Henceforth, Additional CPFCs (Zones) should review the performance of panel advocates every quarter and submit a report in this regard to CPFC. The review would focus on the cases assigned to each panel counsel, the long pending cases, cases where stay has been granted and cases where interpretation of point of law is involved. They would also discuss the point of law involved in important matters and guide advocates about the line of argument. The report of Additional CPFCs (Zones) should clearly indicate the action taken by the advocate in the reviewed quarter and remarks of RPFC-In-Charge of Sub Regional/Regional Office and Additional CPFC (Zones) to the effect as to whether the action taken by the advocate is satisfactory in the interest of the organisation shall invariably find place in the report. Further the list of cases where department lost should be compiled and sent to next higher authority with analysis as to why the case is lost. Similarly, the cases decided in favour of the organisation shall also be brought to the notice of Head Office for web circulation. The performance report of existing advocates must be prepared and analysed to decide their continuance in the panel. The non-performing advocates or those who work against the interest of the Organisation shall not be allowed to continue in the panel.

**i) Monthly Review meeting by RPFC-In-Charge of Regional/Sub Regional Offices on legal matters :**

All RPFC shall hold a monthly review meeting on legal matters and send a report to the Addl. CPFC (Zone). The review should focus on all the important cases, issues and the development taken place. RPFCs shall not only review and issue instruction but also ensure that appropriate action is initiated in all the case files.

**5. Supreme Court Cases and cases in NCDRC:** In so far as filing of Special Leave Petitions (SLPs) before the Hon'ble Supreme Court is concerned, it is observed that field offices are sending the proposals for filing SLP in a routine and casual manner. It has been the experience that such SLPs are dismissed at the admission stage only. Further, due to improper handling of cases at different High Courts and DCDRF / SCDRC by the panel advocates, we lose cases. When SLP in such cases are recommended, field offices fail to explain the reasons of their failure and forward the proposal for filing SLP after obtaining legal opinion from the same advocates. Similarly, field offices without exhausting available remedy, i.e., without availing the opportunity of filing appeal before the Division Bench against the order of the Single Bench forward the proposal for filing SLP. Even proposal are received in incomplete form wherein required documents are not enclosed and without due scrutiny and recommendations. So much so, the proposals are sent to Head Office at the eleventh hour and even in some cases, after the expiry of the period of limitation. In view of above, the following guidelines are issued for dealing with SLP cases:

- a) The cases shall be defended at the original level of litigation i.e. at the level of EPFAT, DCDR Forum /SCDRC and High Court so that the matter is not dragged up to the Supreme Court.



- b) All the proposals for filing SLP shall contain all the required documents.
- c) The suitability of filing appeal before the Supreme Court shall be properly examined and sent to Head Office through the Addl. CPFC (Zone) 15 days before the expiry of the time granted by High Court or within one month of issue of impugned order.
- d) Similarly, suitability of filing appeal before the National Consumer Dispute Redressal Commission (NCDRC) shall be properly examined and sent to Head Office through Addl. CPFC (Zone) 15 days before the expiry of the time granted by the SCDRC.
- e) While sending the proposal for filing SLP, RPFCs shall explain the reasons for the failure of their panel counsel. If a case is made out for filing SLP, legal opinion shall be obtained from an advocate other than the one who could not properly defend the case at High Court. Similarly, while sending the proposal for filing an appeal before the NCDRC, legal opinion shall invariably be obtained from an advocate other than the one who could not properly defend the case at SCDRC.
- f) Before sending a proposal for filing SLP in Supreme Court, RPFCs shall exhaust the remedy available. Without availing the opportunity of filing an appeal before the Division Bench against the order of the Single Bench of High Court, no proposal for filing SLP shall be forwarded to Head Office.
- g) Proposals for filing SLP before Supreme Court and appeal before NCDRC shall be examined in depth to assess as to whether a SLP or an appeal actually lies. If a case is made out for filing SLP or appeal as the case may be, the same shall be sent by RPFC In-Charge of the Region with his comments and recommendation through Addl. CPFC (Zone).
- h) Proposals for filing SLP or appeal shall not be sent by field offices in routine or casual manner without examining the fact that a substantial question of law is involved or gross injustice has been done while passing the order by Hon'ble High Court or SCDRC.
- i) The Addl. CPFC (Zones) before sending the proposal for filing SLP or appeal shall examine thoroughly at their level to see the suitability of filing the same and if cases are made out they shall forward the proposals with all relevant documents and along with their specific remarks. The proposals shall reach Head Office 15 days before the admissible time of filing SLP or before the time granted by the Court as the case may be. The proposal received from Addl. CPFC (Zones) will be placed before CPFC by legal cell for final approval before filing SLP.
- j) The Addl. CPFC (Zones) shall also maintain a file for each SLP relating to the offices under their jurisdiction to ensure that all appropriate action is taken in the matter.



