

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

UNSTARRED QUESTION NO:2872
ANSWERED ON:12.12.2011
DUES ON EPF CONTRIBUTION
Joshi Shri Pralhad Venkatesh

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

- (a) whether supreme court in a recent judgment held that EPF contribution dues of the employees is the first charge on the assets of the company under liquidation;
- (b) if so, whether the Government has issued any amended Government order or notification on this issue for the benefits of lakhs of employees of various companies in the country;
- (c) whether the Government has received any representation in this regard from employees; and
- (d) if so, the details thereof and the reaction of the Government thereto?

Answer

MINISTER OF LABOUR AND EMPLOYMENT (SHRI MALLIKARJUN KHARGE)

- (a): Yes, Madam. Hon'ble Supreme Court in its judgement dated 08.11.2011 in the matter of Employees' Pension Fund Commissioner Vs. O.L. of Esskay Pharmaceuticals Limited and others, SLP (Civil) No. 7642, 7644, 7645 and 7646 of 2011 upheld the priority of dues under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 on the assets of a company under liquidation over all other dues including that of secured creditors under Section 529, 529A & 530 of the Companies Act.
- (b): The provision of priority of Employees' Provident Fund dues is already available under Section 11(2) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952. The order of Hon'ble Supreme Court is binding to all and requires no separate notification. However, the order of Hon'ble Supreme Court has been circulated to all the field offices of Employees' Provident Fund Organisation for compliance.
- (c): No, Madam.
- (d): Does not arise in view of reply to part (c) above.