

FAQ ABOUT CPF-GPF ISSUE

1. What is crux of Govt. of India O.M. dated 1.5.1987?

As per the DoP&PW's O.M. dated 01.05.1987 that all CPF beneficiaries, who were in service on 1.1.1986 and who are still in service on the date of issue of these order will be deemed to have come over to the Pension Scheme.

The employees of the category mentioned above will, however, have an option to continue under the CPF Scheme, if they so desired. The option will have to be exercised and conveyed to the concerned Head of Office by 30.9.1987, if the employees wish to continue under the CPF scheme. If no option is received by the Head of Office by the above date the employees will be deemed to have come over to the Pension Scheme.

2. Why and when the University of Delhi has extended the option beyond 30.9.1987?

The Fourth Central Pay Commission had recommended that all CPF beneficiaries in service on 1.1.1986 should be deemed to have come over to the pension Scheme on that date unless they specifically opt out to continue under the CPF scheme. The recommendation of Fourth Central Pay Commission report accepted and notified by the Govt. of India in May 1987. However, UGC has notified the revision of pay for some of the cadres of Registry after the 30.9.1987. As such, based on the request from the employees of the University, the Executive council of the University has the extended period of option to remain under the CPF (after the deadline of 30.9.1987) i.e. during the period from **1.10.1987 to 31.12.1987 & from 1.1.1988 to 29.2.1988**.

3. Whether the University of Delhi has issued the reverse option to switch over from CPF to GPF and when?

Based on the request from various quarters from time to time, the Executive Council of the University has resolved to issue the reversed option to switch over from CPF to GPF during the period from Feb.1989 to March 1998 (9 times). Accordingly, a notification was issued by the University to exercise the option to **switch over from CPF to GPF from time to time during the period from Feb 1989 to March 1998 (9 options)**.

4. Whether the University of Delhi has notified one more option to switch over from CPF to GPF in Nov.1998 which was not implemented and why?

The EC of the University Vide resolution No. **132 dated 30.09.1998** allowed one more opportunity to all the employees of the University and its Colleges to come over from CPF to GPF Scheme who were in service on **30/09/1998** as one time exception provided they exercise their option by **31/01/1999** being from the date of issue of this University Notification Fin./Pen.Cell/98/28863-29139 dated 17/11/1998. However, later on, neither this E.C. Resolution was not implemented nor the same was withdrawn since UGC/MHRD was regretted its inability to allow one more option to change over from CPF to GPF scheme to the employees of UGC and the institutions maintained by it MHRD letter No. F.4-49/99-U.I dated 19th June 2000.

5. What is category I, II & III and how it was emerged?

The bunches of writ petitions filed before the Hon'ble High Court of Delhi in connection with switch over from CPF to GPF have been grouped in the Judgment of Ld. Single Judge of Hon'ble High Court of Delhi in the following three categories:

Category: I (N.C.Bakshi batch)

Category I comprises of those cases where the petitioners had exercised their option to continue in CPF Scheme after the deadline of 30.9.1987 during the extended period i.e. from **1.10.1987 to 31.12.1987 & from 1.1.1988 to 29.2.1988**.

Category: II (Sashikiran batch)

Category II comprises of those cases that exercised a positive option to continue under the CPF scheme on or before the cut-off date i.e.**30.9.1987** and sought for extension of one more option to switch over from CPF to GPF.

Category: III (Virmani batch)

Category III comprises of those cases where the petitioners had not submitted their option to continue with CPF Scheme , employee stood automatically covered by the Pension scheme by virtue of the deeming legal fiction created under the provision of the O.M. dated 1.5.1987.

6. What is outcome of the bunch writ petitions filed before the Single Judge of Hon'ble High Court of Delhi in connection with switch over from CPF to GPF?

- (1) The Hon'ble Single Judge vide order dated 30.4.2014 had allowed the petitions filed under the **category I (N.C.Bakshi batch)** consisting of those who submitted option form after the deadline of 30.9.1987 and during the extended period i.e. from **1.10.1987 to 31.12.1987 & from 1.1.1988 to 29.2.1988** on the ground that the employees who did not expressly opt to remain in the CPF scheme by 30.9.1987, stood automatically covered into the Pension scheme.
- (2) The Hon'ble Single Judge vide order dated 30.4.2014 had also allowed the petitions filed under **Category III (Virmani batch)** those who had not submitted their option to continue with CPF Scheme by 30.9.1987, and held that such employees stood automatically covered by the Pension scheme by virtue of the deeming legal fiction created under the provision of the O.M. dated 30.9.1987.
- (3) While allowing the writ petitions under category **I & III**, the Hon'ble High Court had directed that the University of Delhi/concerned Colleges would be entitled to recoup their contributions under the CPF Scheme with simple interest at the rate of **8%p.a.**
- (4) **Under the Category II**, the Hon'ble Court observed that "If, the University of Delhi, has wrongly permitted switch over to some of its employees to the Pension Scheme contrary to the provisions of O.M. dated 1.5.1987 as adopted by it, it cannot be the ground to grant relief to the petitioners and the writ petitions under the **category II** has been dismissed vide order dated 30th April 2014.

