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Chp. 3 : Employees Provident fund and miscellaneous Provisions Act, 1952

EPF Act, 1952 was enacted on 4th March, 1952 and was applicable all over the India to provide a post retirement benefit for the employees.

⊛ It covers 3 scheme :

- ① Employee's Provident fund schemes, 1952
- ② Employee's Pension scheme, 1995
- ③ Employee's Deposit-Linked Insurance scheme, 1976

I] Applicability - section 1(3)

1. Wage limit upto Rs. 15000/-
 2. **Factory** - having 20 or more persons employed
 3. **Other Establishment^{ment}** - having 20 or more persons employed ⊕ specified by CG
 4. **Factory / Establishment** - having less than 20 employees ⊕ notified by CG
- CG to give atleast 2 months prior notice to Factory / Establishment about applicability to this act.
5. If in the view of **Centre Provident Fund Commissioner (CPFC)**, if employer & majority of employee have agreed for the applicability of this act.

⊛ Note :-

"once applicable, always applicable"

* Non Applicability of Act :

- co-operative society → less than 50 members → working w/o the aid of power.
 - eg. a. co-soc → member 49 → (NA)
 - b. co-soc → member 50 → (A)
 - c. co-soc → member 10 → with the aid of power → (NA)
 - d. co-soc → member 25 → with the aid of power → (A)

2. Establishment belonging to Ccr AND SGr their employees are entitled to contributory PF OR Old age Pension

3. Establishment setup under state central Provincial Act AND their employees are entitled to Contributory PF OR Old Age Pension

* Important Definitions :-

1. Appropriate Government → same as in POGA

2. Authorized Officer sec. 2(aa) → CPFC, A. CPFC, D. PFC, R. PFC, others - authorized by CG

3. Basic Wages - sec. 2(b) → (+) BS + Leaves with wages
 (-) cash value of any consideration, DA, HRA, OT, Bonus, commission, or any other allowance presents by (r)

4. Employer

if factory

- owner
- occupier
- Agents of such owner or occupier
- Legal representative of owner or occupier
- manager

