

INDIAN TEA ASSOCIATION



Phone: 2210-2474/75
Fax: 91(033) 2243-4301
Email: ita@indiatea.org
Website: www.indiatea.org

ROYAL EXCHANGE
6 NETAJI SUBHAS ROAD
KOLKATA 700 001

Circular No. 71

3rd January 2025

TO: ALL MEMBER COMPANIES WITH INTEREST IN ASSAM

ATPPF and Pension Fund and DLI Fund (Amendment) Scheme, 2024

Members are hereby informed that the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, 1968 has been amended vide Govt. of Assam Notification No.E-437386/22 dated 12th November 2024 and gazetted in Assam Gazette No. 666 dated 19th November 2024.

Members may note that the erstwhile Para 22 of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, 1968 allowed withdrawal of membership in respect of members whose total wages exceeded the ceiling limit. However, vide the above referred Gazette Notification the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, has now been amended as under:

AMENDMENTS

Amendment of Para 22 of the Scheme: In the principal Scheme, in para 22, for clause (b) and (c), the following has been substituted: -

“(b) Notwithstanding anything contained in this paragraph an officer not below the rank of an Assistant Provident Fund Commissioner may, on the joint request in writing, of any employee of a Tea Estate or Tea Factory to which this scheme applies and his employer, enrol such employee as a member or allow him to contribute more than fifteen thousand rupees of his pay per month if he is already a member of the Fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the Fund, and the employer shall pay the administrative charges payable and shall comply with all the statutory provisions in respect of such employee.

(c) Every member employed as an employee in a Tea Estate or Tea Factory to which this Scheme applies, shall contribute to the Fund and the contribution shall also be payable to the Fund in respect of him by the employer. Such contribution shall be in accordance with the rate specified in paragraph 23 (a):

Provided that subject to the provisions contained in clause (b) above, where the monthly pay of such a member exceeds Rupees Fifteen Thousand, the contribution payable in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of Rupees Fifteen Thousand including dearness allowance, value of food concessions and leave with wages, but does not include—

- (i) Bonus or,
(ii) Commission.”***

Amendment Of Para 29 of the Scheme: Para 29 clause (b) of the principal Scheme, talked about the Board's discretion to permit withdrawal of the full amount standing to the credit of a member in Fund if, he is promoted to an executive cadre or if his wages exceeded the ceiling.

Vide the instant amendment para 29, clause (b) has been **deleted** and clause (c) has been **renumbered as clause (b)**.

Accordingly, Para 29 clause (b) will now read as follows:

"If a member is dismissed for gross misconduct, the employer shall pay off the member's portion of the contribution and interest thereon and shall send intimation to the Board stating the nature of misconduct, the views of the Primary Committee on the question of forfeiture of the employer's portion of contribution with interest thereon. The Board may with the approval of Government, forfeit to Fund the whole or part of the employer's contribution and interest thereon.

Explanation: The expression "Gross misconduct" shall cover cases of person convicted in Courts of law for violence.

(ii) Any amount forfeited under item (1) shall not be returned to the employer but shall be credited to the Assam Tea plantations Employee's Welfare Fund constituted under Section 3 of the Assam Tea Plantations Employee's Welfare Act, 1959."

A copy of the above referred Gazette Notification that has come in to effect from 19th November 2024 i.e. the date of publication in the Official Gazette, is attached as **Annexure-I** for members' information and record.

Further, the Secretary-cum-Commissioner, Assam Tea Employees Provident Fund Organisation vide Circular No. PF/Adm.-1/Act. /25/239-43 dated 3.01.2025 has also communicated the above amendments to all Tea Estates/Factories in Assam for necessary action. Copy of the same is attached as **Annexure - II**

Without prejudice to the above, members may also note that the General Secretary, ACKS Central vide letter dated 26th December 2024 addressed to the Secretary, ABITA (copy enclosed as **Annexure - III**) has informed about the pendency of a case in the matter, at the Hon'ble Guwahati High Court and ACKS's subsequent appeal to the Guwahati High Court on this instant Notification that is due for hearing on 9.01.2025.

The Association has taken a legal opinion in this respect and the opinion received from M/s Fox & Mandal is also attached as **Annexure – IV** for members' reference.

Therefore, in view of the above, members are advised to take necessary action in this regard post 9.01.2025 i.e. after assessing the outcome of the hearing of the new writ petition submitted by ACKS.



