AS INTRODUCED IN THE RAJYA SABHA
ON THE 7TH FEBRUARY, 2025

Bill No. LXVII of 2024

THE CODE ON SOCIAL SECURITY (AMENDMENT) BILL, 2024

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BILL

to amend the Code on Social Security, 2020.

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows: —

1. (*1*) This Act may be called the Code on Social Security (Amendment) Act, 2024. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 15.

36 of 2020

2. In section 15 of the Code on Social Security, 2020 (hereinafter referred to as Code), in sub-section *(1)*, in clause *(b)*, in sub-clause *(iii)*, the following provisos shall be inserted, namely: —

"Provided that notwithstanding anything contained in any other provision of this Code, the minimum monthly pension under the Employees' Pension Scheme shall be at such rates as may be prescribed by the Central Government from time to time, which shall, in any circumstances whatsoever, be not less than nine thousand rupees;

Provided further that nothing contained in the preceding proviso shall be applicable to an employee unless he has been a member of the Employees' Pension Scheme for not less than ten years or superannuates on attaining the age of fifty-eight years."

Amendment of section 16.

3. In section 16 of the Code, in sub-section *(1),* in clause *(b),* —

(a) in sub-clause *(iii*), the following provisos shall be inserted, namely:—

"Provided that the contribution by the Central Government to the Pension Fund, shall not be less than eight and one-third per cent of the wages of the members of the Employees' Pension Scheme.

Provided further that the Central Government shall, in addition to its existing contribution obligations under other provisions, contribute such sums at such rates to the corpus of the Pension Fund, as may be necessary to meet the short fall, if any, for the payment of minimum monthly pension of nine thousand rupees to the eligible members of the Employees' Pension Scheme.

Provided also that the Central Government shall, in addition to its existing contribution under other provisions, contribute to the Pension Fund, at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds fifteen thousand rupees per month, or at such amounts and higher rates, as may be notified from time to time, to ensure seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

(b) after sub-clause *(iii),* the following new sub-clauses shall be inserted, namely: —

"(iv) such sums as the employee may voluntarily contribute from his salary to the Pension Fund at his own volition, over and above the employee's contribution towards the Provident Fund referred to in clause *(a)* of sub-section *(1).*

Provided that every contribution payable under this section shall be calculated to the nearest rupee, fifty paise or more to be counted as the next higher rupee and fraction of a rupee less than fifty paise to be ignored.

(v) The pensionable salary shall be the average actual monthly pay drawn in any manner including on piece rate basis during contributory period of service in the span of twelve months immediately preceding the date of exit from the membership of the Pension Fund plus the voluntary contribution by the employees to the Pension Fund referred to in sub-clause *(iv)* above;

Provided that if a member was not in receipt of full wages during the period of twelve months preceding the day, he ceased to be the member of the Pension Fund, the average of previous twelve months full pay drawn by him during the period for which contribution to the Pension Fund was recovered, shall be taken into account as pensionable salary for calculating pension;

Provided further that if during the said span of twelve months there are non-contributory periods of service including cases where the member has drawn salary for a part of the month, the total wages during the twelve months span shall be divided by the actual number of days for which salary has been drawn and the amount so derived shall be multiplied by thirty to work out the average monthly pay;

Provided further that there shall be no ceiling on the maximum pensionable salary for employees, nor any restriction on joining the Pension Scheme based on their salary or date of joining the service, and the pension shall be computed on the basis of the actual wages drawn during the period of twelve months preceding the day the employee ceased to be the member of the Pension Fund and by also reckoning the voluntary contribution, if any, by the employee to the Pension Fund as referred to in sub-clause *(iv)* above;

Provided also that, for the members of the Pension Fund who retire upon attaining the age of fifty-eight years, or have rendered twenty years or more of pensionable service, the pensionable service shall be increased by a weightage of two years, or by such higher periods as may be notified by the Central Government from time to time, and the weightage shall be computed on the basis of the pensionable salary immediately preceding the date of exit from membership of the Pension Fund;

Provided also that the members of the Employees' Pension Scheme shall be entitled to receive Dearness Allowance and periodic revisions of pension at such rates and intervals as may be notified by the Central Government, based on fluctuations in the Consumer Price Index (CPI), for the purpose of mitigating the effects of inflation and addressing the rising cost of living;

(vii) The amount of monthly pension shall be computed in accordance with the following factors, namely: —

Monthly Member’s pension = (Pensionable salary x Pensionable service) / 50

Provided that the computation of pension shall be subject to the minimum pension referred to in sub-clause *(iii)* of clause *(b)* of sub-section *(1)* of section 15 of the Code.”

Amendment of the Fifth Schedule.

