CHAPTER IX : MINISTRY OF LABOUR

9.1 Employees' Provident Fund Organisation- A Review

9.1.1 Introduction

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 was enacted for establishing a fund comprising of contributions from both employees and employers. The main objectives of the fund were to provide social security, inculcate a spirit of savings and make provision for the future of an industrial worker on his retirement or for his dependants in case of his early death.

Employees Family Pension Scheme 1971, was introduced to create a family pension fund by diverting a portion of employees' and employers' contributions to the Provident Fund. This scheme was replaced by a new scheme titled Employees Pension Scheme 1995, effective from 16 November 1995. A social security scheme titled Employees Deposit Linked Insurance (EDLI) Scheme, 1976, was also introduced in 1976 to provide insurance cover to members of the provident fund.

9.1.2 Scope of Audit

The accounts of EPFO are audited under section 5A(7) of the Employees Provident Fund and Miscellaneous Provision Act 1952 read with section 19(2) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971. The certified accounts together with a separate audit report are forwarded annually to the government for being laid before Parliament.

A performance review of EPFO was conducted during 1990-91 covering the period 1985-86 to 1990-91 and appeared as CAG's Report No. 15 of 1992. In their Action Taken Note (ATN) on comments of CAG, the Ministry assured Public Accounts Committee of their efforts to improve the performance for implementation of schemes by EPFO.

The present review is based on test-check of records of sixteen regional offices and the Central Office at Delhi (Appendix X). The review was conducted to focus on the extent of improvement in the performance of EPFO since 1993-94.

9.1.3 Organisational set up

The schemes under the Employees Provident Fund Organisation (EPFO) are administered by the Central Board of Trustees (CBoT), a tripartite body consisting of a chairman, vice chairman, representatives of the Central, State Governments and organisations of the employees and employers. The Central Provident Fund Commissioner is in overall charge and assists CBoT in the administration of the schemes. The implementation of all the schemes are carried out through sixteen regional offices and sixty-five sub-regional offices/ sub-accounts offices with a Central Office at New Delhi. The schemes provide for constitution of regional committees for each state to advise CBoT on matters connected with the administration of the schemes in the state.

9.1.4 Highlights

- **While rates of contribution to provident fund and administrative charges increased the coverage of establishments remained very poor. Out of 16922 establishments, which had applied for voluntary coverage as of March 1999, notification was issued only in 2577 cases, leaving 14345 cases uncovered. Number of establishments provisionally covered but not converted to final coverage increased by 195 per cent from 10444 to 30820 during 1993-99. The shortfall in inspections ranged between 19 to 42 per cent, increasing from 43193 in 1993-94 to 85749 in 1998-99.**

- **EPFO failed to expeditiously determine dues and exercise its powers to realise outstanding dues. There was delay of more than six months in determination of dues in 6619 cases out of 15514 cases test-checked. Arrears of provident fund contribution and inspection charges in respect of exempted establishments increased by 468.25 per cent during 1993-99. Arrears of damages recoverable increased by 129 per cent from Rs 31.01 crore to Rs 71.13 crore during 1993-99. Revenue Recovery Certificates (RRCs) pending recovery increased by 93.36 per cent to 17941 RRCs valued at Rs 368.10 crore as on 31st March 1999.**

- **Uninvested funds with the Boards of Trustees of establishments increased by 322 per cent.**

- **Number of annual accounts statements to be issued increased by 40.80 per cent from 75.13 lakh during 1993-94 to 105.78 lakh during 1998-99 Amount under 'Interest Suspense Account' doubled from Rs 4158.30 crore in March 1993 to Rs 8176.17 crore in March 1999 Unclaimed deposits increased by sixty per cent.**

- **Prosecution cases under Sections 406/409 of IPC increased by only 26 per cent though outstanding dues increased by 261 per cent.**

- **There were short recoveries of interest amounting to Rs 73.90 crore in 230 cases during 1997-98 and 1998-99.**
- **Damages recoverable from defaulting establishments in eight regions with reference to contribution to Pension Fund increased from Rs 1.42 crore to Rs 6.54 crore during 1993-94 Contribution due to Insurance Fund increased by 226 per cent while administrative charges due from various establishments increased by 218 per cent.**
- **Poor progress of computerization was noted in West Bengal, Tamil Nadu, Delhi and Madhya Pradesh.**

9.1.5 Financial parameters

9.1.5.1 Income and expenditure

The analysis of the income and expenditure (compiled on actual basis) of the Organisation is given below:

Table 9.1.5.1 : Income and expenditure

(Rs in lakh)