Arijit Raha
Secretary General

Encl: As stated

Copy to: Chairman / Vice-Chairman / Addl. Vice-Chairman, ITA
Secretary, ABITA
Secretaries Zones 1, 2 & 3
Secretary, SVBITA



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 666 দিশপুৰ, মঙ্গলবাৰ, 19 নবেম্বৰ, 2024, 28 কাতি, 1946 (শক)

No. 666 Dispur, Tuesday, 19th November, 2024, 28th Kartika, 1946 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LABOUR WELFARE DEPARTMENT ::: LABOUR (RC) BRANCH

NOTIFICATION

The 12th November, 2024

No. E-437386/22.- In exercise of the powers conferred by section 3 (1) read with section 5 of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955, (Assam Act X of 1955), the Governor of Assam is hereby pleased to further amend the Assam Tea Plantation Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, 1968, hereinafter referred to as the principal Scheme, in the manner hereinafter appearing, namely :—

Short title,
application and
commencement

- (1) This Scheme may be called the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund (Amendment) Scheme, 2024.
- (2) It shall apply to all Tea Plantations and Tea Factories in Assam as described in the Act.
- (3) It shall come into force on the date of its publication in the Official Gazette.

Amendment of
para 22

2. In the principal Scheme, in para 22, for clause (b) and (c), the following shall be substituted, namely :-

“(b) Notwithstanding anything contained in this paragraph an officer not below the rank of an Assistant Provident Fund Commissioner may, on the joint request in writing, of any employee of a Tea Estate or Tea Factory to which this scheme applies and his employer, enroll such employee as a member or allow him to contribute more than fifteen thousand rupees of his

pay per month if he is already a member of the Fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the Fund, and the employer shall pay the administrative charges payable and shall comply with all the statutory provisions in respect of such employee.

(c) Every member employed as an employee in a Tea Estate or Tea Factory to which this Scheme applies, shall contribute to the Fund and the contribution shall also be payable to the Fund in respect of him by the employer. Such contribution shall be in accordance with the rate specified in paragraph 23 (a) :

Provided that subject to the provisions contained in clause (b) above, where the monthly pay of such a member exceeds Rupees Fifteen Thousand, the contribution payable in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of Rupees Fifteen Thousand including dearness allowance, value of food concessions and leave with wages, but does not include —

(i) Bonus or,

(ii) Commission.”

Amendment of
para 29

3. In the principal Scheme, in para 29, clause (b) shall be deleted and clause (c) shall be renumbered as clause (b).

BALLEPU KALYAN CHAKRAVARTHY,
Additional Chief Secretary to the Government of Assam,
Labour Welfare Department.



Annexure II

ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANIZATION

(Formerly known as The Assam Tea Plantations Provident Fund & Pension Fund Scheme & D.L.I Scheme)

"Nidhi Bhawan" Basistha, Lalmati, N.H. - 37, Guwahati - 781029

Phone: 2300108, 2300604, 2300742, 2304263 Fax: 0361-2302602 E-Mail: atppf@live.com website: atppf.nic.in

From: Sri A. Das
Secretary-Cum-P.F. Commissioner

No.PF/Adm.-1/Act./25/239-43
Dated Guwahati, the 03.01.2025

To
The Manager of
All Tea Estates/Factories in Assam.

Sub: Amendment of Para 22 and Para 29 of the ATPPF & PF & DLI Fund Scheme 1968

Sir,

With reference to above, I am to state that the Govt. of Assam has approved the amendment of Para 22 and Para 29 of the ATPPF & PF & DLI Fund Scheme 1968 vide Memo No. E-437386/22 dt. 12.11.2024.

A copy of The Assam Gazette containing the amendments is enclosed herewith for your record and necessary action.

Encl: As above.

Yours faithfully

Signature
03/01/25

Secretary-Cum-P.F. Commissioner

- Copy to :
1. All Members of the Board of Trustees.
 2. All Officers of the Board of Trustees in Head Office/Field Office.
 3. All Employees Association.
 4. All Employers Association.

Signature
03/01/25

Secretary-Cum-P.F. Commissioner



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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application and
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pay per month if he is already a member of the Fund and thereupon such employee shall be entitled to the benefits and shall be subject to the conditions of the Fund, and the employer shall pay the administrative charges payable and shall comply with all the statutory provisions in respect of such employee.