7. Whether the order of Single Judge of Hon'ble High Court of Delhi has been implemented or not?

MHRD's vide O.M. No. F.No.4-38/2014-Desk dated 11th July 2014 enclosing DOP&PW O.M. No. 3/5/2011-P&PW (F) dated 23.6.2014 & Department of Expenditure Note ID No:2(12)/E.V/2012 dated 12.10.2012 directed the University of Delhi to challenge the Court order in the Apex court in case it was allowed by the Hon'ble High Court of Delhi.

The University of Delhi had filed an appeal in the Division Bench as against judgment of learned Single Judge of the Hon'ble High Court, Delhi under the **Category I (N.C. Bakshi batch) & Category III (Virmani batch)** vide LPA (Letter of Patents Appeal) No.'s 554/2014 & 555/2014 **on the lines indicated by the MHRD vide letter No. F.No.4-38/2014-Desk (U) dated 11th July 2014.**

Similarly, the employees of the various colleges of University of Delhi have also filed an appeal in the Division Bench against judgment of the learned Single judge of Hon'ble High Court, Delhi under the **Category II (Shasi Kiran batch)** vide bunch of (58) LPAs under different Nos. from 410/2014 to 780/2014.

8. What is outcome of the Division Bench of Hon'ble High Court of Delhi in connection with switch over from CPF to GPF?

The Division Bench of Hon'ble High Court of Delhi pronounced the judgment on **24.8.2016** on the various LPAs filed in connection with switch over from CPF to GPF. The Division Bench of Hon'ble High Court of Delhi **has dismissed the LPA filed by the University in respect of Category I & III and allowed the LPA filed by the petitioners in respect of Category II.** Thus, the employees (Petitioners) of the all the three categories are now become eligible for pension.

9. Whether the order of Division Bench of Hon'ble High Court of Delhi dated 24.8.2016 has been implemented or not?

The University of Delhi has referred the matter to the MHRD/UGC vide letter dated 13th October 2016 for direction as to whether to file an appeal in the Apex Court against the order of the Division Bench of the Hon'ble High Court as per the earlier direction of the MHRD or to implement the judgment.

The MHRD's directives received vide letters dated 23.1.2017, 18.4.2017, 21.4.2017, 8.5.2014 & 23.05.2017 clearly indicated that University is required to file **SLP in respect of Category I & Category II. Thus, it becomes obligatory on the part of the University to implement the judgment of the Division Bench of Hon'ble High Court of Delhi in respect Category III.**

10. Whether SLP has been filed in the Apex Court or not?

As directed by the MHRD, **SLP has been filed in the Apex Court in respect of Category I (N.C. Bakshi batch) & Category II (Sashikiran Batch) and the the order of the Division bench in respect of the Category III need to be implemented.**

11. What are the direction / order of the Hon'ble High Court of Delhi in respect of the contempt petition filed by the aggrieved petitioners?

The Hon'ble High Court of Delhi vide order dated 1.5.2017 directed that the Delhi University as well as its constituent colleges to intimate the UGC and MHRD the mount due and payable to each of the petitioners in the entire batch of writ petitions or LPAs which have

been allowed by virtue of order dated 24th August, 2016 passed by the Division bench in LPA No.410/2014 within a period of four weeks. The MHRD and UGC shall ensure that the amount in question is deposited with the registry of this court within a period of two weeks, thereafter.

12. How many petitioners are there in all the categories?

As per the list provided by the Legal branch the total petitioners is 346. The category wise petitioners are as under:

Category	No.of petitioners
Category I	156
Category II	86
Category III	101
unspecified	3
Total	346

13. How many petitioners retired and how many of them in service?

The details of the petitioners who are retired and in service are given below:

Category	Retired	In service
Category - I	110	46
Category - II	61	25
Category – III	60	41
unspecified	1	2
Total	232	114

14. Whether the pension liability in respect of the petitioners as directed by the Hon'ble High Court of Delhi has been sent to the UGC/MHRD?