- k) Period of limitation shall always be kept in mind. Since SLPs are to be filed within 90 days of passing of impugned order by Division Bench, High Court, the proposal should be submitted to Head Office within one month of issue of impugned order so that second legal opinion, finalisation of draft SLP, vetting and engagement of suitable panel advocate can be appropriately and timely attended.

6. The proposals for filing SLP before Supreme Court or appeal before NCDRC shall contain the following :

- a) Brief history and facts of the case.
- b) Legal opinion of the advocate specifically mentioning the substantial question of law to be decided by the Hon'ble Supreme Court.
- c) Specific comments of RPFC- In-Charge of Regional/Sub-Regional Office indicating therein the substantial point of law involved vis a vis provisions of the Act and the Schemes and total financial implication.
- d) Recommendation of Addl. CPFC (Zones) with his remarks .
- e) Original Certified Copy of the order in Writ Petition filed before the Hon'ble High Court (Single Bench) .
- f) Copy of the counter affidavits to such Writ Petition.
- g) Original certified copy of the order of the Division Bench, Hon'ble High Court on Writ Appeal/LPA.
- h) Copy of the certified counter affidavits to Writ Appeal/LPA/Revision Petition.
- i) English translated copies of all the documents if the same are originally in Hindi/Regional languages.
- j) Date of expiry of the period of limitation. In case of delay, reasons for delay and date wise day to day events of explanation for delay.
- k) Application for condonation of delay.
- l) Draft SLP/Appeal, both in hard copy and soft copy, with all legible copies of Annexures. (Soft copy to come to Head Office through the mail ids - [acc.compliance@epfindia.gov.in](mailto:acc.compliance@epfindia.gov.in) and [rpfc.legal.epf@nic.in](mailto:rpfc.legal.epf@nic.in) ).
- l) The process of filing SLP is a time consuming process and hence new applications can only be filed on certain days specified by the Hon'ble Supreme Court.
- m) In cases where EPFO or Central Board of Trustees or its Officers are respondents in SLPs filed by the aggrieved establishment / employer, the Counter affidavit to SLP duly prepared shall be sent to Head Office along with brief history through Addl. CPFC (Zones) both in hard copy and soft copy.

- n) The RPFC- In-Charge of Regional/Sub-Regional Offices shall maintain proper liaison with the panel advocates and check up the website of Supreme Court to have the updated information and status of the disposal/pendency of the cases.

**7. High Court/EPFAT/CAT cases:** The following guidelines are issued for dealing with the cases at High Court, Employees' Provident Fund Appellate Tribunal (EPFAT) and Central Administrative Tribunal (CAT) cases:

