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STANDING COMMITTEE ON LABOUR
(2009-2010)

FIFTEENTH LOK SABHA

MINISTRY OF LABOUR AND EMPLOYMENT

[Action taken by the Government on the Recommendations/Observations contained in the Thirtieth Report of Standing Committee on Labour on the `Functioning of the Employees' Provident Fund Organisation]

FIFTH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

December, 2009/ Agrahayana, 1931 (Saka)

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Presented to Lok Sabha on 17th December, 2009

Laid in Rajya Sabha on 17th December, 2009

LOK SABHA SECRETARIAT
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December, 2009/ Agrahayana 1931 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON LABOUR (2009-2010)

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LOK SABHA

2. Shri M. Anandan
3. Shri P. Balram (Mahabubabad)
4. Dr. Shafiqur Rahman Barq
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12. Shri S. Pakkirappa
13. Shri Ramkishun
14. Shri Mahendra Kumar Roy
15. Shri Chandu Lal Sahu
16. Shri Murari Lal Singh

***17. Shri Raj Babbar

18. Vacant
19. Vacant
20. Vacant
21. Vacant

RAJYA SABHA

22. Shri G. Sanjeeva Reddy
23. Shri Rudra Narayan Pany

**24. Shri Pyarelal Khandelwal

25. Shri Rajaram
26. Smt. Renubala Pradhan
27. Shri G.N. Ratanpuri

*28. Shri Mohammad Adeeb

29. Vacant
30. Vacant
31. Vacant

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* Changed the nomination from Committee on Labour to Committee on Commerce w.e.f. 17th September, 2009.

** Expired on 6th October, 2009.

*** Nominated w.e.f. 3rd December, 2009.

SECRETARIAT

1.	Shri Devender Singh	-	Joint Secretary
2.	Shri B.S. Dahiya	-	Director
3.	Shri Ashok Sajwan	-	Additional Director

INTRODUCTION

I, the Chairman of the Standing Committee on Labour having been authorised by the Committee to submit the Report on their behalf, present this Fifth Report on the action taken by the Government on the recommendations contained in the Thirtieth Report of the Standing Committee on Labour (Fourteenth Lok Sabha) on the `Functioning of the Employees' Provident Fund Organisation.'

2. The Thirtieth Report (14^{th} Lok Sabha) was presented to Lok Sabha and also laid in Rajya Sabha on 21.10.2008. The Ministry of Labour and Employment furnished their replies indicating action taken on the recommendations contained in that Report on 20.2.2009. The Report was considered and adopted by the Standing Committee on Labour at their sitting held on 11.11.2009.

3. An analysis of the action taken by Government on the recommendations contained in the Thirtieth Report of the Standing Committee on Labour (Fourteenth Lok Sabha) is given in Appendix-II.

4. For the facility of reference and convenience recommendations/observations of the Committee have been printed in thick type in the body of the Report.

New Delhi; **HEMANAND BISWAL**
3rd November*, 2009* *CHAIRMAN,*
12 Kartika, 1931 (Saka) ***STANDING COMMITTEE ON LABOUR***

CHAPTER I
REPORT

This Report of the Standing Committee on Labour deals with the action taken by the Government on the recommendations/observations contained in the Thirtieth Report (14th Lok Sabha) on `Functioning of Employees' Provident Fund Organisation' relating to the Ministry of Labour and Employment which was presented to Lok Sabha and laid in Rajya Sabha on 21.10.2008.

2 The Ministry of Labour and Employment were requested to furnish action taken replies to the recommendations contained in the Thirtieth Report within three months from the presentation of the Report i.e. by 21st January, 2009. The action taken replies of the Government in respect of all the 18 recommendations contained in the Report were received on 20th February, 2009. These have been categorized as under:-

(i) Recommendations/Observations which have been accepted by the Government--Paragraph Sl. Nos. 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 16, 17 and 18.

(ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's reply – Paragraph Sl. Nos. 14 and 15.

(iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee and which require reiteration--Nil.

(iv) Recommendations/Observations in respect of which replies of the Government are interim in nature— Paragraph Sl. Nos. 7 and 9.

3. The Committee desire that action taken notes in respect of recommendations contained in Chapter I and final action taken notes in respect of recommendations contained in Chapter-V for which only interim replies have been given by the Government may be furnished to them at the earliest and in any case not later than 3 months of the presentation of this Report.

4. The Committee will now deal with the action taken by the Government on some of their recommendations which need reiteration or merit comments in the succeeding paragraphs.

A. Amendment to Employees' Provident Funds and Miscellaneous Provisions Act, 1952

Recommendation (Sl.No.2, Paras 1.9 and 1.10)

5. The Committee in their original Report observed that amendment to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 has been pending since long and and there has been no sincere efforts to bring it around. The Committee noted that proposal for carrying out amendments in the EPF and MP Act, 1952 was considered by the CBT as back as in July, 2002. The Ministry's view point that decision for amending the Act would be taken at an appropriate time was regretful. The delay on this count has only exacerbated the problems of beneficiaries and also of the organization. The ever growing inoperative account, mounting arrears for recovery, increasing number of defaulting establishments and swelling court cases under various sections of the Act and also under IPC were the testimony that urgent remedial measures were the need of the hour for the smooth functioning of the EPFO and satisfaction of its beneficiaries.

The Committee strongly recommended that immediate necessary steps should be taken to have a comprehensive review of the EPF and MP Act, 1952 to effect necessary amendment in the Act. The amendments should *inter-alia* include the automatic coverage of establishments as and when it came up, complete coverage of all the workers of the establishments, timely realization of EPF dues, stringent penal action for default by the establishments, accountability of the officers responsible for their act of omissions and commissions, modernizing and revamp of the system and functioning of this Organization, including better fund management.

6. In their action taken reply furnished to the Committee, the Ministry stated as follows :-

`The Central Board of Trustees in its 183rd meeting held on 5.7.2008 has approved the proposal for reducing the threshold limit for coverage under the EPF and MP Act, 1952 from 50 to 20 in respect of co-operative institutions working without aid of power and from 20 to 10 in respect of other establishments.

The reduction of threshold limit for coverage under the EPF and MP Act, 1952 would require amendment to Sections 1(3) and 16(1)(a) of the EPF and MP Act, 1952.

The amendment proposal was considered by Cabinet on 16/10/2008 and the Cabinet directed to re-examine the proposal in consultation with concerned Ministries which is being done. Once implemented this proposal would greatly enhance the coverage of establishments.

After a detailed and meticulous exercise the proposal for appointment of Multi Fund Managers was placed before the Central Board of Trustees (EPF) who in its 181st meeting held on 29/07/2008 has decided to mandate the four bidders namely – HSBC AMC, ICICI Prudential AMC, State Bank of India and Reliance Capital AMC for managing the corpus of EPFO. It is expected that this move will bring in better yields to Provident Fund corpus and give better returns to EPF subscribers in future by installing competition amongst fund managers. Proposal for amendment to the other provisions of the Act is also under examination.'

7. While appreciating the fact that the Government have already initiated the process for reducing the threshold limit for coverage under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Committee urge the Ministry to amend the other provisions of the Act, as recommended by them earlier, within a specific time frame, for smooth functioning of EPFO and for more benefits to the subscribers. The Committee also expect that there should be a well established and proper mechanism to oversee the functioning of Multi Fund Managers namely HSBC AMC, ICICI Prudential AMC,

SBI and Reliance Capital AMC appointed for managing the corpus of EPFO so that there is no misuse or misappropriation of the fund.

B. Compliance 2001 Programme

Recommendation (Sl.No.3, Para 1.20)

8. The Committee in their Report, while examination of the working of EPFO found that the coverage of workers is extremely meagre in spite of several initiatives taken by the Government to enhance it. The Committee noted that 'Compliance 2001 Programme' was one such drive launched to maximize the coverage based on the concept of *suo motu* and voluntary action on the part of the employers/establishments to provide EPF coverage to its workers. However, the programme could not achieve the desired objectives fully. The Committee recommended that the strategic changes in the `Compliance 2001 Programme' should be made in a time bound manner with a view to reducing the evasion of the eligible units to the minimum and to extend its coverage to the large manpower working in the private/unorganized sector.

