

**GOVERNMENT OF INDIA
LABOUR AND EMPLOYMENT
LOK SABHA**

UNSTARRED QUESTION NO:5510

ANSWERED ON:13.12.2010

NON-RELEASED OF EPF BY EMPLOYERS

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Will the Minister of LABOUR AND EMPLOYMENT be pleased to state:

- (a) whether several employers are not releasing Employees Provident Fund (EPF) contribution of their employees;
- (b) if so, the provisions made by the Government in this regard;
- (c) the States where these provisions have been violated during the last three years;
- (d) the action taken by the Government against defaulters during the last three years;
- (e) the withheld amount deposited by the employees during the last three years; and
- (f) the efforts made by the Government to ensure timely deposition of EPF contribution by the employers?

Answer

MINISTER OF STATE FOR LABOUR AND EMPLOYMENT(SHRI HARISH RAWAT)

(a): Several employers are defaulters in payment of contribution.

(b): Section 6 of the Employees` Provident Fund & Miscellaneous Provisions Act, 1952 deals with payment of contributions and para 30(1) of the Employees` Provident Fund Scheme, 1952 envisages the mode of payment of contribution which reads as under:

Para 30 Payment of contribution: (1) the employer shall, in the first instance, pay both the contribution payable by himself (In this Scheme referred to as the employers` contribution) and also, on behalf of the members employed by him directly or by or through a contractor, the contribution payable by such member (In the Scheme referred to as the member`s contribution).

(c): Several establishments In all the States are in default.

(d): The Employees` Provident Fund Organisation (EPFO) has taken the following actions:

1. Action under section 8F of the Employees` Provident Fund & Miscellaneous Provisions Act, 1952 prohibiting 3rd parties Including bankers against payment due to the defaulter and appropriating it against Provident Fund dues.

2. Recovery action by :-

I. Attachment and sale of movable and immovable properties of the defaulting establishments.

II. Appointment of receiver to run the business of the defaulting establishments.

III. Arrest and detention of defaulter.

3. Action under section 14 of the Employees` Provident Fund & Miscellaneous Provisions Act,1952-Prosecution of the defaulters before the courts of law.

4. Action under section 14B-levying damages as penalty-a deterrent action.

5. Prosecution under section 406/409 IPC-for non-payment of employees share deducted from the wages but not deposited.

6. Action under section 110 CrPC-complaints filed with the Executive Magistrate.

7. Action under section 7Q-levy of Interest for belated remittances. Details of such actions are at Annexure.

(e): No amount is withheld. Section 10 of the Employees` Provident Fund & Miscellaneous Provisions Act, 1952 provides protection against attachment: Section 10: Protection against attachment: (1) the amount standing to the credit of any member in the Fund or of any exempted employee In a provident fund shall not In any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability Incurred by the member or the exempted employee, and neither the official assignee appointed under the Presidency Towns Insolvency Act, 1909 (3 of 1909) nor any receiver

appointed under the Provincial Insolvency Act, 1920 (5 of 1920), shall be entitled to or have any claim on, any such amount.

(f): Regular monitoring is done through field functionaries of the Employees' Provident Fund Organisation. Regular inspections are done by the Enforcement Officers to ensure that timely depositing of Employees' Provident Fund contributions is made by the employers.