(c) Every member employed as an employee in a Tea Estate or Tea Factory to which this Scheme applies, shall contribute to the Fund and the contribution shall also be payable to the Fund in respect of him by the employer. Such contribution shall be in accordance with the rate specified in paragraph 23 (a) :

Provided that subject to the provisions contained in clause (b) above, where the monthly pay of such a member exceeds Rupees Fifteen Thousand, the contribution payable in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of Rupees Fifteen Thousand including dearness allowance, value of food concessions and leave with wages, but does not include —

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(ii) Commission.”

Amendment of
para 29

3. In the principal Scheme, in para 29, clause (b) shall be deleted and clause (c) shall be renumbered as clause (b).

BALLEPU KALYAN CHAKRAVARTHY,
Additional Chief Secretary to the Government of Assam,
Labour Welfare Department.



ASSAM CHAH KARMACHARI SANGHA

CENTRAL OFFICE

REGD. UNDER THE INDIAN TRADE UNION ACT. 1926

(Affiliated to I.N.T.U.C. No. IV 481)

BIJOY BHAWAN, POST BOX NO. 13, DIBRUGARH - 786001 (ASSAM) Email : ackscentraloffice@gmail.com

Ref. No. : D-54/24/488

Date : 26/12/2024.....

To
The Secretary
Assam Branch, Indian Tea Association
295- Mother Teresa Road, Guwahati.

REF.:- (1) ORDER DATED 13.3.2023 PASSED BY THE HON'BLE GAUHATI HIGH COURT IN W.P. (C) NO. 1315/2023.

(2) W.P. (C) NO. 6594/2024 PENDING BEFORE THE HON'BLE GAUHATI HIGH COURT.

SUBJECT :- DEDUCTION OF EMPLOYEES PROVIDENT FUND.

Sir,

With due respect, it is stated that in the definition of "employees" in the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Act, 1955, there has been an upper ceiling of wages in respect of Provident Fund, however, the said upper ceiling was never enforced by and garden and the deduction of Provident Fund in respect of the employees were always done upon their gross salary. The definition of "Employee" in the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Act, 1955 was amended in the month of March, 2016 and by the Amending Act of 2016 the upper wage ceiling was increased from Rs. 6,500/- to Rs. 15,000/-

It is stated that some of the gardens in the later part of the year 2022 took an initiative to enforce the upper wage ceiling in respect of their respective gardens. The Assam Chah Karmachari Sangha, approached the Hon'ble Gauhati High Court, by way of a Writ Petition being W.P. (C) No. 1315/2023 assailing the aforesaid action of implementing the upper wage ceiling for deduction of Provident Fund. The Hon'ble Gauhati High Court, by interim order dated 13.3.2023 passed in W.P. (C) No. 1315/2023 was pleased to direct to maintain Status-quo in the matter.

(A copy of the order dated 13.3.2023 in enclosed herewith and marked as Encl. -1)

It would be relevant to put on record that the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Act, 1955 was further amended by the amending Act of 2023, which was published on 18.12.2023, by the said amendment, the definition of "Employees" has been substituted and the presently, by virtue of the amending



Cell : 9435748255
☎ : (0373) 2328870

ASSAM CHAH KARMACHARI SANGHA

CENTRAL OFFICE

REGD. UNDER THE INDIAN TRADE UNION ACT. 1926
(Affiliated to I.N.T.U.C. No. IV 481)

BIJOY BHAWAN, POST BOX NO. 13, DIBRUGARH - 786001 (ASSAM) Email : ackscentraloffice@gmail.com

Ref. No. :

Date

(2)

Act, there is no upper wage ceiling in respect of the employees. However, a Notification dated 12.11.2024 has been issued by the Additional Chief Secretary to the Government of Assam, Labour Welfare Department, amending the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme, 1968 capping the quantum of employer's contribution for Provident Fund for employees drawing wages above Rs. 15,000/- . Being aggrieved by the aforesaid notification, the Assam Chah Karmachari Sangha has again approached the Hon'ble Gauhati High Court by way of Writ Petition being W.P. (C) No. 6594/2024 and the same is scheduled to be listed for admission hearing on 09-01-2025 before the Hon'ble Division Bench of the Hon'ble Court.

(A copy of the Amendment published on 18-12-2023 is enclosed hereto and Marked as enclosure - 2)

(A copy of the notification dated 12.11.2024 is enclosed hereto and marked as enclosure - 3).