9. In their action taken reply the Ministry stated as follows :-

> `The Sub-Committee for Strategic Adjustments in Compliance 2001 Programme has directed all Addl. CPFCs (Zones) to convene the meeting of RPFCs, in-charge of the regions and collect the information which would enable the Sub-Committee to review the Compliance 2001 programme. The data furnished by the in-charge of the regions and their feedback is being discussed with the employer's and employees' representatives. The recommendation of the Committee shall be formulated after collating all the data received and shall be placed before the Standing Committee as soon as possible.'

10. The Committee are concerned to note that the data which will enable the Sub-Committee for Strategic Adjustments to review the Compliance 2001 Programme is still awaited from Regional Provident Fund Commissioners (RPFCs), in-charge of the regions. The Committee urge the Ministry to expedite the work of collecting data from RPFCs so that the concerned Committee may give its recommendations in time and further action in the matter could, accordingly, be initiated. The Committee would also like to be apprised about the progress made in this regard.

C. Recovery of arrears

Recommendation (Sl.No.7, Para 1.34)

11. The Committee in their original Report noted with concern that the arrears due for recovery were continuously mounting year after year against the defaulting establishments. The reasons for non-realisation of arrears have been adduced on account of stays granted by courts/tribunals, establishments having gone into liquidation/closure/lock-outs, sanction of installments by courts/higher authorities and establishments in respect of which rehabilitation scheme had been sanctioned by BIFR. The Committee felt that EPFO should strengthen its grievance redressal machinery so that more cases are resolved and establishments did not approach courts too often. Similarly, legal unit of the Organisation should have constant coordination with courts/tribunals/BIFR, etc. to save time in settlement of cases.

12. In their action taken reply the Ministry stated as follows :-

> `Instructions are issued from time to time to the Regional Offices for constant coordination with courts / tribunals / BIFR etc. to save time in settlement of cases has also further improve collections of other arrears. The Central Board of Trustees, EPF in its meetings consider the request for waiver of damages moved by the employers and grants waiver or reduction of damages in appropriate cases in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by BIFR.'

13. The Committee find the reply of the Government far from satisfactory as it does not reflect any seriousness on their part to solve such a grave problem of recovery of ever increasing arrears against defaulting establishments. The Committee, therefore, reiterate that EPFO should strengthen its Grievances Redressal Machinery so that the pending cases for evasion/arrears against the defaulting establishments could be settled expeditiously.

D. Defaulting establishments

Recommendation (Sl.No.9, Para 1.43)

14. In their Report the Committee noted that the number of defaulting establishments during the last three years i.e., 2005, 2006 and 2007 was 40608, 76476 and 72554 respectively. EPFO, as an organization to handle this menace had been found wanting in solving this problem. The Committee desired that a fresh look to have a comprehensive view about the phenomena of default among the establishments (both exempted and unexempted sectors) was essential. The Committee recommended that EPFO should take strong administrative and judicial measures, even by making appropriate changes in the relevant Act and Rules, if required.

15. In their action taken reply the Ministry stated as follows :-

> `A comprehensive exercise is being undertaken by the Sub-Committee on Strategic Adjustment to the Compliance 2001 Programme to find out the ways and means by which evasion of membership by various establishments and non-extension of the Act to the coverable establishments can be curbed.`

16. The Committee are unhappy to note that no tangible action has been taken by the Ministry to secure strict compliance of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. The Committee note that the Sub-Committee, constituted by Chairman, Central Board of Trustees in January, 2008, has been tasked to find out the ways and means by which evasion of membership by various establishments and non-extension of the Act to the coverable establishment can be curbed. The Sub-Committee, enjoined to give their report within three months of its constitution i.e. by April/May, 2008, is yet to submit its report. The Committee, therefore reiterate that necessary corrective measures must be taken without further delay by the Government to protect and safeguard the interest of workers as envisaged in the Act.

E. Allotment of National Social Security Number (NSSN)

Recommendation (Sl.No.11, Para 1.53)

17. The Committee in their Report found that the process of allotment of National Social Security Number (NSSN) has been undertaken with a view to providing a unique identity to each employed person so that social security benefits as stipulated under the statutes were ensured to him/her despite switching over of jobs by the concerned employee. Although the process of allotment of NSSN was continuous in nature as employable persons keep joining the employment, still there was a huge backlog of employed workforce who were yet to be covered under this umbrella. Accordingly, the Committee urge upon the Government to expedite the process clearing backlog of allotment of NSSN so as to complete it within a period of two years.

18. The Ministry in their action taken reply stated as follows :-

> `In the present revised strategy being adopted with the help of NIC, allotment of a unique number to every subscriber is NOT mandatory for the rollout of the project. The existing PF Number is being treated as unique number. The allotment of SSN will be made in the 2nd phase of the project by integrating with the existing number.'

19. The Committee note that the Government intend to initiate the process for allotment of SSN in the 2nd phase of the project. However, in order to achieve the desired results, the Committee desire that a foolproof and time bound strategy for the purpose may be chalked out. The Committee also urge upon the Ministry to keep them posted about the progress in this regard.

F. Grievances Redressal Machinery (GRM)

Recommendation (Sl.No.12, Paras 1.62 and 1.63)

20. The Committee in their Report noted that the grievance of subscribers of EPFO mainly resolved around (i) Claims not settled; (ii) Accounts Slips not issued; (iii) Members not enrolled; (iv) Delay in transfer of accounts; (v) Delay in release of pension/dispute on quantum calculation; (vi) Delay in issue of Schemes Certificate; and (vii) Return/Rejection of claims. There was a provision stipulating a definite time-frame for the solution of the problem, but instances were galore wherein the time limit was hardly adhered to as far as solution of problem was concerned. Even holding of adalats to redress the grievances appeared to be a sham exercise. The receipt of less than 2 cases per adalats spoke volumes about the dismal performance of the programme and sincerity of the organisation in the redressal of grievances. To mitigate the hardships of the subscribers in this regard, a proper and institutionalized system needed to be put in place.

The Committee, therefore, strongly recommended that the existing grievance redressal mechanism of the Organisation being old fashioned and not rising to the occasion in the changed scenario of employment pattern needed a thorough revamp. Instead, a realistic, responsive and user friendly mechanism was an urgent need of the Organisation that could take care not only the grievances of the subscribers but also act as a catalyst to their welfare.

21. In their action taken reply the Ministry stated as follows :-

`The Customer Services Division has already initiated steps to streamline the entire grievance handling mechanism of EPFO. For efficient handling and tracking of grievances entire system and procedure is being proposed to be IT enabled which shall not only facilitate faster transmission of grievances to the respective offices anywhere in the country, but also it will enable the offices to respond in a quicker manner. The proposed system works without the geographical and spatial restrictions and subscribers can lodge grievances 24 x 7 without visiting the office.

The system also allows for handling of grievances which are received through letters in respect of members who cannot access internet. It is transparent, fast and accountability oriented system with in-built escalation plan. EPFO has assigned this project to NIC and the system will be in place shortly. Thereafter the same will be stabilized in a phased manner across the country. In order to make our staff customer friendly, NATRSS and ZTIs are already organizing CRM training modules to inculcate responsiveness towards handling of grievances in a responsible and sensitive manner.'

22. The Committee note that the Ministry have initiated steps to streamline the entire grievance handling mechanism of EPFO which would be IT enabled so as to facilitate faster handling, transmission and tracking of grievances, including the complaints received through post, and equally quicker response from the concerned offices. The Committee hope and trust that the new system will be able to address all the grievances of the subscribers as mentioned by the Committee in their original Report. The Committee desire that this work should be completed at the earliest and should also be reviewed by the EPFO at regular intervals so that the entire system is in place and operational within a year.

