



MTNL EXECUTIVES' ASSOCIATION

Central Headquarters, New Delhi

(Registered under the Trade Union Act 1926, reg no-ALC/Karyasan-17/9715)
[Affiliated to National Confederation of Officers' Associations (NCOA)]

P.N. VASANE
President

website-www.meachq.in

V.K. TOMAR
General Secretary MEA
Secretary General NCOA
President AIPCO

Ref. No.: MEA/CHQ/CMD/EPF.

DATE : 30-07-2020

The Chairman-cum-Managing Director
Mahangar Telephone Nigam Limited.
Corporate office, 9-CGO Complex, Lodhi Road
New Delhi-110003

श्री. सुब्रह्मण्यम मिश्र/PS to CMD
महानगर निगम कार्यालय/MTNL Corporate Office
5थी मंजिल, महानगर दूरसंचार सदन
5th Floor, Mahanagar Doorsanchar Sadan
9, सी.जी.ओ. कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-110003
9, C.G.O. Complex, Lodhi Road, New Delhi-110003

Respected Sir,

Sub: Higher Pension under Rule 11(3) of EPS 95 to all MTNL CPF optees working and retired employees.

- Ref:
1. EPFO Circular No.Pen-1/12/33/EPS Amendment/96/Vol.II/34007 dated 23.03.2017
 2. MTNL Letter No.MTNL/CO/IRW/21(88)/2017 Dated 18.04.2017
 3. Hon'ble Delhi High Court order dated 16 Dec 2014 in WP(C) no 4309/2013 and order dated 10/01/2020 in LPA 111/2015
 5. Asstt. P.F. Commissioner (Exemption), Delhi Central Letter No.E/DL/8444/EX dated 19.03.2020.
 6. MTNL Letter No.MTNL/CPF Trust/Exemption/2020-21 dated 23.06.2020
 7. MTNL Letter No. MTNL/CO/CPF/IRW/22(23)/2019-Vol-1/ dated 06-07-2020

Sir,

With due regards, your kind attention is invited on the following points:-

1. That a show cause noticed dated 30/11/2012 was issued by EPFO to MTNL for violation of Condition No.25 of **Appendix A to Para 27AA** of the Scheme as MTNL has suffered losses for three consecutive Financial year i.1 2009-10, 2010-11 and 2011-12 followed by office order No.E/DL/8444/Rel/1183 dated 11.1.2013 regarding withdrawal of exemption granted to the MTNL.
2. The said order was challenged by MTNL in the Hon'ble Delhi High Court vide Writ Petition(c) No.4309/2013 and the Hon'ble Delhi High Court vide its Single Bench Order dated.16th December 2014 was pleased to dismiss the said application of the Mahanagar Telephone Nigam Ltd while affirming that " **the withdrawal of relaxation with effect from 11.01.2013 is in accordance with the mandate of law**".
3. Hon'ble Delhi High Court, Double Bench pleased to pass an order on dated 10-1-2020 in LPA No.111/2015 filed by M.T.N.L. stating that in **Point No.38** as "We thus do not find

any infirmity in the judgement of the learned Single Bench. The appeal has no merit and is hereby dismissed with no orders as to cost".

4. That EPFO vide its office order No.E/DL/8444/Ex/ dated. 19th March, 2020 issued by Asstt. P F Commissioner (exemption) to MTNL was also directed as under:

- a) Prepare and submit a Past Accumulation Statement showing the amount standing to the credit of each employee/member on the date of transfer, the total accumulations to the credit of subscribers as on the date of transfer as on 31/01/2013, and the advances, if any, taken by the employees/members along with Annexure "K" reflecting membership details of the members to RPFC, Delhi (Central) as prescribed under para 28 of the Employees Provident Fund Scheme, 1952 read with section 17(5) of the EPF & MP Act, 192, within 25 day to RPFC, Delhi (Central). Copy of EPFO Head office letter no.Invest-1/Transfer of securities/2011 dated 12.12.2011 followed by circular no.Invest-1/Custodian/SCB/2011/Vol.III/7513 dated.18.11.2019 regarding transfer of securities in Demat form in favour of CBT, EPF is enclosed herewith for reference.
- b) Transfer the total PF accumulations standing to the credit of all the employees/members of the Trust(howsoever invested to EPFO within 10 days of cancellation of exemption/withdrawal of relaxation in case of liquid cash in bank and within 30 days in the case of securities.
- c) Start compliance as an un-exempted establishment with effect from 31/01/2013 and accordingly file all statutory returns with RPFC, Delhi Central .

**Contents of Appendix-A, Para- 27-AA. (Terms and conditions of exemption)
The Employees Provident Fund Scheme, 1952**

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. The sub para are reproduced below:

- (12) All claims for withdrawals, advance and transfer should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organization
- (19) All such investment made, like purchase of securities and bonds, should be lodged in the safe custody of depository participants, approved by reserve bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952, such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the RPFC concerned directly on receipt of request from the RPFC concerned to that effect.
- (22) The employer and the members of the Board of Trustees, at the time of grant of exemption, shall furnish a written undertaking to the RPFC in such format as may be prescribed from time to time, inter alia, agreeing to abide by the conditions which are specified and this shall be legally binding on the employer and Board of Trustees, including their successors and assignees, or such conditions as may be specified latter for continuation of exemption.

- (23) The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of exemption.
- (25) A company reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year.

It is observed that instead of adhering the above mentioned orders fully MTNL has decided to ceased EPF Trust from June 2020 and surrender Balance Accumulation to EPFO vide its letter dated 23-June-2020. It seems MTNL has not taken the cognizance of the orders of Hon'ble High Court as well as EPFO which amounts to a breach of trust and backstabbing as an employer.

In view of the above facts and in pursuance of letters under references, it is therefore requested that :-

1. MTNL CPF trust may be directed immediately to transfer all the Cash including securities immediately to RPFC , Delhi central as the exemption granted to the said Trust ceased to exist w.e.f.31/1/2013 and inter-alia MTNL CPF Trust may be directed to complying with Para 17 and Para 27 AA sub-rule 23 without further delay in larger interest of MTNL CPF optees including retired MTNL as well as directly recruited retired employees.
2. MTNL CPF Trust may be directed to comply with the direction of Asstt. P F Commissioner (exemption) letter dated. 19/3/2020 in totality in spirit of para 4(a) to(c) without any dilution and send all statement applicable under statutory compliance and transition of MTNL CPF TRUST as on 31/1/2013 to Regional provident fund Commissioner, Delhi Central.

With warm regards,

Your's Sincerely


(V K Tomar)

Copy to:-

1. Secretary (DoT), Deptt. Of Telecommunications, Sanchar Bhawan, 20 Ashoka Road New Delhi-110001 for kind information and intervention please.
2. Asstt. Provident Fund Commissioner (Exemption), Regional office, EPFO Delhi (Central), Bhavishya Nidhi Bhawan, 28 Community Centre, Wazir Pur Industrial Area Delhi-110052 for kind information and intervention please.
3. Central Provident Fund Commissioner, EPFO Head Office, Bhavishya Nidhi Bhawan, 14 Bhikaji Cama Place, New Delhi-110066 for kind information please