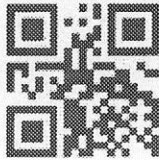
I therefore, request you that you may consider the entire matter as regards the Status-quo order dated 13.3.2023 passed by the Hon'ble Court in W.P. (C). No. 1315/2023, presently after amendment of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Act, 1955 there not being any upper wage ceiling in respect of the employees and the Notification dated 12.11.2024 issued by the Additional Chief Secretary to the Government of Assam, Labour Welfare Department is under challenge before the Hon'ble High Court. In view of the above, you may instruct your member gardens not to enforce the upper wage ceiling as regards deduction of the provident fund of the employees in as much as, same may amount to violation of the Status-quo Order passed by the Hon'ble High Court.

Thanking you.

Yours faithfully

(RISHAV KALITA)
GENERAL SECRETARY

GAHC010046812023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1315/2023

ASSAM CHAH KARMACHARI SANGHA
A REGISTERED TRADE UNION UNDER THE TRADE UNION ACT, 1926
HAVING ITS REGISTERED OFFICE AT BIJOY BHAWAN, PST BOX NO. 13,
DIBRUGARH, ASSAM, REPRESENTED BY ITS GENERAL SECRETARY

VERSUS

THE STATE OF ASSAM AND 27 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, LABOUR AND WELFARE DEPARTMENT,
DISPUR, GUWAHATI-06

2:BOARD OF TRUSTEES
THE ASSAM TEA PLANTATIONS PROVIDENT FUND AND PENSION FUND
SCHEME
BASISTHA
LALMATI
GUWAHATI-29

3:BURRAPAHAR TEA COMAPNY PVT. LTD.
P.O.-JAKHLABANDHA
PIN-782136
DIST-NAGAON
ASSAM
REPRESENTED BY ITS MANAGER

4:SELENG TEA ESTATE PVT. LTD.
P.O.-SELENGHAT
PIN-785636
DIST-JORHAT
ASSAM
REPRESENTED BY ITS GENERAL MANAGER

5:GABROO PURBAT TEA ESTATE
P.O.-SELENGHAT
PIN-785636
DIST-JORHAT
ASSAM
REPRESENTED BY ITS MANAGER

6:B AND A LTD.
GATOONGA TEA ESTATE
P.O.-GATOONGA
PIN-785616
DIST-JORHAT
ASSAM
REPRESENTED BY THEIR THE GROUP MANAGER

7:B AND A LTD.
KUHUM TEA ESTATE
P.O.-TITABAR
PIN-785630
DIST-JORHAT
ASSAM
REPRESENTED BY ITS MANAGER

8:DHOOOLIE TEA ESTATE
P.O.-TITABAR
PIN-785630
DIST-JORHAT
ASSAM
REPRESENTED BY ITS GENERAL MANAGER

9:SUOLA TEA ESTATES PVT. LTD.
SUOLA TEA ESTATE
P.O.-ATTAREEKHAT
DIST-UDALGURI
ASSAM
PIN-784527
REPRESENTED BY ITS GENERAL MANAGER

10:BALIMARA TEA ESTATE
P.O.-BALIMARA
DIST-DIBRUGARH
ASSAM
PIN-786610
REPRESENTED BY ITS MANAGER

11:BEMOLAPUR TEA ESTATE
P.O.-BORHAT

PIN-785692
DIST-CHARAIDEO
ASSAM
REPRESENTED BY ITS MANAGER

12:JAIPUR TEA ESTATE
P.O.-JAIPUR-786614
DIST-DIBRUGARH
ASSAM
REPRESENTED BY ITS MANAGER

13:UMATARA TEA ESTATE
P.O.-NAMRUP-786621
DIST-DIBRUGARH
ASSAM
REPRESENTED BY ITS GENERAL MANAGER

14:RUKONG TEA ESTATE
P.O.-BALIMARA-786610
DIST-DIBRUGARH
ASSAM
REPRESENTED BY IIS MANAGER

15:MAHADEWBARI TEA CO. (P) LTD
MAHADEWBARI TEA ESTATE
P.O.-HOOGRIJAN
DIST-DIBRUGARH-786601
REPRESENTED BY ITS MANAGER

16:BANGLABARI TEA ESTATE
P.O.-KOKRAJHAR
DIST-KOKRAJHAR
BTAD-783370
ASSAM
REPRESENTED BY ITS MANAGER

17:DOLABARI TEA ESTATE
P.O.-KOKRAJHAR
DIST-KOKRAJHAR
BTAD-783370
ASSAM
REPRESENTED BY ITS MANAGER

18:HAUTLEY TEA ESTATE
P.O AND DIST-GOLAGHAT-785702
ASSAM
REPRESENTED BY ITS MANAGER

19:NAMBURNODI TEA ESTATE
P.O.-BORPATHAR
PIN-785602
DIST-KARBI ANGLONG
ASSAM
REPRESENTED BY ITS MANAGER

20:HALMIRA TEA ESTATE
P.O.-GOLAGHAT
PIN-785621
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

