



ALL INDIA ASSOCIATION OF COAL EXECUTIVES (AIACE)

(Regd. under The Trade Union Act 1926; Regd. No. 546 / 2016)

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AIACE/CENTRAL/2019/19

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To

The Chairman,
Coal India Limited,
Coal Bhawan,
Premise No-04 MAR,
Plot No-AF-III, Action Area-1A,
Newtown, Rajarhat,
Kolkata-700156

Sub:-- Smooth implementation of Executive Defined Contributory Pension Scheme, 2007.

Dear Sir,

Further to our earlier letter on Executive Defined Contributory Pension Scheme, popularly known as NPS among Coal Indians, we shall like to highlight the followings and urge for an early remedial measures.

1. As per provisions of CIL executives pay revision effective 1.1.2007, steps have been initiated to form a Trust for the purpose. The deed for this trust was made in the court of law on 31st July,2018 and surprisingly, after a lapse of more than 6 months, it was uploaded on CIL website on 10th of January,2019.
2. This upload is in a single file broadly showing (a) Trust deed between the representative of CIL and CIL Executive Defined Contribution Pension Fund Scheme (b) Specimen of ten-fingers of all concerned representatives (c) Complete scheme of Executive Defined Contributory Pension Scheme, 2007 (d) Major information of the deed
3. The upload shows that CIL board had approved and directed CMD,CIL to become *settlor* to form a Trust along with 11 *trustees*. Out of these 11 trustees,CMD,CIL is one of the trustees along with 6 Directors and 2 General Managers of CIL and its subsidiaries. Surprisingly, remaining 2 trustees have been chosen in their capacity of office-bearers of CMOAI.

Curiously, this organization, CMOAI, claims to represent officers of CIL, but, it is a well known fact that not all officers are in its fold and it is a de-registered de-recognised body under Trade Union Act. In contrast, our association AIACE is a duly registered body under The Trade Union Act, representing working as well as retired and dependant members also in its fold. This last 2 category of membership matters a lot as their interests are involved in this CIL's pension scheme and CMOAI trustees can't serve their interest. While CIL management is free to negotiate with any organization on working executives' issues, rights of retired executives and dependant family members of separated/deceased executives cannot be denied and CIL, as settlor of the trust, must include representatives of AIACE. It is more so, as the role of trustee is to act as liaison agent between the members and the annuity provider. This role has been assigned to trustees by Indian Trust Act, 1882 and members are not supposed to run after annuity provider for resolution of their likely grievances. Needless to say, that if this trust would have been a Private Property Trust, even infants could have been trustees, but ours is a different case.

4. The deemed date for formation of this Trust has been mentioned as 1.1.2007, but since when this trust will operate and implement the scheme for which it is made, is mentioned nowhere. This suggests that CIL can or intend to make changes as per its wishes.
5. The pension scheme is presented in 8 chapters showing (i) Title. Commencement & Definitions (ii) Applicability & Eligibility (iii) Contribution structure (iv) Pension Benefits (v) Administration of the Pension Trust (vi) Investment of Trust Fund (vii) Audit and Accounts, and (viii) Miscellaneous Provisions.
6. Section 2.1 of this scheme makes it mandatory for all the Employees borne on the regular rolls of the Company (both Board level and below Board level), as on the effective date i.e., 01.01.2007 and onwards to become member of the trust. After defining the eligibility criteria for joining the scheme, Section 2.3 requires all executives already retired, etc., after 01.01.2007 to get them enrolled to avail benefits under the Scheme. After enrolment of members, we foresee following heartburning areas of dissatisfaction among executives

and/or their dependant family members since the uploaded scheme grossly deviates from the scheme of National Pension Trust founded by law under Pension Fund Regulatory and Development Act (PFRDA)..

6.1 The withdrawal provision is ill-conceived and there is no provision of exit for the members. The scheme allows (i) total withdrawal only when member's corpus fund is below Rs 1 lakh, and, (ii) partial withdrawal of 1/3rd of members' corpus fund. It requires major modification/amendment in CIL pension scheme. For the sake of record and guidance, provisions in PFRDA are being reproduced below in this regard:

Withdrawal from the NPS:-

Withdrawal from the NPS is generally meant to be after retirement. Usually, the age for that is supposed to be 65 years (increased from earlier 60 years). The purpose behind NPS is to create a fund for old age for every individual.

However, the withdrawal from NPS can be broadly categorized into 3 categories-

I. On Maturity

The NPS corpus matures at the age of 60. Upon maturity, one can withdraw 40% of the NPS corpus as a tax-free lump-sum amount. 40% of the remaining NPS corpus must necessarily be used to purchase an annuity.

The balance 20%, can either be used to purchase an annuity or withdrawn after paying tax. It is important to note that this balance amount is taxable upon withdrawal.

If the subscriber of the NPS dies before the maturity age of 60 years then the accumulated in the NPS corpus shall be paid to the legal nominee/ heir of the subscriber.

II. Premature Exit

However, it is possible to withdraw the NPS corpus before the age of maturity as well. This is termed as 'premature exit' and upon such a withdrawal, 80% of one's NPS corpus must compulsorily be used to purchase an annuity.

If the accumulated pension amount is less than Rs10 lakhs, then the complete amount in the NPS corpus can be withdrawn tax-free.

The remaining 20% can be withdrawn but is a taxable sum. This high proportion of annuity purchase could be against the interest of the investor.

III. Partial Withdrawal

'Partial' withdrawals of up to 25% of your NPS contributions are allowed after three years of joining the NPS. However, such partial withdrawals are allowed only on specified grounds, also referred to as defined expenses.

Partial withdrawals are allowed to be made from Tier I account. Any such partial withdrawal is allowed only up to three times during the entire period and must have a minimum 5-year gap between them. This is, however, not applicable to critical illnesses.

6.2 Section 3.1. (j) of the pension scheme says,

"All contribution payable under these rules shall be accounted against the individual members Pension account separately under the heading of Employer Contribution and Members Contribution. Interest accrued shall also be credited to the respective member's pension account. All items of account shall be calculated to the nearest rupee, 50 paise or more shall be counted as a rupee and less than 50 paise shall be ignored."

Further, at 2 more places there is reference to this Interest component as presented below:-

Section 2.2.(g) Executives who have been removed or dismissed from service under CDA rules would be eligible for Pension based only on the Member's contribution, if any, and interest thereon.

Section 4.5.(a) In cases of resignation (excluding resignation covered under technical formality clause), and in cases of compulsory retirement, removal, dismissal because of disciplinary proceedings, payment of pension benefits shall be computed based only on Members contribution, if any, and interest accrued thereon.

One wonders, when the pension rules have clearly provided for this Interest component at least 3 places cited above, why CIL is completely silent over this interest portion, and has not added the interest component in the individual member's corpus fund. Rather, it has given us to understand that only the Principal amount of the corpus fund will be transferred to the annuity provider. All examples and data compilation and presentation so far are suggestive of this phenomenon. So, inclusion of Interest component in the corpus fund is the utmost need of hour.

We hope, there is enough time left in your disposal to look on the observations and suggestions above. A suitable corrective action from your end will make all of us proud.

Regards,



P K SINGH RATHOR
Principal General Secretary

CC—DP/DF/DT/DM, CIL, Kolkata.

CMD/DP/DF/DT, All subsidiary companies of CIL.

Copy for kind information

The Minister of Coal, Govt of India, New Delhi.

The Coal Secretary, Govt of India, New Delhi.