G. Rate of interest to subscribers *vis-à-vis* investment of EPFO corpus

Recommendation (Sl.No.13, Para 1.71)

23. The Committee in their Report noted with concern that the rate of interest payable to subscribers of EPFO had always been an issue of perennial disagreement. The Committee found that EPFO had not paid more than 8.5 per cent rate of interest to its subscribers since last three years. The Committee in their Report had also noted that with a view to earning better returns from investments of EPFO corpus, the Central Board of Trustees, EPFO agreed to certain recommendations regarding changing the investment pattern such as investments in NSCs and POTDRs investments in TDRs of private sector banks etc. and accordingly certain financial institutions like ICICI, HSBC and Reliance Capital have been selected to manage the corpus of EPFO. The Committee had been assured by the Ministry that it is for maximization of returns on the funds and the funds will be invested by these institutions as per Government given guidelines/parameters. Given the very fact that the funds belonged to the workers, the main principle for fund management should be to give workers a minimum assured return which takes care of the prevailing bank interest rates as investments and due compensation for the inflation. The Committee also urged upon the Government to take necessary steps to ensure that the entire process of selection of fund managers is competitive, transparent and above board.

24. In their action taken reply the Ministry stated as follows :-

> ` The CBT, EPF selected four Fund Managers to introduce competition in Fund Management as to have better return on investments as listed below:
>
> 1. HSBC Asset Management (India) Pvt. Ltd.
> 2. ICICI Prudential Asset Management Company.
> 3. Reliance Capital Asset Management Ltd.
> 4. State Bank of India.

Though as per the existing regulations regarding Portfolio Management Service, there cannot be a guarantee of a Minimum return, yet it is expected that the subscribers of EPFO would benefit by professional management of EPF funds and competition therein.

As regards protection from inflation is concerned, it is submitted that the fund, of EPFO are invested as per the pattern of investment prescribed by the Government. The eligible instruments do offer returns as per the prevalent market dynamics, which may or may not reflect the inflation rates.'

25. The Committee are happy to learn that CBT, EPFO has already selected four fund managers to introduce competition in fund management and also to give better returns on investments as far as the corpus of EPFO is concerned. The Committee hope that subscribers of EPFO would benefit from such a set up.

The Committee, however, reiterate their earlier recommendation that there should be a minimum assured return to the subscribers. The Committee also urge upon the Ministry to ensure that these fund managers function as per Government given guidelines/parameters.

The Committee also desire that in order to have proper check on the functioning of the fund managers, an yearly appraisal report should be sought from them by the EPFO containing details of the contribution made by the employer, employee and worker and the interest accumulated on the principal amount. The report

should further be checked and verified by the EPFO and workers/employees should be allowed to have access to their account through official website of EPFO and also manually in its offices all over the country. The EPFO should also launch an awareness campaign for the benefit of workers in this regard.

H. Manpower planning in EPFO

Recommendation (Sl.No.16, 17 and 18 Paras 1.77, 1.78 and 1.79)

26. The Committee in their Report observed that a large number of vacancies were lying vacant almost in every cadre of the EPFO. Out of sanctioned of 23,345 in various cadres, only 19,304 persons are in position.

The Committee further felt that not only the staff strength but the structure of the Organisation needed appropriate revamping after proper analysis of its strength and weaknesses and a scientific manpower study. Being an Organisation dealing primarily with the finances of the not so educated and skilled workers of the country, the staff of the Organisation should have been adept to handle the intricacies of the complex financial matters to protect workers' interest. In view of the expanding membership of the Organisation, it was all the more essential to have an adequate staff for providing timely and efficient service to the subscribers.

The Committee, therefore, urged upon the Government to foresee the enormous task before the Organisation in the present scenario and take tangible and affirmative action for restructuring the Organisation and manning it efficiently. For the purpose, special drives, if deemed necessary, might also be launched to recruit the manpower as per the need of the Organisation.

27. In their action taken reply the Ministry stated as follows :-

`Status Report to fill up vacant posts in EPFO.

- To fill up 1276 posts of Social Security Assistants (SSAs), an examination was conducted. 1159 SSAs have reported for duty. Fresh vacancies as on 30.09.08 are being assessed for further recruitment.
- A departmental examination was conducted for filling up 29 vacant posts of Junior Hindi Translators. 20 candidates qualified. However only 07 accepted. For 16 vacancies the process has been initiated.
- Process is on to fill up 63 posts of EDP supervisors by promotion.
- Process is on for filling up 11 posts of Junior Engineers through an open competitive exam.
- Process is on to recruit 80 DEOs through direct recruitment.
- For the group D posts all field offices have been directed to fill up existing vacancies at the earliest.

To assess the manpower requirements for efficient functioning of EPFO a study was conducted by XLRI which submitted its report in June 2006. The Central Board of Trustees, Employees' Provident Funds in its meeting held on 24.09.2007 decided to constitute a subcommittee of Central Board of Trustees, to examine the report of XLRI on Organisational restructuring and cadre review in Employees' Provident Fund Organisation for appropriate recommendations. The Sub-committee under the Chairmanship of Special Secretary (L&E) has submitted an interim report. The Central Board has approved the following creations of posts as recommended by the committee:

- 06 posts of Addl. Central PF Commissioner level officer
- 14 post of the level of Regional PF Commissioner-I
- 53 posts of the level of Regional PF Commissioner-II
- 162 posts of the level of Assistant PF Commissioner
- 520 posts in the grade of EO/AAO
- 697 posts of Section Supervisor
- 995 posts of Social Security Assistant.’

28. The Committee are pleased to note that the Ministry have taken steps to fill up the vacant posts in the various grades. The Committee hope that the Ministry would make concerted efforts to fill up all the vacant posts and also ensure that adequate and efficient manpower is made available on regular basis for the efficient functioning of EPFO.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No.1, Para 1.8)

The Committee observes that the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 has been in operation since its inception with some amendments here and there. With the sea change in the nature of establishments/industries coming under the Act for coverage, wages of the employees, overall industrial environment, employer-employee relations, favourable conditions for employers in the liberalised economic scenario vis-à-vis employees, the current provisions of the Act are finding it difficult to catch up with the growing requirements of the beneficiaries and industries as well. Resultantly, there has been sustained increase in the incidents of defaults in coverage, recovery of arrears, redressal of grievances, pendency of court cases and need for efficient administration of the various schemes under the Act. Even though several administrative measures have been taken to improve the working of the Organisation, more steps are needed to make it an efficient, decentralized, focused, good fund manager and diversified entity from time to time. The core areas which need immediate attention are the coverage of establishments and total coverage of the beneficiaries of these establishments, timely realization of dues from the covered establishments, prompt payments of the dues to the beneficiaries and efficient fund management. This will not only minimize the legal wrangles but will also ease the functioning of the grievance redressal machinery thereby saving the valuable time and resources of the Organisation.

Reply of the Government

For improvement in the core areas of coverage of establishment and total coverage of the beneficiaries of such establishment, timely realization of dues from the covered establishments, a Sub-Committee of Central Board of Trustees, EPF has been constituted under the Chairmanship of Joint Secretary, Ministry of Labour and Employment. The Sub-Committee is gathering suggestions from all the stake holders. The Sub-Committee shall be suggesting measures for the adjustment in the existing programme of compliance. So far, the entire corpus of funds with Employees' Provident Fund Organisation was managed by a single fund manager i.e. State Bank of India. In order to have greater efficiency and lower cost of fund management and optimization of returns, four fund manager namely HSBC AMC, ICICI Prudential AMC, State Bank of India and Reliance Capital AMC have been appointed for managing the corpus of EPFO. To undertake a comprehensive information technology reform agenda, aimed at creating country-wide integrated information network, the 'Re-inventing EPF, India' project was started by EPFO. The project has been revisited. The revised project has since been approved by the Central Board of Trustees (EPF) and the first phase of the revised project will be completed by 31/05/2009. To assess the manpower requirements for efficient functioning of EPFO a study was conducted by XLRI which submitted its report in June 2006. The Central Board of Trustees, Employees' Provident Funds in its meeting held on 24.09.2007 decided to constitute a subcommittee of Central Board of Trustees, to examine the report of XLRI on Organisational restructuring and cadre review in Employees' Provident Fund Organisation for appropriate recommendations. The Sub-committee under the Chairmanship of Special Secretary (L&E) has submitted an interim report with a specific recommendation to increase the manpower in various levels. The Central Board has approved the creations of posts as recommended by the committee

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.2, Paras 1.9 and 1.10)

The Committee are distressed to note that the amendment in the Act has been pending since long and there has been no sincere efforts to bring it around. The proposal for carrying out amendments in the EPF and MP Act, 1952 was considered by the CBT as back as July, 2002. The Ministry's view point that decision for amending the Act would be taken at an appropriate time is regretful. The delay on this count has only exacerbated the problems of beneficiaries and also of the organisation. The ever growing inoperative account, mounting arrears for recovery, increasing number of defaulting establishments and swelling court cases under various sections of the Act and also under IPC are the testimony that urgent remedial measures are the need of the hour for the smooth functioning of the EPFO and satisfaction of its beneficiaries.