person having ultimate control over the affairs of the establishment

5. Employee

employed for wages

for any kind of work

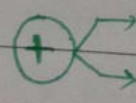
work in establishment

wages

directly or indirectly

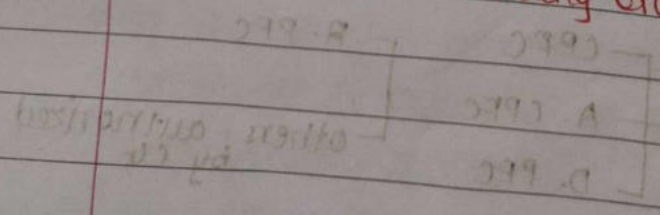
from employer

manual or otherwise



employed through contractor
Apprentice

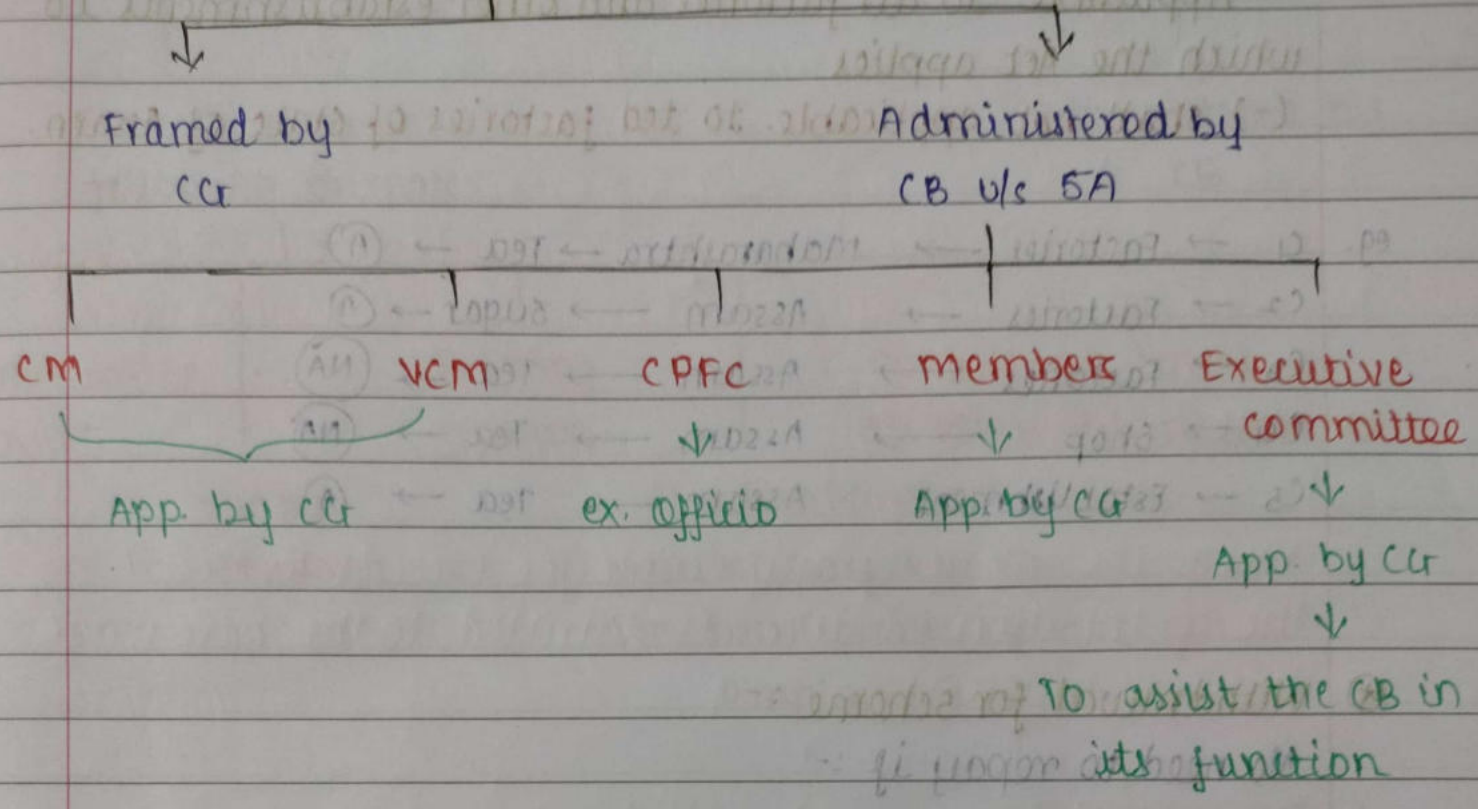
- (-) not being an apprentice covered under Apprentice Act, 1961
- (-) As per standing order of establishment



as + learner with model

form committee of an establishment

Sec. 5: EPF Scheme, 1952



* contribution (Sec. 6)

1. By $\left[\begin{matrix} er \rightarrow 10\% \\ ee \rightarrow 10\% \end{matrix} \right]$ of BS + DA + RA (Retaining allowance)
2. (er) \rightarrow may contribute more than 10%.
3. Govt. may notify rate @ 12% for 'NOTIFIED ESTABLISHMENT'

Notes:

1. Max. wage limit = ₹ 15,000
2. If want to provide EPF on higher wages, Joint request from (er) & (ee) is required.
3. Wage limit of Rs. 15,000; is not applicable to International worker.

* Applicability of scheme :-

↳ Applicable to all factories and other establishments to which the Act applies

(-) shall not be applicable to tea factories of state of Assam.

eg. C ₁	→	Factory	→	Maharashtra	→	Tea	→	(A)
C ₂	→	Factory	→	Assam	→	Sugar	→	(A)
C ₃	→	Factory	→	Assam	→	Tea	→	(NA)
C ₄	→	Shop	→	Assam	→	Tea	→	(NA)
C ₅	→	Establishment	→	Assam	→	Tea	→	(A)

* Withdrawal for scheme :-

No need to repay if :-

- purchase of dwelling house
- repayment of loans
- withdrawal within one year before the retirement
- withdrawal upto 75%, if not employed for one month or more, subject to approval from PFC

* Advance from Fund :-



Refundable

- ① Illness
- ② marriage of children
- ③ Post matriculation studies of children



Non-Refundable

- ① Abnormal conditions like calamities (flood, earthquake)
- ② cut in supply of electricity
- ③ Physically handicapped

(B) EPS, 1995

Framed by Govt for following purpose

Administered by
↓
CB

Superannuation Pension

Retiring Pension

Permanent total disablement purpose *

Widow Pension

Children/Orphan pension payable to the beneficiaries of employees

* Contribution :-

(ee)

No contribution

(er)