4. In the Fifth Schedule of the Code, in part B under the heading ‘MATTERS THAT MAY BE PROVIDED FOR IN THE PENSION SCHEME’, after entry 2, the following new entry shall be inserted, namely: —

“2A. The manner in which the employees’ contribution referred to in sub-clause *(iv)* of clause *(b)* of sub-section *(1)* of section 16 shall be credited to the Pension Fund and its rate of return.”

STATEMENT OF OBJECTS AND REASONS

Work force in establishments, unorganised sectors, gig workers and platform workers are playing a key role in the economic advancement of our country. Their toil & sweat is the prime fuel which propels our economy; yet we, more often than not, ignore them and their contributions, knowingly or unknowingly. It is they who till the land, work in the mines and factories, teach our children, manage financial institutions, drive trucks and what not during their heydays. They are the wealth creators of our country. Therefore, we, as a nation, should give them ample care and protection during their autumn years.

The Code on Social Security, 2020 [Act No. 36 of 2020] (hereinafter referred to as the 'Code') received the assent of the President on 28.09.2020. The Government notified the Code on 29.09.2020, but is yet to implement majority of the provisions of the Code by invoking the powers conferred under sub-section (3) of section 1 of the Code.

The Code was proclaimed to be formulated for amending and consolidating the laws relating to social security with the goal to extend social security to all employees and workers in the organised, unorganised and any other sectors. But it has in fact repealed nine employee benevolent legislations, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and contains several provisions which may affect the interests of the target class. Unfortunately, the Code is not envisioned as a legal frame to ensure reasonable minimum monthly pension amount to the members of the Employees' Pension Scheme on the basis of the present cost of living, basic living requirements and hardships faced by the old age pensioners.

It is deeply concerning that EPF pensioners continue to receive a pittance as their monthly pension, with many not even receiving the minimum amount of one thousand rupees introduced by the Government of India in 2014. At present, around 76 lakh pensioners are covered under the Employees' Pension Scheme across India, out of which approximately 36.50 lakh individuals are receiving less than one thousand rupees per month as pension. This meager pension is subjecting these retirees to severe financial distress, with many enduring untold hardships. The pensioners have long been making an earnest and overdue appeal to raise the minimum monthly pension to nine thousand rupees.

In a written reply submitted by the Government in the Rajya Sabha on August 3, 2023, it was revealed that the Employees' Pension Fund had a corpus of 7,80,308.93 crore rupees at the end of the financial year 2022-23. The interest and income generated from this corpus during the same period amounted to 51,985.82 crore rupees. However, the total pension disbursement for that year by the EPFO stood at a mere 4,444.60 crore rupees, representing only 27.79% of the income earned from the fund, without even utilizing the corpus itself. It is to be read with the fact that, as of 31st March, 2022, the total amount held in inoperative accounts under the Employees' Provident Fund stands at 4,962.70 crore rupees. In light of these figures, the EPFO has sufficient funds to increase the minimum pension. Even in the event of any shortfall in the payment of the minimum pension of nine thousand rupees, the Central Government, in addition to its existing contribution obligations under other provisions, shall also contribute the required amounts at such rates to the Pension Fund corpus as may be necessary to cover the deficit.

Likewise, the Supreme Court *vide* its judgment dated 04.11.2022 in the *Employees Provident Fund Organisation & Anr V. Sunil Kumar B & Ors* permitted the following categories of employees for higher pension [for whom Employer's contribution has been on actual salary commencing prior to 1st September, 2014]:

i. Employees who had retired before 1st September, 2014 after exercising option under the 1995 scheme;

ii. Employees who had exercised option under the 1995 scheme and continued to be in service as on 1st September, 2014; and

iii. Employees, who did not exercise option under the said old 1995 scheme but continuing in service on or after 1st September, 2014 – subject to the submission of a joint option afresh.

In para 44 (v) of the said judgment, it has been commented that the employees who had retired prior to 1st September, 2014 without exercising any option under paragraph 11(3) of the pre-amendment scheme would not be entitled to the benefit of the judgment. It can be inferred that the said observation is on the applicability of this particular judgment and doesn't extinguish the right of pensioners retired prior to 1st September, 2014 as per other judgments, since the operative portion of this judgment mainly dealt with some other aspects. The observation in the Sunil Kumar case couldn't negate the right of higher pension of the said category of employees, who had retired prior to 1st September, 2014 without exercising any option, by making use of the dicta laid down by the Supreme Court in R.C. Gupta and Others *vs.* Regional Provident Fund Commissioner, Employees Provident Fund Organisation and Other [(2018) 14 SCC 809], wherein it was categorically observed that a beneficial scheme ought not to be allowed to be defeated by reference to a cut-off date in a situation where the employer was not following the ceiling limit of five thousand rupees or six thousand and five hundred rupees and had deposited 12 per cent. of the actual salary. Likewise, it was categorically mentioned by the larger Bench of the Supreme Court in the Sunil Kumar case that they agree with the reasoning of the two judge Bench in R.C Gupta Case that there was no cut-off date in proviso to paragraph 11(3) as it stood before the 2014 amendment (for filing joint option). As such, since 2014 amendment is not applicable to those employees retired prior to 1st September, 2014, it should be interpreted that such retired employees are governed by R. C. Gupta Case Judgment and that they are eligible for submitting joint option afresh without any cut-off date at all. Thus, this category of retired employees should not be denied the benefit of higher pension by the EPFO.