The Committee, therefore, strongly recommend that immediate necessary steps should be taken to have a comprehensive review of the EPF and MP Act, 1952 to effect necessary amendment in the Act. The amendments should inter-alia include the automatic coverage of establishments as and when it comes up, complete coverage of all the workers of the establishments, timely realization of EPF dues, stringent penal action for default by the establishments, accountability of the officers responsible for their act of omissions and commissions, modernizing and revamp of the system and functioning of this Organisation, including better fund management.

Reply of the Government

The Central Board of Trustees in its 183rd meeting held on 5.7.2008 has approved the proposal for reducing the threshold limit for coverage under the EPF and MP Act, 1952 from 50 to 20 in respect of co-operative institutions working without aid of power and from 20 to 10 in respect of other establishments.

The reduction of threshold limit for coverage under the EPF and MP Act, 1952 would require amendment to Sections 1(3) and 16(1)(a) of the EPF and MP Act, 1952.

The amendment proposal was considered by Cabinet on 16/10/2008 and the Cabinet directed to re-examine the proposal in consultation with concerned Ministries which is being done. Once implemented this proposal would greatly enhance the coverage of establishments. After a detailed and meticulous exercise the proposal for appointment of Multi Fund Managers was placed before the Central Board of Trustees (EPF) who in its 181st meeting held on 29/07/2008 have decided to mandate the four bidders namely – HSBC AMC, ICICI Prudential AMC, State Bank of India and Reliance Capital AMC for managing the corpus of EPFO. It is expected that this move will bring in better yields to Provident Fund corpus and give better returns to EPF subscribers in future by installing competition amongst fund managers. Proposal for amendment to the other provisions of the Act is also under examination.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.3, Para 1.2)

The Committee note that the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 is a welfare legislation enacted for the purpose of instituting a Provident Fund for employees working in factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress and / or unable to meet any family social obligations and to protect them in old age, disablement, early death of the bread winner and in some other contingencies. The Committee are, however, dismayed to note that during the last over five decades, the EPFO has been able to cover only 4.71 lakh units with 4.44 crore membership which amounts to about 10% of the workforce employed in the non-Government sector. This figure includes the coverage from both exempted and unexempted sector. The coverage position is extremely meager in spite of several initiatives taken by the Government to enhance it. 'Compliance 2001 programme' was one such drive launched to maximize the coverage based on the concept of suo moto and voluntary action on the part of the employers / establishments to provide EPF coverage to its workers. However, the programme could not achieve the objectives fully. The Committee are inclined to infer that even the Government itself has been skeptic regarding its success, otherwise provisions like gathering of information through own sources or receipt of specific information on non-coverage of establishments might not have been kept alive. With a view to assessing non-reporting, under reporting and to assess efficacy of 'Compliance 2001 programme, the Government launched 'Compliance Validation and Analysis Programme 2006'. Scrutiny of 1% of the establishments selected on random basis in each Regional Office / Sub-Regional Office under this programme revealed that evasion in coverage is most prevalent among the establishments and it was as high as 14%. Based on the findings of 'Compliance Validation and Analysis Programme 2006', the Government has sought some strategic adjustments in the programme itself. For this purpose, a Sub-Committee has been constituted in January, 2008 to look into the related aspects. The Committee therefore, recommend that the strategic changes in the 'Compliance 2001 Programme' should be made in a time bound manner with a view to reduce the evasion of the eligible units to the minimum and to extend its coverage to the large manpower working in the private / unorganized sector. The Committee would await specific action taken by the Government in this regard.

Reply of the Government

The Sub-Committee for Strategic Adjustments in Compliance 2001 Programme has directed all Addl. CPFCs (Zones) to convene the meeting of RPFCs, in-charge of the regions and collect the information which would enable the Sub-Committee to review the Compliance 2001 programme. The data furnished by the in-charge of the regions and their feedback is being discussed with the employer's and employees' representatives. The recommendation of the Committee shall be formulated after collating all the data received and shall be placed before the Hon'ble Standing Committee as soon as possible.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.4, Para 1.26)

The Committee are constrained to note that out of estimated more than 40 crore workforce in the private /unorganized sector in the country, the total membership of the EPFO as on 31.03.2006 is only 4.44 crore both in the exempted and unexempted sectors which is about 10 percent of the total workforce in private sector. The Committee are not at all satisfied with this sorry state of affairs as far as coverage is concerned. With a view to bring many establishments under the purview of the Act, various steps like Compliance 2001 Programme, special drives, creation of intelligence circles, etc. have been taken to achieve the target. With a view to enhance the coverage, the Government has decided to lower the ceiling from 20 to 10 workers to make the establishment eligible for coverage, and also adding some more establishments in new areas, viz. companies offering life insurance, private airports and joint venture airports, electronic media companies and lodging houses, service apartments and condominiums to the list of establishments for the purpose of coverage. The Committee feel that these steps initiated by the Government are in the right direction and will help in broad basing the EPF Scheme.

Reply of the Government

No comments. It is however submitted that The Unorganised Sector Worker' social Security Bill, 2008 has since been passed by Parliament on 17/12/2008 to give thrust to the scheme formulated/to be formulated for the majority of Unorganised sector workers.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.5, Para 1.27)

Another area where the Committee would like the Government to concentrate is the establishments falling under Section 1(4) of the Act. The Committee find that section 1(4) of the Act is an enabling section for allowing employers who desires to extend statutory benefits attracted by such establishments. Lawfully establishments which are not coming under the notified industries and classes of establishments under Schedule-I of the Act are not required to extend statutory benefits to their workers. Organisation by itself do not have any legal ground to enforce coverage under section 1(4) of the Act in respect of establishments as well as employees unless both of them voluntarily subject themselves to the law. The committee, therefore, recommend that with a view to protect the interest of workers who are beyond the ambit of coverage for want of consent, special awareness programmes be launched to educate the establishments about the benefits available so that the establishments are attracted to obtain voluntary coverage.

Reply of the Government

The Publicity Division of EPFO advertises the benefits available under the EPF and MP Act, 1952 and the three schemes framed thereunder from time to time. An advertisement is being published to advertise the provisions of Section 1(4) of the Act also.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.6, Para 1.28)

The Committee note that one of the provisions of the EPF and MP Act, 1952 provides that once a establishment is covered under the EPF Scheme, it continues even if number of employees drops below 20. However, from the State-wise information furnished by the Ministry, the Committee find that in West Bengal the number of establishments covered under the Scheme has come down from 32458 in 2005-06 to 29030 in 2006-07. The Committee would like the Government to examine this negative growth for taking necessary corrective measures.