8.33% of BS+DA+RA

- contribution is not payable → After 58 years of age of employee

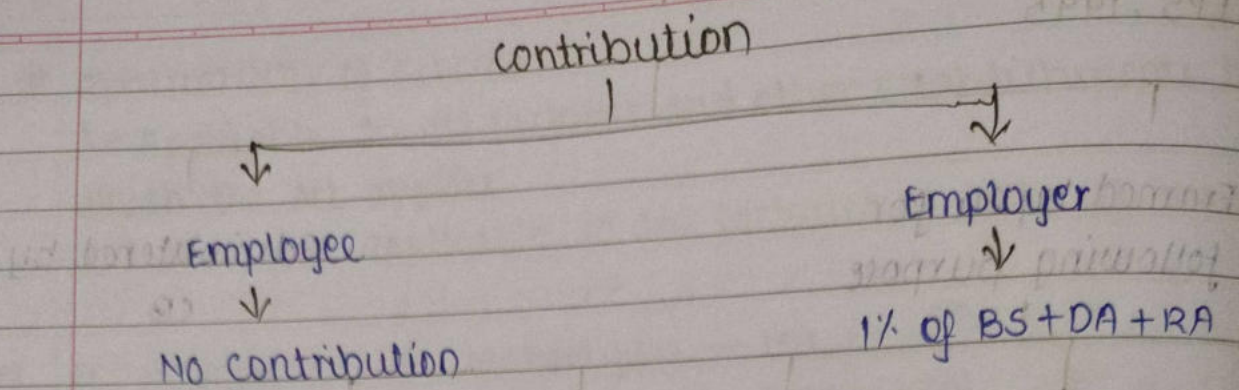
(C) Employee's deposit linked insurance scheme - sec. 6C (1976)

App. to all factories & establishment, to which, the act applies

(-) Factories (+) Assam (+) Tea

Wage limit → Rs. 15000/-

Cover → 2.5 L - 6 L



⊛ Note :-

1. Where the salary of any employee exceeds Rs. 15000/-
The contribution payable is restricted to the base wage limit of Rs. 15000/-
2. The central Government will direct employer to pay additional amount as maybe prescribed towards administration of this scheme.

* $\frac{1}{4}$ of the total contribution.

⊛ Determination of money due from Employers - Sec. 7A

- In case of dispute between (ex) & (ee) refer matter to the concerned Authority

1. Authority concerned will conduct an enquiry
2. Determine the amount due
3. And pass an order (must, OOBH to employer)

- The authority concern shall has the same powers as are vested in the court :

1. enforcing the attendance of any person.

- 2. requiring the discovery & prodⁿ of documents
- 3. receiving evidence of ~~an~~ affidavit
- 4. issuing commissions for the examination of witnesses

If employer attained and (ee) did not —
Dismiss the case

If both party did not attained —
Dismiss the case

If (ee) attained and (er) did not —
Ex-parte order

- The (er) may within 3 months apply for set aside of the ex-parte order

* Review of Order :-

Any person aggrieved by the order of concerned authority may apply for review to the concerned authority if he :-

1. discovered new and important matter of evidence
2. could not produced by him at the time when the order was made
3. account of some mistake
4. error apparent on the face of the record
5. other sufficient reason

- Officer on his own motion may review his order

- * Determination of escaped amt. —
- Officers may re-open the case within 5 years

1. He believed that by reason of omission or failure on the part of (er)
2. Non-disclosure of fully and truly material facts by the (er)

* EPF Appellate Tribunal

→ Hear appeals against the order of

CC

concerned Authority

* Appealed Tribunal may —

1. confirm
 2. modify
 3. set aside the order
 4. Refer the case back to the authority which passed such order with such directions as the Tribunal may think fit
- No appeal by the employer shall be entertained unless he has deposited with it 75% of the amt. due from him.

* Employer not reduce wages:

→ Employer cannot reduce the wages of any employee only because his liability for the payment of any contribution to the fund.

* Transfer of Accounts :

→ Where an employee leaves his employment and obtains re-employment in another establishment, the amount of funds shall be transfer to the establishment in which he is employed.

* Penalties :

→ Knowingly makes or causes to be made any false statement or false representation.

Imprisonment → 1 year

Fine → Max. 5000

OR Both

* Defences by company :

→ Any company committed the offences every person who at the time of offence was committed shall be held as responsible.

→ Nothing contained in this section shall be applicable

on any person if he proves that the offence is committed without the knowledge

→ Where an offence under the act is committed with the consent of any director, manager or officer, such director, manager or officer shall be deemed to be guilty.