	Income	**1993-94**	**1994-95**	**1995-96**	**1996-97**	**1997-98**	**1998-99**
1.	Receipts by way of administrative charges, inspection charges and penal damages	10757.57	12321.67	14409.73	17084.02	19722.76	30083.51
2.	Interest-earned on investment of surplus administrative fund	311.66	1905.79	1164.63	1360.97	1796.68	1551.26
3.	Receipt from government and other accounts	760.95	2461.79	983.10	3460.19	3513.65	4795.24
4.	Miscellaneous receipts	241.84	283.14	233.06	291.16	366.39	975.28
	Total	**12072.02**	**16972.39**	**16790.52**	**22196.34**	**25399.49**	**37405.29**
	Expenditure						
1.	Expenditure incurred on Employees Provident Fund scheme	8386.86	9840.56	11585.92	13093.38	17937.95	21926.70
2.	Expenditure incurred on administration of						
	a) Family Pension Fund Scheme	1616.73	1896.93	2233.67	2523.97	3450.51	4226.83
	b) Employees Deposit Linked Insurance Scheme	101.05	118.56	139.59	157.75	215.95	264.18
	c) Additional Emoluments (Compulsory Deposit) Scheme	1.66	1.45	1.66	1.54	0.24	0.12
3	Excess of income over expenditure	1965.72	5114.89	2829.68	6419.70	3794.84	10987.46
	Total	**12072.02**	**16972.39**	**16790.52**	**22196.34**	**25399.49**	**37405.29**

Excess of income over expenditure increased significantly between 1993-99 due among other things, to change in rates of administrative and inspection charges

While expenditure incurred by EPFO increased by 161.40 *per cent*, income had risen by 209.85 *per cent* during 1993-99. The excess of income over expenditure had also risen by 459 *per cent* during the same period. This was due to yearly increases in establishments and employees covered as well as revision in rates of administrative and inspection charges.

9.1.5.2 Rate of contribution

The rates of contribution payable under different schemes had undergone change in 1997. The employees, employers and the Central Government were required to contribute at the following rates from 22nd September 1997:

Table 9.1.5.2 : Rates of contribution

Name of Scheme	Rate of Contribution * (in *per cent*)		
	Employees	**Employers**	**Central Govt.**
Provident Fund Scheme	12	3.67 (amount in excess of 8.33)	Nil
	10 (in case of certain establishment)	1.67 (amount in excess of 8.33)	Nil
EDLI scheme	Nil	0.5	Nil
Pension scheme	Nil	8.33 (diverted out of Provident Fund Contribution)	1.16
Administrative charges from covered establishment	Nil	0.65 (revised to 1.10 w.e.f August 1998)	Nil
Inspection charges from exempted establishment	Nil	0.09 (revised to 0.18 w.e.f. August 1998)	Nil

*Percentage of basic wages, dearness allowance (including cash value of food concessions) and retaining allowance, if any, payable to each employee.

9.1.5.3 Contributions collected

Table : 9.1.5.3

(Rs in crore)

	1993-94	**1994-95**	**1995-96**	**1996-97**	**1997-98**	**1998-99**
Provident Fund						
I) Exempted Estts	2413.75	2281.02	2562.85	3055.77	3174.70	2841.36
II) Unexempted Estts	2541.10	2795.87	3203.02	2915.29	3643.49	4954.18
Total	**4954.85**	**5076.89**	**5765.87**	**5971.06**	**6818.19**	**7795.54**
Family Pension Fund, 1971/Employees' Pension Scheme, 1995						
I) Employees/ Employers share	492.18	578.37	998.32	2445.81	2850.09	3195.66
II) Government share	111.56	466.15	274.72	345.96	370.49	437.10
Total	**603.74**	**1044.52**	**1273.04**	**2791.77**	**3220.58**	**3632.76**
Employees deposit-linked insurance scheme						

	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99
I) Employers share	60.97	66.45	77.98	91.44	103.96	114.66
II) Government share	40.15	15.00	42.17	0.68	-	-
Total	**101.12**	**81.45**	**120.15**	**92.12**	**103.96**	**114.66**

9.1.6 Coverage of establishments

The provisions of the Act are applicable to all establishments employing 20 or more persons on completion of three years of infancy period from the date of being set up. With effect from 22 September 1997, the relief for infancy period of three years was withdrawn and such establishments were to be brought under the Act from the date of their being set up.

9.1.6.1 Surveys

The primary responsibility of EPFO is to ensure compliance of the provisions of the Act by such establishments. The Enforcement Officer of the Regional office is required to survey the area extensively of his own or after collecting information from other sources and identify the establishments attracting provisions of the Act.

