Supreme Court Order on EPFO

Why in news?

The Supreme Court has upheld a Kerala High Court judgment against the Employees' Provident Fund Organisation (EPFO).

What is the case about?

- The Employee's Pension (Amendment) Scheme, 2014 was brought in force through a notification.
- As per the amendment, new members who joined EPF after Sept 1, 2014 with a basic salary of over Rs 15000 per month were excluded from the EPS.
- The Kerala High Court had struck down this amendment.
- It held that restricting the pension contribution to Rs 15000 criteria was arbitrary.
- Further, employees were allowed to choose to contribute to pension on higher pay at any point in time and the timeline to exercise such option.
- The EPFO's appealed against the order of the Kerala High Court.
- The Supreme Court has now upheld the Kerala High Court judgment.

What is the possible implication?

- As a consequence of the judgement, certain amendments to how pensions have been calculated will be struck down.
- The pension may be calculated on the basis of average salary of last 12 months and not 60 months which was the basis till now.
- This would result in increase in pension for employees who have already contributed to pension on full pay in the past.
- This is because most people draw highest salaries near the end of their careers i.e. just before retirement.
- Consequently, those who had a particularly high previously drawn salary and several years of service might see their pension raised by as much as 1,000%.
- The ruling also allows all existing members of EPFO to avail the option of contributing on full basic pay, to get a higher pension in the future.
- The Supreme Court order may also open the doors for employees who were till now excluded from EPS to join the scheme.
- However, the EPFO is yet to come out with its view on the impact of the SC

ruling.
- It will now have to clarify if employees having basic pay exceeding Rs 15,000 can enrol them for the EPS scheme.

What are the concerns?

- Opening the scheme to those hitherto excluded is naturally not in keeping with the ethos of the provident fund.
- It's because the basic objective of provident fund has always been to help the saving and retirement of those at the lower rung of the formal sector.
- There is also the concern as to where the money to pay the much larger pensions will come from.
- Besides these, the SC's judgement appears to be an instance of legislative over-reach.
- The structure of the pension plan, the profitability and sustainability of the scheme, etc are to be determined by the executive.
- It is the executive that has to decide the proper distribution of subsidies and taxes.
- Notably, the support provided to state-guaranteed pension funds are nothing but a subset of this fiscal decision.
- So naturally, the executive, and not the judiciary, should decide on the trade-offs that determine who benefits from guaranteed pensions.
- It is also entirely the executive's decision to decide on how to spend the tax revenue.
- Here, the executive may see pensions as less effective use of tax revenue than, say, health care.
- So rational analysis by the executive is the best way for deciding on what proportion of an employee's earnings should mandatorily be saved.

Source: Economic Times, Business Standard

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