



ASSOCIATION OF SCIENTIFIC & TECHNICAL OFFICERS

Registered with the Registrar of Societies Uttarakhand Govt., Registration No. 172 (1967-68)

OIL AND NATURAL GAS CORPORATION LTD.

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CENTRAL WORKING COMMITTEE

No. ASTO/CWC/PRBS-NPS/2018-21

08.04.2020

To,
Executive Officer
PRBS Trust
ONGC Dehradun

Sub: Implementation of NPS and as per BOT Resolution and other changes to PRBS

Dear Bhaskar Gupta ji,

Kindly refer to the BOT Meeting of PRBS Trust, held on 20th March 2020 (MoM not received so far). As per the discussion following are the suggestions from ASTO:

1. The agenda in addition to proposing modification in various clauses has also proposed modifications in certain other clauses which may not be related to implementation of NPS.
2. With reference to implementation of NPS refer to the report of the committee which was approved by CMD on 18.05.2019 and made available to BOT through this Agenda has brought out on page 12 that it shall require memorandum of settlement with recognized unions and also MOU with ASTO is still remaining. Whether this shall be done at this stage or later.
3. It has been brought out that PoP as well as CRA charges shall be borne by employee themselves. Therefore the finalization of PoP agency shall be done in consultation with representatives of ASTO and Recognized Unions.
4. The change in clause 4.4 of the scheme maybe done through a proviso be introduced in the clause which allows the transfer of additional cash contribution (if opted by employee).
5. In clause 5.3.5 we need to include available corpus in NPS also.
6. In clause 5.3.6 suggested change under (A) this needs to be implemented w.e.f 01.01.2017 and the same needs to be mentioned in the clause.
7. In clause 5.3.6 suggested change under (B) & (C) our comments are as under:
 - a. Kindly bring out the appropriate provision of CDA rules which can enable such a provision.
 - b. So far as withholding of retiral dues including leave encashment are concerned, Hon'ble Supreme Court has defined these benefits as hard earned wealth and not bounties (J K Srivastava vs. State of Jharkhand, Civil Appeal No. 6770 of 2013). There in it is ruled that "a person cannot be deprived of this pension without the authority of law, which is the Constitutional mandate enshrined in Article 300 of the Constitution."
 - c. In the same case Hon'ble Supreme Court has clarified that "pension and gratuity are not bounties but hard earned wealth of the employee and hence cannot be taken away without following the due process of law." From this inference can be drawn that the due process is conviction of the employee by a court of law establishing that he/she has caused pecuniary losses to the employer. Without such judicial order employer is not entitled to withhold/forfeit wealth (pension, gratuity & leave encashment) of the employee.
 - d. Further, it is noted that NPS Trust has incorporated by notification dated **18.05.2018**, the provision of empowering itself to withhold the pension wealth of a subscriber on request of the employer.



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- e. Whereas, in **August 2018** the Apex Court, in judgment of Union Bank of India vs. CG Ajay Babu & others, Civil Appeal 8251 of 2018, has pronounced that gratuity (which is again a hard earned wealth by the employee) cannot be forfeited unless the employee has been convicted for any misconduct or moral turpitude.

It is therefore suggested to kindly take these suggestions into consideration and bring the agenda to BOT on priority.

With warm Regards

(Amit Kumar)
President CWC

Copy to:

1. Dir(Fin)/ Dir(HR)
2. ED - Chief ER
3. President/Secretary – All ASTO units