Reply of the Government

It is true that an establishment continues to be covered even if the number of employees drops below 20. However, there are a number of establishments, which cease to exist due to closure, merger, etc. As such the net or actionable establishments can be lower than the total number of establishments originally covered. In the absence of any programme for identifying such establishments, they were not reported in the past. Now the Computerise Compliance Tracking System (CCTS) programme has provided for identifying such establishments. Accordingly, the Regional Office, Kolkata provisionally reduced 4851 establishments, which were found inoperative from the total workload in the year 2006-07. This has led to the apparent net decrease in the number of covered establishments as on 31.03.2007, inspite of establishments having been newly covered by the Region during the year.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.7, Para 1.34)

The Committee note with concern that the arrears due for recovery are continuously mounting year after year against the defaulting establishments. The recovery position for the last three years has been Rs.1901.03 crore in 2004-05, Rs.1958.55 crore in 2005-06 and Rs.1236.38 crore in 2006-07. Thus, it may be seen that there is substantial decrease in recover of arrears during the year 2006-07. Consequently, the arrears due for recovery during the corresponding period have increased to Rs.2144.82 crore, Rs. 2530.07 crore and Rs.2607.47 crore respectively.

The reasons for non-realisation of arrears have been adduced on account of stays granted by courts/tribunals, establishments having gone into liquidation/closure/lock-outs, sanction of installments by courts/higher authorities and establishments in respect of which Rehabilitation Scheme had been sanctioned by BIFR. The Committee feel that EPFO should strengthen its grievance Redressal machinery so that more cases are resolved so as establishments do not approach courts too often. Similarly, legal unit of the Organisation should have constant coordination with courts/tribunals/BIFR, etc. to save time in settlement of cases.

Reply of the Government

Instructions are issued from time to time to the Regional Offices for constant coordination with courts / tribunals / BIFR etc. to save time in settlement of cases has also further improve collections of other arrears. The Central Board of Trustees, EPF in its meetings consider the request for waiver of damages moved by the employers and grants waiver or reduction of damages in appropriate cases in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by BIFR.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.8, Para 1.35)

The Committee while examining Demands for Grants for the year 2007-08 had recommended in their 20th Report that the Government should gear up the machinery to recover the outstanding dues by taking appropriate action including filing of caveat in the court, convincing BIFR to make provisions for payment of arrears of EPFO, realisation of dues from the process of liquidation of the establishments, etc. The Committee, reiterate this recommendation and urge upon the Government to take all possible steps to recover the outstanding dues at the earliest. The action taken in this regard may be intimated to the Committee within a time span of three months.

Reply of the Government

In the light of the judgment of the three judge full bench of Hon'ble High Court of Madras on 10.10.2006 (In WA Nos. 173 and 200 of 2006), the BIFR/AAIFR has been apprised of the legal position that principal dues under section 7A and interest under section 7Q of EPF & MP Act is outside the ambit of the protection under section 21(1) of SICA and field offices have been asked to bring this to the notice to BIFR/AAIFR whenever required. In respect of court cases etc. the Regional PF Commissioners have been advised to act in a well coordinated manner to expedite the issue.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.9, Para 1.43)

The Committee note that the number of defaulting establishments during the last three years i.e. 2005, 2006 and 2007 was 40608, 76476 and 72554 respectively. EPFO as an Organisation to handle this menace has been found wanting in solving this problem. The absence of proper format in the Organisation to maintain the information regarding evasion or under statement of EPF membership in an establishment is a glaring lacuna pointing towards the shortsightedness of the Organisation in dealing with the problem. Lack of any deterrent action against the defaulting establishments only emboldens them to indulge in the act of omissions with impunity. Even though major and habitual defaulters are kept under periodical and regular scrutiny, EPFO has no system of blacklisting of defaulting establishments. On detection of a default, action is taken under section 7A of the Act for assessment of the due contribution. Thereafter, a very protracted and cumbersome legal process is taken recourse to. All these actions to discourage defaults have failed to yield the desired results. The Committee, therefore, desire that a fresh look to have a comprehensive view about the phenomena of default among the establishments (both exempted and unexempted sectors) is essential. The Committee feel that the default, whether intentional or otherwise, deprives the workers of their legal and rightful claims and unlawfully benefit the organizations indulging in this malpractice. With a view to eradicate this malady, the Committee recommend that EPFO should take strong administrative and judicial measures; even by making appropriate changes in the relevant Act and Rules, if required.

Reply of the Government

A comprehensive exercise is being undertaken by the Sub-Committee on Strategic Adjustment to the Compliance 2001 Programme to find out the ways and means by which evasion of membership by various establishments and non-extension of the Act to the coverable establishments can be curbed.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.10, Para 1.49)

The Committee note with concern that as on 31st March, 2007 an amount of Rs.1,624.69 crore has been lying with the Employees' Provident Fund Organisation (EPFO) in the inoperative account. The Committee have been informed that as per existing scheme provisions, the amount lying under inoperative account cannot be utilized for any other purpose except for paying to the rightful claimants. The Committee find that the total amount disbursed out of the inoperative account during the last three years has been Rs.86.60 crore in 2004-05, Rs.71.08 crore in 2005-06 and Rs.77.47 crore in 2006-07. The Committee feel that since not large number of claimants are coming forward to settle their claims, a large amount of fund has been blocked which could be used elsewhere for better purposes. The Committee, therefore, recommend that some percentage of the funds should be invested to earn better returns which may be utilized for the promotion of welfare measures of workers. The Committee further recommend that adequate publicity should be given in newspapers in all major languages to make subscribers aware about the unclaimed deposits with EPFO and existing facility to carry forward the account in new/changed employment. The Committee also desire that the number of cases settled out of the inoperative account should be maintained alongwith the amount disbursed. Besides, establishments covered under the scheme may be asked to have specific column in the service book format of their employees about the existing EPF number, if any, in their previous employment.

Reply of the Government

All these inoperative account have a definite claimant, who can file their claims at any time for settlement of these dues and EPFO has to make the full payments along with accrued interest. EPFO have no legal rights/power to utilize these funds for any other purpose other than for making payment to the claimant/legal heir.

The money in the inoperative account are invested alongwith the normal corpus of EPFO as per the investment pattern prescribed by the Government of India and its level of earning are equivalent to the normal corpus of EPFO. There is no separate mechanism/pattern in the Act or the Scheme for investment of their money. EPFO releases advertisement from time-to-time, highlighting the benefits and the provisions of the Scheme. This includes information from awareness of the members about the 'inoperative account' and facility for transfer of funds to new accounts in case of change of employment. The number of cases settled out of the Inoperative Account and their details are being maintained at the field offices of EPFO where the Inoperative Accounts of the Regions are maintained.

As regards the recommendation of the Committee that the establishments covered under the scheme may be asked to have separate column in the service book format of the employees about the existing EPF number, if any, in their previous employment, it is submitted that already a provision exist under Para-34 of the Employees' Provident Fund Scheme, 1952 according to which the employer in relation to a factory or other establishment shall before taking any person into employment, ask him to state in writing whether or not he is a member of the Fund and if he is asked for the account number and/or names and particulars of the last employer. If he is unable to furnish the account number, he shall require such person to furnish and such person shall, on demand, furnish to him for communication to the Commissioner, particulars regarding himself and his nominee required for the declaration form. Such employer shall enter the particulars in the declaration form and obtain the signature or thumb impression of the person concerned.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.11, Para 1.53)

The Committee find that the process of allotment of National Social Security Number (NSSN) has been undertaken with a view to provide a unique identity to each employed person so that social security benefits as stipulated under the statutes are ensured to him/her despite switching over of jobs by the concerned employee. This will also smoothen the functioning of EPFO as the Organisation will have the definite identity of the person in settling the claims irrespective of change in the employment. However, the Committee are pained to note that the pace of allotment of NSSN is tardy. Out of 4.44 crore enrolled workforce in the country, only 33,48,191 workers have been issued NSSN till March 2008. In the States like UP, Bihar and in North Eastern Region, NSSN has been issued to 15336, 38658 and 7565 subscribers respectively. In the State of Chattisgarh, not even one person has been covered under the drive. The figures amply demonstrate the seriousness which the Organisation is attaching to such an important task. The process of allotment is linked to Business Process Re-engineering (BPR) and is being implemented with the cooperation of NIC. NIC has its network throughout the country and the allotment of NSSN to the less than 1% of the identified workforce in the country defies all logic except highlighting the callous attitude of the Government in implementing such a significant measure for the welfare of the workers. Although the process of allotment of NSSN is continuous in nature as employable persons keep joining the employment, still there is a huge backlog of employed workforce who are yet to be covered under this umbrella. Hence the Committee vehemently urge upon the Government to expedite the process clearing backlog of allotment of NSSN so as to complete it within a period of two years.

