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F. No. 5(27)/89-I.A. III

Dated 25th May, 1990

To

The Directors/Project Directors of all Research
Institutes/Project Directors/National Research
Centres etc.

Sub.:- Applicability of Employees provident Fund Act, 1952 to
Casual labourers employed by the ICAR Institutes.

Sir,

A number of Institutes have made about the applicability of the Employees Provident Fund and Miscellaneous Provision Act 1952 in respect of casual labourers employed by them. The matter has been considered in consultation with the Ministry of Labour and Ministry of Law (Department of Legal Affairs). It has now been decided that only such casual labours employed by different Research Institutes etc. shall be entitled and required to become members of the provident Fund as have completed six months continuous service or have actually worked for not less than 60 days within a period of six months or less. The continuous service shall further mean uninterrupted service, but includes service which is interrupted by sickness, accident and authorised strike which is not illegal or involuntary unemployment.

It is accordingly requested that the cases of concerned casual labourers may be dealt with accordingly.

Yours faithfully,

Sd.-
(Jagdish Chander)
Under Secretary

Copy for information and guidance to all section etc. in ICAR/ASRB.

5/1/90

The Employees' Provident Fund Scheme, 1952

CHAPTER IV

Membership of the Fund

26. Classes of employees entitled and required to join the fund (1)(a) Every employee employed in or in connection with the work of a factory or other establishment to which this scheme applies, other than an excluded employee, shall be entitled and required to become a member of the Fund from the day this paragraph comes into force in such factory or other establishment.

(b) Every employee employed in or in connection with the work of a factory or other establishment to which this Scheme applies, other than an excluded employee, shall also be entitled and required to become a member of the fund from the day this paragraph comes into force in such factory or other establishment if on the date of such coming into force, such employee is a subscriber to a provident fund maintained in respect of the factory or other establishment or in respect of any other factory or establishment (to which the Act applies) under the same employer:

Provided that where the Scheme applies to a factory or other establishment on the expiry or cancellation of an order of exemption under section 17 of the Act, every employee who but for the exemption would have become and continued as a member of the Fund, shall become a member of the Fund forthwith.

(2) After this paragraph comes into force in a factory or other establishment, every employee employed in or in connection with the work of that factory or establishment, other than an excluded employee, who has not become a member already shall also be entitled and required to become a member of the Fund from the date of joining the factory or establishment.

(3) An excluded employee employed in or in connection with the work of a factory or other establishment, to which this Scheme applies shall, on ceasing to be such an employee, be entitled and required to become a member of the Fund from the date he ceased to be such employee.

(4) On re-election of an employee or a class of employees exempted under paragraph 27 or paragraph 27-A to join the Fund or on the expiry or cancellation of an order under that paragraph, every employee shall forthwith become a member thereof.

(5) Every employee who is a member of a private provident fund maintained in respect of an exempted factory or other establishment and who but for exemption would have become and continued as a member of the fund shall, on joining a factory or other establishment to which this Scheme applies, become a member of the fund forthwith.

(6) Notwithstanding anything contained in this paragraph [an officer not below the rank of an Assistant Provident Fund Commissioner] may, on the joint request in writing, of any employee of a factory or other establishment to which this Scheme applies and his employer, enrol such employee as a member or allow him to contribute more than rupees [rupees six thousand and five hundred] of his pay per month if he is already a member of the Fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the Fund, provided that the employer gives an undertaking in writing that he shall pay the administrative charges payable and shall comply with all statutory provisions in respect of such employee.

27. Exemption of an employee

(1) A Commissioner may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme an employee to whom the Scheme applies on receipt of application in Form I from such an employee:

Provided that such an employee is entitled to benefits in the nature of Provident Fund, gratuity or old age pension according to the rules of the factory or other establishment and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and the Scheme.

(2) Where an employee is exempted as aforesaid, the employer shall in respect of such employee maintain such account, submit such returns,

provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) An employee exempted under sub-paragraph (1) may by an application to the Commissioner make a declaration that he shall become a member of the Fund.

(4) No employee shall be granted exemption or permitted to apply out of exemption more than once on each account.

27A. Exemption of a class of employees

(1) [The appropriate Government] may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:

Provided that such class of employees are entitled to benefits in the nature of provident fund, gratuity or old age pension according to the rules of the [factory or other establishment] and such benefits separately or jointly or on the whole not less favourable than the benefit provided under the Act and this Scheme.

(2) Where any class of employees is exempted as aforesaid, the employer shall in respect of such class of employees maintain such account, submit such returns, provide such facilities for inspection, pay such inspection charges and invest provident fund collections in such manner as the Central Government may direct.

(3) A class of employees exempted under sub-paragraph (1) or the majority of employees constituting such class may by an application to the Commissioner make a declaration that the class desires to join the Fund and thereupon such class of employees shall become members of the Fund.

(4) No class of employees shall be granted exemption or permitted to apply out of exemption more than once on each account.

(5) The provisions of this paragraph shall be deemed to have come into force with effect from the 14th of October, 1953.

27AA. Terms and conditions of exemption All exemptions already granted or to be granted hereafter under section 17 of the Act or under paragraph 27A of the scheme shall be subject to the terms and conditions as given in the Appendix A.

As per section 2 (f) of THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952 employee means:-

2. (f) "employee" means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer, and includes any person,-

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961) or under the standing orders of the establishment;