- a) In cases pertaining to High Courts, EPFAT and CAT, where EPFO officials are involved, Addl. CPFCs (Zones) have been delegated with powers and instructed from time to time to review all the court cases every month and ensure that cases are promptly attended to at the admission stage itself so that most of the frivolous petitions get dismissed at the admission stage itself. The Addl. CPFC (Zones) will continue with these monitoring activities.
- b) In the appeals filed before EPFAT, the Presenting Officer/Advocate must oppose the admission of the appeal especially if it is time barred by expiry of 60 days from the date of receipt of the impugned order. If an appeal is admitted before EPFAT after expiry of period of limitation it must be challenged.
- c) Henceforth, the Addl. CPFCs (Zones), in consultation with RPFC-In-Charge of Regional/Sub-Regional Offices, shall review and scrutinize all the orders passed by the EPFAT for the purpose of filing review /appeal and will take a final call on filing a writ against the order of EPFAT before the High Court. However, it is expected that wherever the provisions of the Act and Scheme have been adversely interpreted by the EPFAT, which goes against the mandate of the Act of providing the social security benefit to the employees, a review before EPFAT or a Writ before High Court, as deemed fit, shall be filed without loss of time.
- d) The writ will be filed by an officer other than the one whose order was challenged before the EPFAT, with the approval of Addl. CPFCs (Zones).
- e) Wherever stay has been granted, it shall be reviewed and steps be taken to ensure that the stay is vacated. Further, wherever stay has been granted by the court, an application with prayer for early hearing should invariably be filed for disposal on priority.
- f) In all cases, efforts shall be not to take adjournments for filing counters. Further, adjournments shall be strongly opposed in case such request is made from the opposite party. It is mostly a delaying tactics of the petitioner establishments to prolong the case especially after obtaining the order of stay which shall not be allowed. All the panel advocates shall be instructed accordingly.
- g) The performance of all the advocates empanelled for all the offices of the Zones should be reviewed quarterly by the Addl. CPFC (Zones) and a report be sent to Head Office for apprising CPFC. Advocates whose performance is not up to the mark shall be removed from the panel.

- h) As the performance of compliance and recovery is directly connected with Legal matters, monitoring of legal cases is essential to improve the performance in the area of compliance and recovery. A monthly review meeting shall be conducted by RPFCs In-Charge of Regional /Sub-Regional Offices regularly to monitor the legal cases. In general review meetings also, legal issues should be discussed.
- i) In the cases, where Secretary (Labour & Employment) or CPFC are proforma respondents, necessary action to delete them from the array of respondents be initiated. Otherwise a draft reply must be prepared and submitted for perusal of CPFC duly vetted by RPFC I/OIC, well within the time specified, through Addl. CPFC (Zones) with a certification that the facts of the case have been verified from the files/ records and the counter is vetted at the level of Officer-In-Charge.
- j) Whenever CPFC or Secretary (Labour & Employment) is a respondent to any Contempt Notice, same shall be brought to the notice over email and phone either on the same day or at best, the next day. The scanned copy of the notice should be sent through email of CPFC/ACC/RPFC-I (Legal) followed by fax. The draft reply to Contempt shall also be prepared and sent immediately without waiting for reminder from Head Office. An application exonerating persona, appearance of Secretary ( Labour & Employment) on behalf of Union of India/CPFC should also be filed immediately.
- k) In all court cases where EPFO is a respondent, counter replies must be filed within one month or the time allowed by the Hon'ble Court, whichever is earlier. In all pending court cases or stay cases, Miscellaneous Petitions shall be filed within one month for early hearing or for vacation of stay as required in the matter.
- l) In EPFAT cases, the official website of EPFO shall be regularly visited for perusing the daily order sheets and final orders. RPFCs In-Charge of Regional/Sub-Regional Offices shall be in touch with the Panel Advocates of EPFO at EPFAT concerned to guide them and keep track of the cases for early filing of writ appeal wherever required.
- m) Contradictory orders on similar question of laws, orders passed beyond jurisdiction such as grant of instalment in Recovery certificates, clubbing of 7Q and 14B dues, matters related to exemption etc. if passed by the EPFAT, shall be opposed and promptly challenged.
- n) The RPFCs In-Charge of Regional/Sub-Regional Offices shall ensure that the bills of panel advocates are processed and paid within 15 to 30 days as per direction of Ministry of Law & Justice promptly. No bill of the panel advocates shall be kept pending on flimsy grounds. In case the bills are not admissible, the status shall be informed to the advocate concerned with due justification and quoting rule position.

- o) The Panel advocates should be instructed to inform the development of all the matters assigned to them including interim orders within 24 hours of pronouncement of such order followed by certified copies at the earliest.