As directed by the Hon'ble High court of Delhi vide order dated 1.5.2017 in the Contempt case (c) No. 41/17 Dr. S.K. Larois & Ors Vs Prof. Yogesh Tyagi &Ors. in the CPF-GPF matters, the University has finalized the Gross pension of the petitioners of **all the three category** and the respective colleges has also been calculated the net pension liability up to 30.4.2017 from the date of retirement of individual petitioner and forwarded the same to the UGC to deposit the requisite amount in the Hon'ble Court of Delhi after adjusting the CPF amount (Employer contribution) along with the 8% simple interest, if any.

University of Delhi has also intimated to the UGC/MHRD vide letter dated 6.7.2017 to ensure that the requisite amount towards net pension liability forwarded by the University and respective colleges has been deposited in the Hon'ble High Court of Delhi.

15. Whether University is implementing the Judgment of Category III or not?

Since the University of Delhi has filed SLP in respect of Category –I & II as directed by the MHRD, it is obligatory on the part of University to implement the Judgment of Division Bench in respect of Category- III. As such, University has already calculated the pension liability to the petitioners falling under category –III up to 30.4. 2017 from date of retirement of the respective petitioners and sent to UGC to deposit the amount as directed by the Court. University has already issued the directive to the colleges to release the pension to the petitioners commencing from the month of May 2017.

As regards implementing the judgment of Division Bench in respect of Category- III for the non-petitioners are concerned, it is to state that the modalities to implement the judgment of Division Bench in respect of Category- III for the non-petitioners is under process and the same will be communicated to the colleges soon.

16. What is the University's strategy in respect of Category I & Category II?

Since University has already filed the SLP in respect of Category I & II as directed by the MHRD, University has no option but to wait till the outcome of Hon'ble Apex Court on the SLP.

17. What is "un approved Expenditure"?

The High Court of Delhi while delivering the judgment on 30.4.2014 in W.P. (C) 2036/2010 Kanta Batra & others (Category II) observed that *"about 2469 employees had been allowed to switch over even after they had given their option to continue under CPF scheme which cannot be countenanced in law. As is well settled, by several judgments of the Supreme Court that there is no equality in illegality. If, the University of Delhi, has wrongly permitted switch over to some of its employees to the Pension Scheme contrary to the provisions of O.M. dated 1.5.1987 as adopted by it, it cannot be the ground to grant relief to the petitioners. Since, the case of those 2469 employees is not before me, I am not required to return a finding on them. The learned Single Judge also noted that **as indicated by counsel for UGC and the Union of India, the expenditure, if any, on account of the said 2469 employees can only be classified under the head "unapproved expenditure" and therefore, the financial burden if at all, in that behalf would lie only on the University of Delhi"**.*

18. What course of action to be taken by the University to process the case files of those who falling under "unapproved expenditure"?

Based on the request from various quarters from time to time, the Executive Council of the University has resolved to issue the reversed option to switch over from CPF to GPF during the period from Feb.1989 to March 1998 (9 times). Accordingly, a notification was issued by the University to exercise the option to **switch over from CPF to GPF from time to time during the period from Feb 1989 to March 1998 (9 options)**. Approximately 2500 pensioners/employees are falling under this category and those who retired prior to 30.4.2014 (i.e. prior to the judgment of Ld.Single Judge dated 30.4.2014), their pension cases were finalized and their monthly pension is being disbursed regularly. However, those who retired after 30.4.2014, their pension cases were withheld in view of the fact that Hon'ble High Court of Delhi observed that *"as indicated by counsel for UGC and the Union of India, the expenditure, if any, on account of the said 2469 employees can*

only be classified under the head “unapproved expenditure” and therefore, the financial burden if at all, in that behalf would lie only on the University of Delhi” and the matter was subjudice.

In this connection it is Noted the following:

- (a) The Division Bench of Hon”ble High Court of Delhi pronounced the judgment on 24.8.2016 on CPF-GPF matter.
- (b) None of the employees who falling under this category (i.e. “Unapproved expenditure”) neither petitioners nor any ruling on them by the Court.
- (c) 80% of employees falling under this category have already retired and getting their pension regularly.
- (d) As per the CCS pension rule “Stoppage or reduction of Pension for reasons other than misconduct not permissible”.
- (e) The UGC is releasing the grant towards retirement benefits (including pension) for the total pensioners which includes for those who switched over from CPF to GPF from time to time during the period from Feb 1989 to March 1998.

Considering the above facts, the University will process the case files separately after getting the legal opinion and also will take up the issue administratively with UGC.