Reply of the Government

In the present revised strategy being adopted with the help of NIC, allotment of a unique number to every subscriber is NOT mandatory for the rollout of the project. The existing PF Number is being treated as unique number. The allotment of SSN will be made in the 2^{nd} phase of the project by integrating with the existing number.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.12, Paras 1.62 and 1.63)

The Committee note that the grievance of subscribers of EPFO mainly revolve around (i) Claims not settled; (ii) Accounts Slips not issued; (iii) Members not enrolled; (iv) Delay in transfer of accounts; (v) Delay in release of pension/dispute on quantum calculation; (vi) Delay in issue of Scheme Certificates; and (vii) Return/Rejection of claims. Although, various steps have been taken to redress the grievances of the subscribers and there are settlements of about 90 per cent of the received complaints, yet this is an area which required constant vigil at the highest level. The attitude and approach of the persons entrusted with handling the grievances is also an important aspect which has a bearing on their Redressal. There is a provision stipulating a definite time frame for the solution of the problem, but instances are galore wherein the time limit is hardly adhered to as far as solution of problem is concerned. Even though, a web-enabled mechanism has been put in place to help the subscribers, given the nature and education of the subscribers of the EPFO, it is doubtful whether this step will be helpful to subscribers in the redressal of their problems. Even holding of adalats to redress the grievances appears to be a sham exercise. As many as 1306 adalats were organized in the year 2006-07 in which only 2110 cases were received out of which 2087 cases were disposed of. The receipt of less than 2 cases per adalats speaks volumes about the dismal performance of the programme and sincerity of the Organisation in the redressal of grievances. The figures submitted regarding grievances and their redressal also appear to be unrealistic keeping in view the huge number of subscribers enrolled with EPFO and the number of complaints received and redressed. In the present economic scenario, workers particularly skilled workers tend to switch over the assignments leading to non-settlement of their dues or its non-carriage to the new assignments leading to swelling of inoperative account. To mitigate the hardships of the subscribers in this regard, a proper and institutionalised system need to be put in place.

The Committee, therefore, strongly recommend that the existing grievance redressal mechanism of the Organisation being old fashioned and not rising to the occasion in the changed scenario of employment pattern needs a thorough revamp. Instead, a realistic, responsive and user friendly mechanism is an urgent need of the Organisation that can be taken care not only the grievances of the subscribers but also act as a catalyst to their welfare.

Reply of the Government

The Customer Services Division has already initiated steps to streamline the entire grievance handling mechanism of EPFO. For efficient handling and tracking of grievances entire system and procedure is being proposed to be IT enabled which shall not only facilitate faster transmission of grievances to the respective offices anywhere in the country, but also it will enable the offices to respond in a quicker manner. The proposed system works without the geographical and spatial restrictions and subscribers can lodge grievances 24 x 7 without visiting the office.

The system also allows for handling of grievances which are received through letters in respect of members who cannot access internet. It is transparent, fast and accountability oriented system with in-built escalation plan. EPFO has assigned this project to NIC and the system will be in place shortly. Thereafter the same will be stabilized in a phased manner across the country. In order to make our staff customer friendly, NATRSS and ZTIs are already organizing CRM training modules to inculcate responsiveness towards handling of grievances in a responsible and sensitive manner.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.13, Para 1.71)

The Committee note with concern that the rate of interest payable to subscribers of EPFO has always been an issue of perennial disagreement. It has been slated that the rate of interest is determined keeping in view the projected income and projected interest payment liabilities during a particular year. The Committee find that EPFO has not paid more than 8.5 per cent rate of interest to its subscribers since last three years. The Committee note that with a view to earn better returns from investment of EPFO corpus, the Central Board of Trustees, EPF agreed to certain recommendations regarding changing the investment pattern such as investments in NSCs and POTDRs, investments in TDRs of private sector banks subject to a limit of 5% of deposit base, TDRs of public sector banks upto 3 years and merger of two categories of 25% and 15% of Central and State Government securities, respectively to make a single category of 40% of Government securities; treat the category-wise percentage norms as indicative and not mandatory and to do away with any floor in any single category. The Committee have gathered from press reports that some steps have reportedly been taken to corporatize the fund management and accordingly certain financial institutions like ICICI, HSBC and Reliance Capital have been selected with the responsibilities to manage the corpus of EPFO. In this context, the Committee have been assured by the Ministry that the process is for maximization of returns on the funds and the funds will be invested by these institutions as per Government given guidelines/parameters. Given the very fact that the fund belong to the workers, the main principle for fund management should be to give workers a minimum assured return which takes care of the prevailing bank interest rates as investments and due compensation for the inflation.

Reply of the Government

The CBT, EPF selected four Fund Managers to introduce competition in Fund Management as to have better return on investments as listed below:

1. HSBC Asset Management (India) Pvt. Ltd.
2. ICICI Prudential Asset Management Company.
3. Reliance Capital Asset Management Ltd.
4. State Bank of India.

Though as per the existing regulations regarding Portfolio Management Service, there cannot be a guarantee of a Minimum return, yet it is expected that the subscribers of EPFO would benefit by professional management of EPF funds and competition therein.
As regards protection from inflation is concerned, it is submitted that the fund, of EPFO are invested as per the pattern of investment prescribed by the Government. The eligible instruments do offer returns as per the prevalent market dynamics, which may or may not reflect the inflation rates.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.14, Para 1.72)

The Committee note that print media has highlighted serious lacunae in the process of selection of fund managers to manage provident Fund viz. HSBC, ICICI, SBI and Reliance Capital. Reportedly, in the original list of selected fund managers, the name of Reliance Capital did not figure as they were not found eligible for selection. However, the reported inclusion of Reliance Capital's name in the list of fund managers at the later stage has created suspicion in the whole process of selection not being transparent. The Vigilance Commission is also reported to have sought details in the matter. The committee would therefore like the Government to have the matter thoroughly examined. The Committee would like to be apprised of the outcome of such enquiry at the earliest. The Committee also urge upon the Government to take necessary steps to ensure that the entire process of selection of fund managers is competitive, transparent and above board.

Reply of the Government

A Proposal to appoint multi fund managers was deliberated upon in the 89th meeting of the Finance and Investment Committee (a sub committee of the Central Board of Trustees, Employees' Provident Fund) held on 19.11.2007. The CBT in its 180th meeting held on 06.12.2007 has approved the decision of FIC to appoint a consultant to assist EPFO in selecting portfolio managers. The Central Board of Trustees, in its 181st meeting held on 24.01.08, approved the appointment of M/s. Crisil to assist EPFO in selection of fund Managers. A Committee had been constituted to carryout the task with assistance of the chosen Consultant.

The Expressions of Interest from interested entities were called by publication of an advertisement in the leading dailies on 17.04.2008 and putting the detailed document on the EPFO's website. 21 expressions of interest including Reliance Capital were received. On eligibility criteria, 17 entries were found eligible for sending the request for proposal including the technical and financial bids. A Pre-Bid Conference was held on 30th May 08. The entities were asked to submit the completed RFP documents by 06.06.08

After evaluation of technical bids, 10 entities including Reliance Capital were called for financial bids on 22nd July, 2008. Three-member committee recommended three entities HSBC AMC (L1), ICICI Prudential AMC (L2), SBI (L3) as Multiple Fund Managers for EPFO. The recommendation was placed in 92nd Finance & Investment Committee meeting held on 24.07.2008. While the Employers' representatives accorded their approval on the recommendations of the committee, the Employees' representatives wanted a wider discussion in the CBT, EPF.

