EPF Redefined

The Supreme Court has dismissed a plea filed against a Kerala High Court order that had asked Employees' Provident Fund Organisation (EPFO) to provide pension to all retiring employees, rather than capping the figure on which contribution is calculated at a maximum of Rs 15,000 per month. In effect, all retiring employees will now get pension on their full salary instead of Rs 15,000 cap.

Employees' Provident Fund Organisation (EPFO)

- It is a **government organization** that manages provident fund and pension accounts of member employees and **implements the Employees' Provident Fund and Miscellaneous Provisions Act, 1952** which is applicable to whole of India with exemption given only to Jammu & Kashmir.
  - The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 provides for the institution of provident funds for employees in factories and other establishments.
- It is **administered by the Ministry of Labour & Employment,** Government of India.
- It is o**ne of the World's largest Social Security Organisations** in terms of clientele and the volume of financial transactions undertaken.

Employees Pension Scheme (EPS):

- It is a social security scheme that was **launched in 1995**.
- The scheme, provided by EPFO, **makes provisions for pensions for the employees in the organized sector after the retirement at the age of 58 years**.
- Employees who are members of EPF automatically become members of EPS.
  - Both employer and employee contribute 12% of employee's monthly salary (basic wages plus dearness allowance) to the Employees' Provident Fund (EPF) scheme.
  - EPF scheme is mandatory for employees who draw a basic wage of Rs. 15,000 per month.
  - Of the employer's share of 12 %, 8.33 % is diverted towards the EPS.
  - Central Govt. also contributes 1.16% of employees' monthly salary.

Timeline

- The Employees' Provident Fund and Miscellaneous Provisions Act was promulgated in the year 1952. The act empowered the central government to frame a provident fund scheme.
- The Employees Family Pension Scheme and the Employees' Deposit-Linked Insurance Scheme were added in the act, thus making EPFO, the implementing agency for the schemes.
- In the year 1995, the government promulgated an ordinance for the implementation of the Employees Pension Scheme. An amendment was made to the Act i.e.Section 6A was inserted, for giving the statutory effect to the pension scheme.
- By virtue of the amendment, the central government got empowered to frame a pension scheme and also it was specifically mentioned that the employer's contribution of 8.33% to EPF will be diverted to the pension fund.
- The pension scheme was **initially applicable** to the employees those who draw **monthly basic wages up to 6,500**.

- In March 1996, the government amended the act and allowed contribution to be a percentage of the actual salary (i.e. not necessarily upto Rs 6,500), provided the employee and the employer has no objection. Approval from the Assistant Provident Fund Commissioner is required for the same.
- On September 1, 2014, the EPFO **amended** the act to increase the contribution to 8.33% of a **maximum of Rs. 15,000 per month**. The amendment also stipulated that in case of those who avail the benefit of pension on full salary, their pensionable salary would be calculated as the average of the last five years' monthly salary, and not of the last one year of average salary, as per earlier norms. This reduced the pension of many employees.
- Subsequently, the **Kerala High Court set aside the September 1, 2014 amendment** and also reinstated the old system of calculating the pensionable salary as the average of the last one year’s monthly salary.
- On April 1, 2019, **the Supreme Court dismissed the Special Leave Petition (SLP) against the Kerala High Court Judgment**.

Possible Impact of the Judgement

- People who have subscribed to EPF will be able to get pension on their full salary instead of Rs. 15000 cap.
- Employees and Employers, who have contributed to the EPF without any approval from Assistant Provident Commissioner, may not get the benefit of judgement.
- Amendment done in 2014 may remain applicable to the companies which manage their EPF corpus through trusts.

Way Forward

- If an employee and an employer are in agreement to allocate share of their total earnings for the provident fund purposes then EPFO should provide full benefit of the same to the employee.
- The financial burden of the pension on the government is huge. **Investment avenues for the EPFO need to be increased** so that government is able to provide pensionary benefits to the people. Formation of a separate organization specifically for the investment purposes can also be considered.
- Enough efforts need to be made to **invite Foreign Pension Funds to invest in India**.
- The pension scheme needs to be **reformulated in a way that it provides benefits to employees without putting an onerous burden on the employers**. The government contributes only 1.16% of employees’ monthly salary.