**7. Lower Court Cases:** Generally, prosecution cases are filed in Lower Courts for non-payment of contribution and non-submission of returns. Soon after detection of defaults, the RPFCs In-Charge of Regional/Sub-Regional Offices, under whose jurisdiction the defaulting establishments are carrying out their business, shall ensure that the Enforcement Officers submit proposal for sanction of prosecution promptly. Once the prosecution is sanctioned, the complaint should be filed by the Enforcement Officer in the Courts within 07 days alongwith the sanction of Regional Provident Fund Commissioner and a proper record of hearings, adjournments and consultations if any with the Public Prosecutor or Private Lawyer should be maintained for each case or a group of cases to be disposed of jointly. The Enforcement Officer should intimate the progress of the case/cases to the Regional Provident Fund Commissioner after each hearing. Mere making of notes of hearing, adjournment in the respective files is not enough. Delay in submission of prosecution proposals and in filing prosecution cases in Lower Courts shall be avoided as delay encourages default. The prosecution cases filed shall be properly diarised with case number and the status of the cases be monitored regularly. The Panel advocates should be instructed to inform the development of all the matters assigned to them including interim orders within 24 hours of pronouncement of such order followed by certified copies at the earliest.

**8. District Consumer Forum Cases:** The performance of various field offices with regard to District Consumer Forum Cases (DCDRF) is not very much encouraging. There is steep rise in number of consumer forum cases. In majority of the cases, the order passed by the DCDR Forums are not favourable as the same are taken very lightly and not attended and defended appropriately by the Enforcement Officers and advocates. A series of mechanical filing of appeals starts which finally lends at NCDRC. The instances of reversal of the order of District Forum is however very rare. In cases where two offices are involved in a complaint before the DCDR Forum, there is serious lack of coordination between the offices involved. None of the offices pay appropriate attention to such cases. Neither Advocates and Enforcement Officers are detailed nor counters are filed in time which leads to adverse orders. In spite of service of notice, no return reply/counter is filed. Keeping that in view, the following guidelines are issued:

- a) The District Consumer Forum cases shall be attended sincerely and carefully.
- b) The cases shall be appropriately defended to avoid adverse orders. Wherever the assistance of panel advocates in lower courts is required, RPFCs In-Charge of Regional and Sub-Regional Offices are allowed to engage the advocates for proper defence.
- c) Mechanical filing of appeals should be avoided.
- d) On the receipt of the notice, it shall be ensured that a proper written reply /counter is filed within stipulated time or one month whichever is earlier, incorporating preamble, the provisions of the Act and Scheme followed by narration of facts of the case and para-wise comments, duly vetted by an officer not below the rank of RPFC-II.



- e) As DCDRF cases originate from service to subscriber area and mostly are related to the Employees' Pension Scheme, 1995 it shall be ensured that the Scheme provisions are elaborately explained in the counter before the same is filed. The counters in all DCDRF cases shall be vetted by RPFC-II (F & A) or RPFC-II (Pension) in case of Regional Office and RPFC-In-Charge in case of Sub-Regional Office.
- f) In cases where two offices are involved in a complaint before the DCDR Forum, the office where the accounts of the complainant are maintained shall provide the related information and para-wise comments in time to the office where the Consumer Forum case is filed. Proper coordination and liaison between the offices involved in such cases so as to avoid the adverse orders in the interest of the organisation. The office where Consumer Forum case is filed shall immediately inform the office to which the case relates to. It shall be ensured that counter is filed within time and an advocate or Enforcement Officer is engaged and appears on the dates of hearing. The contact details of advocate or the Enforcement Officer may be provided to the office where the case is filed.
- g) It may be seen that the office where the records related to complainant member are maintained ensures that the details required to defend the case are sent at the earliest and regular follow up is made in the matter.
- h) Under no circumstances, communication between two field offices, in such DCDRF cases, shall take place below the rank of RPFC-II (F & A) / RPFC-II (Pension) and RPFC-In-Charge of Offices concerned.
- i) RPFCs In-Charge of Regional/Sub-Regional Offices shall invariably examine and mention in their affidavits whether the case under reference in various consumers courts fall under the ambit of the Consumer Protection Act 1986 or not and the point of jurisdiction of the respective DCDRF should also be thoroughly examined in the light of Section 11 (2) of Consumer Protection Act 1986 and agitated.

The above instructions are issued in supersession of all earlier circulars on the points discussed above in this circular and should be followed by all concerned meticulously.

(This issues with the approval of CPFC.)

Yours faithfully,



(P.K.Udgata)

**Addl. Central P.F Commissioner (Compliance)**