A special meeting of CBT, EPF was held on 29.07.2008 in which CBT approved four fund managers i.e. HSBC AMC (L1), ICICI Prudential AMC (L2), SBI (L3) and Reliance Capital AMC (L3) for management of CBT, EPF Corpus. The CBT, EPF while arriving at the decision deliberated that State Bank of India and Reliance Capital had submitted identical financial bids and also in terms of third party assets under management, Reliance Capital AMC is only second to State Bank of India among all bidders.

The entire process of selection of Fund Managers is competitive, transparent and above the board.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.15, Para 1.73)

The Committee also strongly recommend that with a view to generate more income from the corpus of EPFO, in addition to initiatives already taken, the organization should diversify its activities and explore the possibility of venturing into the areas where the organization takes upon itself such activities be it financial, banking insurance, realties-which may generate sufficient returns so that a bench mark for the issue of the rate of interest is decided and workers may be given due incentives based on their contribution and accumulation for the surplus fund generated, if any. Besides, some mechanism be developed in the organization to supervise the functioning of the private fund managers so as to forewarn them about their action which is not financially viable as far as returns on investment is concerned and take pre-emptive measures, if the need is felt. The services of reputed financial experts may be requisitioned to achieve the objective in this regard.

Reply of the Government

An Investment Monitoring Cell has already been established within EPFO to monitor the investments made by the Portfolio Managers. M/s. Crisil, one of the leading financial advisory service providers, has been appointed as consultant to assist the Investment Monitoring cell for a period of one year.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.16, Paras 1.77, 1.78 and 1.79)

The Committee observe that the organisational structure with sufficient staff strength is the hallmark of any service Organisation. It is regretted that a large number of vacancies are lying vacant almost in every cadre of the EPFO. Out of the sanctioned strength of 23345 in various cadres, only 19394 persons are in position. The worst hit is the Group 'C' cadre wherein more than 3300 vacancies exist. It is this cadre, which has the direct interface with the subscribers. Shortage of manpower in this category is bound to adversely affect the efficiency of the Organisation. The present staff strength has been worked out before the decision to revise the eligibility criteria of industries for the purpose of coverage. With the lowering of number of persons from 20 to 10 in an establishment, the present figure of staff strength will go haywire, as it will be woefully short to cope up with the phenomenal increase in the number of subscribers. Due to addition of enterprises, like companies offering life insurances, annuities, private airports and joint venture condominiums in the list of industries for coverage, the staff position will be further overstrained undermining the efficiency. In the absence of sufficient staff, the entire working of the Organisation will be slack. The reply given by the Ministry regarding appropriate action being taken by them to fill up the vacant posts is far from satisfactory.

The Committee fell that not only the staff strength but the structure of the Organisation need appropriate revamping after proper analysis of its strength and weaknesses and a scientific manpower study. The adequate number of skilled manpower in the area of managing finance, handling public relations and addressing the grievances of the subscribers will do great service to the Organisation. Being the Organisation dealing primarily with the finances of the not so educated and skilled workers of the country, the staff of the Organisation should be adept to handle the intricacies of the complex financial matters to protect workers' interest. Their career progression should invariably take into account their performance in vital areas of coverage of establishments, recovery of arrears, defaults of the Organisation in their respective jurisdictions and functioning of the Grievance Redressal Machinery. Also, the locations of the offices of EPFO (ROs/SROs) should also be situated so as to enable the subscribers to have easy access involving minimum travel time, particularly in the North Eastern States of the country. In view of the expanding membership of the Organisation, it is all the more essential to have the adequate staff for providing timely and efficient service to the subscribers.

The Committee, therefore, urge upon the Government to foresee the enormous task before the Organisation in the present scenario and take tangible and affirmative action for restructuring the Organisation and manning it efficiently. For the purpose, special drives, if deemed necessary, may also be launched to recruit the manpower as per the need of the Organisation.

Reply of the Government

Status Report to fill up vacant posts in EPFO.

- To fill up 1276 posts of Social Security Assistants (SSAs), an examination was conducted. 1159 SSAs have reported for duty. Fresh vacancies as on 30.09.08 are being assessed for further recruitment.
- A departmental examination was conducted for filling up 29 vacant posts of Junior Hindi Translators. 20 candidates qualified. However only 07 accepted. For 16 vacancies the process has been initiated.
- Process is on to fill up 63 posts of EDP supervisors by promotion.
- Process is on for filling up 11 posts of Junior Engineers through an open competitive exam.
- Process is on to recruit 80 DEOs through direct recruitment.
- For the group D posts all field offices have been directed to fill up existing vacancies at the earliest.
- Further, to assess the manpower requirements for efficient functioning of EPFO a study was conducted by XLRI which submitted its report in June 2006. The Central Board of Trustees, Employees' Provident Funds in its meeting held on 24.09.2007 decided to constitute a subcommittee of Central Board of Trustees, to examine the report of XLRI on Organisational restructuring and cadre review in Employees' Provident Fund Organisation for appropriate recommendations. The Sub-committee under the Chairmanship of Special Secretary (L&E) has submitted an interim report. The Central Board has approved the following creations of posts as recommended by the committee:

❖ 06 posts of Addl. Central PF Commissioner level officer

❖ 14 post of the level of Regional PF Commissioner-I

❖ 53 posts of the level of Regional PF Commissioner-II

❖ 162 posts of the level of Assistant PF Commissioner

- 520 posts in the grade of EO/AAO
- 697 posts of Section Supervisor
- 995 posts of Social Security Assistant.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES

Recommendation (Sl. No.14, Para 1.72)

The Committee note that print media has highlighted serious lacunae in the process of selection of fund managers to manage provident Fund viz. HSBC, ICICI, SBI and Reliance Capital. Reportedly, in the original list of selected fund managers, the name of Reliance Capital did not figure as they were not found eligible for selection. However, the reported inclusion of Reliance Capital's name in the list of fund managers at the later stage has created suspicion in the whole process of selection not being transparent. The Vigilance Commission is also reported to have sought details in the matter. The committee would therefore like the Government to have the matter thoroughly examined. The Committee would like to be apprised of the outcome of such enquiry at the earliest. The Committee also urge upon the Government to take necessary steps to ensure that the entire process of selection of fund managers is competitive, transparent and above board.

Reply of the Government

A Proposal to appoint multi fund managers was deliberated upon in the 89th meeting of the Finance and Investment Committee (a sub committee of the Central Board of Trustees, Employees' Provident Fund) held on 19.11.2007. The CBT in its 180th meeting held on 06.12.2007 has approved the decision of FIC to appoint a consultant to assist EPFO in selecting portfolio managers. The Central Board of Trustees, in its 181st meeting held on 24.01.08, approved the appointment of M/s. Crisil to assist EPFO in selection of fund Managers. A Committee had been constituted to carryout the task with assistance of the chosen Consultant.

The Expressions of Interest from interested entities were called by publication of an advertisement in the leading dailies on 17.04.2008 and putting the detailed document on the EPFO's website. 21 expressions of interest including Reliance Capital were received. On eligibility criteria, 17 entries were found eligible for sending the request for proposal including the technical and financial bids. A Pre-Bid Conference was held on 30th May

08. The entities were asked to submit the completed RFP documents by 06.06.08

After evaluation of technical bids, 10 entities including Reliance Capital were called for financial bids on 22nd July, 2008. Three-member committee recommended three entities HSBC AMC (L1), ICICI Prudential AMC (L2), SBI (L3) as Multiple Fund Managers for EPFO. The recommendation was placed in 92nd Finance & Investment Committee meeting held on 24.07.2008. While the Employers' representatives accorded their approval on the recommendations of the committee, the Employees' representatives wanted a wider discussion in the CBT, EPF.