21:SHYAMRAIPORE TEA ESTATE
P.O.-DOLAGURI
PIN-785613
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

22:MOKRUNG TEA ESTATE
P.O.-FUKRATING
PIN-785610
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

23:GHILIDARY TEA ESTATE
P.O.-FUKRATING
PIN-785610
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

24:JAMGURI TEA ESTATE
P.O.-OATING
PIN-785603
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

25:SOCKIETING TEA ESTATE
P.O.-BORJAN
PIN-785625
DIST-GOLAGHAT
ASSAM
REPRESENTED BY ITS MANAGER

26:BAHADUR TEA ESTATE
P.O.-MONKHOLI
DIST-TINSUKIA
ASSAM
PIN-786125
REPRESENTED BY ITS MANAGER

27:SUNTOK TEA ESTATE
P.O.-SUNTOK
NAGINIMORA ROAD
NAZIRA
SIVASAGAR
ASSAM
PIN-785687
REPRESENTED BY ITS MANAGER

28:GELAKEY TEA ESTATE
P.O.-NAZIRA
DIST-SIVASAGAR
ASSAM
PIN-785685
REPRESENTED BY ITS MANAGE

Advocate for the Petitioner : MR. S CHAKRABORTY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 13-03-2023

Heard Mr. K.N. Choudhury, learned Sr. counsel assisted by Mr. S. Chakraborty,
learned counsel for the writ petitioner.

Perused the averments made in the writ petition.

The petitioner union is aggrieved by the declaration of the intention of the
Government to deny the benefit of the Provident Fund to those employees whose wages

exceed Rs. 15,000/- per month. The petitioner apprehends that the employers may implement such decision any day.

According to Mr. Choudhury until such time a decision is actually taken by the Govt. to such effect and is notified, the respondents cannot deprive the members of the petitioner union from the benefits of the Provident Fund. Mr. Choudhury further submits that no such decision has yet been taken by the Government. Hence, the prayer for issuance of an interim order.

Mr. T.C. Chutia, learned Addl. Sr. Govt. Advocate, Assam prays for some time to obtain instruction in the matter.

Issue notice of motion returnable in 08 weeks.

Since Mr. Chutia has appeared and accepted notice on behalf of respondent No. 1, no formal notice is required to be sent to the said respondent.

Extra copies of the writ petition, requisite in numbers, be furnished to the learned Govt. Advocate so as to enable him to obtain instruction.

Petitioner to take steps for service of notice upon the remaining respondents by registered post with A/D.

Steps within a week from today.

Heard on the prayer of interim relief.

Considering the facts and circumstances of the case, it is hereby provided that *status quo* as regards the benefit of Provident Fund presently made available to the

members of the petitioner union, be maintained until further order(s).

JUDGE

GS

Comparing Assistant



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 572 দিশপুৰ, সোমবাৰ, 18 ডিচেম্বৰ 2023, 27 আশ্বিন, 1945 (শক)
No. 572 Dispur, Monday, 18th December, 2023, 27th Agrahayana, 1945 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 18th December, 2023

No. LGL.43/2023/12.— The following Act of the Assam Legislative Assembly which received the assent of the Hon'ble Governor of Assam on 12th December, 2023 is hereby published for general information.

ASSAM ACT NO. LXXIII OF 2023

(Received the assent of the Governor on 12th December, 2023)

THE ASSAM TEA PLANTATIONS PROVIDENT FUND AND
PENSION FUND AND DEPOSIT LINKED INSURANCE
FUND SCHEME (AMENDMENT) ACT, 2023

AN ACT

further to amend the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955

Preamble

Whereas it is expedient further to amend the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam Act
No. X of
1955

It is hereby enacted in the Seventy-fourth year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme (Amendment) Act, 2023.

- (2) It shall have the like extent as the principal Act.

- (3) It shall come into force at once.