Another concern is that the employees who joined service after 01.09.2014 and have a salary exceeding fifteen thousand rupees are now excluded by the EPFO from availing benefits under the higher salary pension scheme. This stance is detrimental to the interests of these employees.

These issues could have been resolved by introducing necessary amendments to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. However, since the said Act has been repealed under Section 164 of the Code on Social Security, 2020 and even though the Government has yet to notify the majority of the Code's provisions, it becomes imperative to propose these amendments to the Code on Social Security, 2020.

The Code is also silent on permitting the employees to plan their retirement life by contributing from salary to the Pension Fund at their volition when they are at the zenith of their career, over and above the employees' contribution towards the Provident Fund referred to in clause *(a)* of sub-section *(1)* of section 16 of the Code. Currently the corpus of the Employees' Pension Fund is made up of (i) contribution by the employer @ 8.33 per cent of wages; and (ii) contribution from Central Government through budgetary support @ 1.16 per cent. of wages, up to an amount of fifteen thousand rupees per month, as a 'Defined Contribution-Defined Benefit' Social Security Scheme. There is currently no provision in the Code permitting contribution by the employees towards Employees' Pension Fund. The employee contributions are continued to be limited to Employees' Provident Fund only. If the employees are allowed to contribute to the Pension Fund also at their discretion, in addition to their statutory contribution to the Provident Fund, they can draw a reasonable pension at the end of their service, proportionate to what they have contributed, over and above the minimum monthly pension. Similarly, there is demand from a part of the employees to increase the contribution of the Central Government to the Pension Fund from the current rate of 1.16%. Likewise, the Central Government shall, in addition to its existing contribution obligations under other provisions, contribute to the Pension Fund at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds of fifteen thousand rupees per month, or at such amounts and higher rates as may be notified from time to time, to ensure the seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

Similarly, it is only just and equitable to determine the pensionable salary on the basis of the last 12 months' service of the employee. It is equally pertinent to note that it is the need of the hour to revise the factors for computation of monthly pension prevailing under the existing pension scheme so as to ensure reasonable pension to employees.

The Bill seeks to achieve the aforesaid objectives.

JOHN BRITTAS

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the minimum monthly pension under the Employees' Pension Scheme shall not be less than rupees nine thousand. Clause 3 of the Bill provides for enhanced contribution by the Central Government at or above eight and one-third per cent. of the wages of the members to the Pension Fund and for additional contribution by the Central Government to the Employees' Pension Fund as may be necessary to meet the short falls, if any, for the payment of minimum monthly pension of Rs. 9,000/- to the members of the Employees' Pension Scheme. Clause 4 of the Bill provides for additional contribution by the Central Government to the Employees' Pension Fund at the rate of 1.16 per cent of the employees' actual salary to the extent that such salary exceeds Rs.15,000/- per month, or at such amounts and higher rates as may be notified from time to time, to ensure the seamless disbursement of higher pension to the members of the Employees' Pension Scheme, commensurate with their actual salary drawn while in service.

The Bill, therefore, if enacted will involve additional expenditure, either recurring or non-recurring, from the Consolidated Fund of India. However, at this stage, it is difficult to make any estimate of the likely expenditure involved.

ANNEXURE

EXTRACTS FROM THE CODE ON SOCIAL SECURITY, 2020

(36 OF 2020)

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15. (*1*) The Central Government may, by notification— Schemes.

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(*b*) frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(*i*) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Chapter applies;

(*ii*) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees; and

(*iii*) nominee pension;

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16. (*1*) The Central Government may, for the purposes of— Funds.

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(*b*) the Pension Scheme, establish a Pension Fund in the manner specified in that scheme by that Government into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(*i*) such sums from the employer's contribution under clause (a) not exceeding eight and one-third per cent. of the wages or such per cent. of wages as may be notified by the Central Government;

(*ii*) such sums payable as contribution to the Pension Fund, as may be specified in the Pension Scheme, by the employers of the exempted establishments under section 143 to which the pension scheme applies;

(*iii*) such sums as the Central Government after due appropriation by Parliament by law in this behalf, specify;

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RAJYA SABHA

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to amend the Code on Social Security, 2020.

(Dr. John Brittas., M.P.)

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