A special meeting of CBT, EPF was held on 29.07.2008 in which CBT approved four fund managers i.e. HSBC AMC (L1), ICICI Prudential AMC (L2), SBI (L3) and Reliance Capital AMC (L3) for management of CBT, EPF Corpus. The CBT, EPF while arriving at the decision deliberated that State Bank of India and Reliance Capital had submitted identical financial bids and also in terms of third party assets under management, Reliance Capital AMC is only second to State Bank of India among all bidders.
The entire process of selection of Fund Managers is competitive, transparent and above the board.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Recommendation (Sl. No.15, Para 1.73)

The Committee also strongly recommend that with a view to generate more income from the corpus of EPFO, in addition to initiatives already taken, the organization should diversify its activities and explore the possibility of venturing into the areas where the organization takes upon itself such activities be it financial, banking insurance, realties-which may generate sufficient returns so that a bench mark for the issue of the rate of interest is decided and workers may be given due incentives based on their contribution and accumulation for the surplus fund generated, if any. Besides, some mechanism be developed in the organization to supervise the functioning of the private fund managers so as to forewarn them about their action which is not financially viable as far as returns on investment is concerned and take pre-emptive measures, if the need is felt. The services of reputed financial experts may be requisitioned to achieve the objective in this regard.

Reply of the Government

An Investment Monitoring Cell has already been established within EPFO to monitor the investments made by the Portfolio Managers. M/s. Crisil, one of the leading financial advisory service providers, has been appointed as consultant to assist the Investment Monitoring cell for a period of one year.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

- NIL -

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT ARE INTERIM IN NATURE

Recommendation (Sl. No.7, Para 1.34)

The Committee note with concern that the arrears due for recovery are continuously mounting year after year against the defaulting establishments. The recovery position for the last three years has been Rs.1901.03 crore in 2004-05, Rs.1958.55 crore in 2005-06 and Rs.1236.38 crore in 2006-07. Thus, it may be seen that there is substantial decrease in recover of arrears during the year 2006-07. Consequently, the arrears due for recovery during the corresponding period have increased to Rs.2144.82 crore, Rs. 2530.07 crore and Rs.2607.47 crore respectively. The reasons for non-realisation of arrears have been adduced on account of stays granted by courts/tribunals, establishments having gone into liquidation/closure/lock-outs, sanction of installments by courts/higher authorities and establishments in respect of which Rehabilitation Scheme had been sanctioned by BIFR. The Committee feel that EPFO should strengthen its grievance Redressal machinery so that more cases are resolved so as establishments do not approach courts too often. Similarly, legal unit of the Organisation should have constant coordination with courts/tribunals/BIFR, etc. to save time in settlement of cases.

Reply of the Government

Instructions are issued from time to time to the Regional Offices for constant coordination with courts / tribunals / BIFR etc. to save time in settlement of cases has also further improve collections of other arrears. The Central Board of Trustees, EPF in its meetings consider the request for waiver of damages moved by the employers and grants waiver or reduction of damages in appropriate cases in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by BIFR.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Comments of the Committee

[Please *see* Paragraph No.13 , Chapter-I of the Report]

Recommendation (Sl. No.9, Para 1.43)

The Committee note that the number of defaulting establishments during the last three years i.e. 2005, 2006 and 2007 was 40608, 76476 and 72554 respectively. EPFO as an Organisation to handle this menace has been found wanting in solving this problem. The absence of proper format in the Organisation to maintain the information regarding evasion or under statement of EPF membership in an establishment is a glaring lacuna pointing towards the shortsightedness of the Organisation in dealing with the problem. Lack of any deterrent action against the defaulting establishments only emboldens them to indulge in the act of omissions with impunity. Even though major and habitual defaulters are kept under periodical and regular scrutiny, EPFO has no system of blacklisting of defaulting establishments. On detection of a default, action is taken under section 7A of the Act for assessment of the due contribution. Thereafter, a very protracted and cumbersome legal process is taken recourse to. All these actions to discourage defaults have failed to yield the desired results. The Committee, therefore, desire that a fresh look to have a comprehensive view about the phenomena of default among the establishments (both exempted and unexempted sectors) is essential. The Committee feel that the default, whether intentional or otherwise, deprives the workers of their legal and rightful claims and unlawfully benefit the organizations indulging in this malpractice. With a view to eradicate this malady, the Committee recommend that EPFO should take strong administrative and judicial measures; even by making appropriate changes in the relevant Act and Rules, if required.

Reply of the Government

A comprehensive exercise is being undertaken by the Sub-Committee on Strategic Adjustment to the Compliance 2001 Programme to find out the ways and means by which evasion of membership by various establishments and non-extension of the Act to the coverable establishments can be curbed.

[Ministry of Labour and Employment, O.M. No.H-11013/6/2006 SS-I (part) dated 20.02.2009]

Comments of the Committee

[Please *see* Paragraph No.16, Chapter-I of the Report]

New Delhi; **HEMANAND BISWAL**
CHAIRMAN
3rd November, 2009 **STANDING COMMITTEE ON LABOUR**
12 Kartika, 1931 (Saka)

MINUTES OF THE SITTING OF THE STANDING COMMITTEE ON LABOUR HELD ON 11TH NOVEMBER, 2009.

The Committee met from 1400 hrs. to 1545 hrs in Committee Room No. `139', Parliament House Annexe, New Delhi to have oral evidence of the representatives of the Ministry of Labour and Employment on `The Industrial Disputes (Amendment) Bill, 2009' and `The Employees' State Insurance (Amendment) Bill, 2009' and to consider and adopt draft Action Taken Reports.

PRESENT

Shri Hemanand Biswal – CHAIRMAN

MEMBERS

LOK SABHA

2. Shri M. Anandan
3. Shri P. Balram
4. Dr. Shafiqur Rahman Barq
5. Shri Sudarshan Bhagat
6. Shri Hassan Khan
7. Shri Kaushalendra Kumar
8. Shri P. Lingam
9. Shri Hari Manjhi
10. Shri P.R. Natarajan
11. Shri Chandu Lal Sahu

RAJYA SABHA

12. Shri G. Sanjeeva Reddy
13. Shri Rajaram
14. Smt. Renubala Pradhan
15. Shri G.N. Ratanpuri

SECRETARIAT

1.	Shri Devender Singh	-	Joint Secretary
2.	Shri B.S. Dahiya	-	Director
3.	Shri Ashok Sajwan	-	Additional Director
4.	Smt. Bharti S. Tuteja	-	Under Secretary

2.	xx	xx	xx
3.	xx	xx	xx
4.	xx	xx	xx
5.	xx	xx	xx
6.	xx	xx	xx
7.	xx	xx	xx

8. The Chairman then informed the Members regarding consideration and adoption of following draft Action Taken Reports:

(i) Action taken by the Government on the Recommendations/Observations contained in the Thirtieth Report of the Standing Committee on Labour on the `Functioning of the Employees' Provident Fund Organisation'.

(ii) Action taken by the Government on the Recommendations/Observations contained in the Thirty-Third Report of the Standing Committee on Labour on the `Development Schemes for Handicrafts Sector'.

(iii) Action taken by the Government on the Recommendations/Observations contained in the Thirty-Fifth Report (Fourteenth Lok Sabha) of the Standing Committee on Labour on `General conditions of weavers in the country – A case study of Sircilla concentration zone of weavers'.

9. The Committee, then, took up the draft Reports for consideration. The Committee adopted the draft Reports without any amendments/modifications.

10. The Committee also authorized the Chairman to present the same to the Parliament.

The Committee then adjourned.

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xx Not pertain to this Report.

APPENDIX-II

(Vide Para No. 3 of the Introduction)

ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON RECOMMENDATIONS CONTAINED IN THE THIRTIETH REPORT OF THE STANDING COMMITTEE ON LABOUR (FOURTEENTH LOK SABHA)

		Total	Percentage
I.	Total number of Recommendations	18	
II.	Recommendations/Observations which have been accepted by Government (Sl. Nos. 1,2,3,4,5,6,8,10,11,12,13,16, 17 and 18)	14	77.78%
III.	Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies (Sl. Nos. 14 and 15).	2	11.11%
IV.	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee and which requires reiteration- NIL.		NIL
V.	Recommendations/Observations in respect of which final replies of Government are of interim in nature (Sl. Nos.7 and 9)	2	11.11%
			100%