Amendment of section 2

2. (1) In the principal Act, in section 2, for clause (d), the following shall be substituted namely:-

“(d) “Employee” means any person who is employed for wages to do any skilled or unskilled work, manual or clerical work, in connection with the work of a tea garden or a tea factory including its local head office, factory, workshop, school or hospital and who gets his wages directly or indirectly from the employer, and includes any person,-

- (i) employed by or through a contractor in or in connection with the work of the tea estate or tea factory;

- (ii) engaged as an apprentice, not being an apprentice engaged under the Apprentice Act, 1961.”

GEETANJALI DAS SAIKIA,

Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.

e.mail : araha@indiatea.org

Ref.No.AD/ 35 /2025

2nd January, 2025

The Secretary General,
Indian Tea Association,
6, N.S. Road,
Kolkata.

Dear Sir,

Re : Status quo order passed on 13th March, 2023.

Kindly refer to your e.mail of the 27th December last.

It appears that the Hon'ble Gauhati High Court on the writ petition being W.P. (C) No.1315 of 2023 filed by Assam Chah Karmachari Sangha has passed the following order on 13th March, 2023 :

"Heard on the prayer of interim relief.

Considering the facts and circumstances of the case, it is hereby provided that *status quo* as regards the benefit of Provident Fund presently made available to the members of the petitioner union, be maintained until further order(s)."

In the said order it has been recorded that according to the Counsel for the writ petitioner "until such time a decision is actually taken by the Government to such effect and is notified, the respondents cannot deprive the members of the petitioner union from the benefit of the Provident Fund. Mr. Chaudhuri further submitted that no such decision has been taken by the Government. Hence, the prayer for issuance of an interim order." In the premises, the Hon'ble Gauhati High Court has passed the interim order on 13th March, 2023 as quoted above.

On 12th November, 2024 the Government of Assam, Labour Welfare Department has issued a Notification by which Clauses (b) & (c) of Paragraph 22 of the Assam Tea Plantation Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme have been deleted and the proviso to 22(c) of the amended Scheme contains as follows :

"(c)

Provided that subject to the provisions contained in clause (b) above, where the monthly pay of such a member exceeds Rupees Fifteen Thousand, the contribution payable in respect of him by the employer, shall be limited to the amounts payable on a monthly pay of Rupees Fifteen Thousand including dearness allowance, value of food concessions and leave with wages, but does not include –

FOX & MANDAL
12 Old Post Office Street
Kolkata 700 001
West Bengal | India
T: +91 33 2248 4843
F: +91 33 2248 0832
E: calcutta@foxandmandal.co.in

CITY OFFICES:
206 AJC Bose Road
7th Floor | Unit No. 7C
Kolkata 700 017
West Bengal | India
T: +91 33 4603 6631
F: +91 33 4603 6634

PARTNERS:
A K Dhar
Debanjan Mandal

2.

- (i) Bonus, or,
- (ii) Commission.”

The Government of Assam has now clarified by the said Notification that employer's contribution of Provident Fund of a member is restricted to Rs.15,000/-. The said Notification has come in force.

The Assam Chah Karmachari Sangha by a notice dated 16th December, 2024 has informed the Secretary of the Assam Branch of ITA that they have filed a writ petition in the Hon'ble Gauhati High Court challenging the Notification dated 12th November, 2024 which will come up for admission on 9th January, 2025 and has requested the Association to instruct its member gardens "not to enforce the upper wage ceiling as regards deduction of the provident fund of the employees in as much as, same may amount to violation of the Status-quo order passed by the Hon'ble High Court".

The order of the Hon'ble Gauhati High Court dated 13th March, 2023 does not specify any period but it is until further orders. Further, we have been informed that the contribution on account of Provident Fund is payable on the 15th of the succeeding month i.e. not before 15th January, 2025 for the month of December, 2024. The new writ petition filed by the Assam Chah Karmachari Sangha will come up for hearing on 9th January, 2025. In the circumstances, it is advisable to wait for the outcome of the hearing fixed on 9th January, 2025. In the event no interim order is passed, then the employers will follow the Notification dated 12th November, 2024. Alternatively, the member gardens may file a petition in the first writ petition i.e. W.P. (C) No.1315 of 2023 praying for clarification that the interim order was passed on 13th March, 2023 when no decision was taken by the Government. Since the Government has taken the decision and issued the Notification on 12th November, 2024 the interim order should be vacated immediately.

The member gardens may wait till the hearing of the new writ petition takes place or till clarification is made in the first writ petition.

Yours faithfully,