Delay upto thirteen years in covering establishments in fulfilling eligibility criteria

Test check of records revealed that there was undue delay ranging between one to thirteen years in identifying establishments that fulfilled the eligibility criteria and enforce their compliance. It was observed that during the year 1997-98 no fresh establishment was added in the Haryana Region. The figure of fresh coverage during 1998-99 was not made available to audit by Regional Office, Tamil Nadu. The coverage of establishments in West Bengal Region during 1997-98 and 1998-99 decreased from 26810 to 16466 but the concerned region could furnish no reasons for the decrease.

9.1.6.2 Inspections

Shortfall in inspection to be conducted ranged between 19 and 42 per cent during 1993-99

Inspect ion of every establishment covered under the Act is to be conducted regularly to ensure effective and prompt implementation of the schemes under the Act. Scrutiny of records by Audit revealed that the shortfall in inspection ranged between 19 to 42 *per cent* during 1993-99(Appendix XI). Further, delay in conducting inspection ranged between one to nineteen years in 716 cases test checked by Audit in five regions. Compliance with the provisions of the Act could not be ensured because of undue delay and huge shortfall in the number of inspections to be conducted.

9.1.6.3 Infant and marginal establishments

Out of 5658 marginal establishments only 4961 were covered during 1993-99

The number of infant establishments yet to be covered in seven regions for which information was made available increased from 102 to 271 during 1993-97. During 1993-99 out of 5658 marginal establishments to be covered, only 4961 were covered leaving 697 establishments. It was observed that though the number of marginal establishments increased due to shortfall in the inspection of establishments by the Enforcement Officers most of them were not covered under the Act thereby denying the benefits of the statutory schemes to the employees of the concerned establishments.

Register of infant, marginal and covered establishments are to be maintained by the Enforcement Officers. Marginal establishments were required to be visited frequently to check employees strength for their timely coverage. Infant establishments were to be covered after expiry of infancy period. It was observed in audit that these registers were not properly maintained and periodically reviewed by most of the regional offices despite Ministry's directives of September 1995 to all commissioners to ensure proper maintenance and periodical review of these registers.

It was observed that in Bihar region 65 establishments employing 3229 employees were not brought under the Act even after completion of their infancy period depriving the benefits of the schemes to the employees.

9.1.6.4 Voluntary coverage

Notification for coverage not issued in respect of 85 per cent of establishments which volunteered

An establishment not compulsorily covered under the provisions of the Act could be covered voluntarily by issuing notification in the official gazette with the mutual consent of the employer and the majority of the employees. Out of 16922 establishments, which had applied for voluntary coverage at the end of March 1999, notification was issued only in 2577 cases leaving 14345 cases uncovered, i.e. 85 *per cent* of the establishments that had volunteered for coverage under the Act were not covered by issue of notifications (Appendix XII).

Delay in issue of notification ranged between 3 to 29 years

Test check of records in various regional offices further revealed that 4167 cases were pending issue of gazette notification with central office and 662 cases at regional offices for periods ranging between 3 to 29 years.

9.1.6.5 Provisional coverage

30820 provisionally covered establishments await final coverage at the end of March 1999

Provisional coverage is granted to establishments in respect of which final date of coming within the Act's purview could not be decided for want of information/records from the establishments. There were 30820 establishments at the end of March 1999 for which the date of final coverage had not been decided. The number of establishments provisionally covered increased by 195 *per cent* from 10444 to 30820 during 1993-99 (Appendix XIII) indicating lack of appropriate action by the Organisation to convert the provisional coverage into final coverage. While non-production of records by the establishments delayed the conversion in Karnataka, Punjab, Maharashtra and Madhya Pradesh regions failure to submit complete information by enforcement staff contributed to the delay in Rajasthan, Haryana and Orissa regions.

9.1.7 Determination of dues of employers

Though cases pending determination of dues decreased by 43.86 per cent, delay of over six months was noticed in 6619 cases test checked

The Act empowers the Organisation to determine the amount due from an employer under any of the provisions of the Act and for this purpose to conduct such inquiry as may be deemed necessary. The number of cases pending for determination of dues decreased by 43.86 *per cent* from 3477 in March 1994 to 1952 cases in March 1999. However, there was undue delay in the determination of dues during each year. A test check by Audit revealed delay of three to six months in 8539 cases and more than six months in 6619 cases out of 15514 cases test checked covering the period 1993-94 to 1998-99 (Appendix XIV).

9.1.7.1 Demand Collection Balance Register

Proper maintenance of DCB register is essential for watching

After determination of dues, the employers have to deposit dues assessed into the bank in a prescribed challan within a stipulated period. A register called "Demand-Collection-Balance-Register" (DCB Register) is required to be maintained by regional offices of EPFO to watch the recovery of amounts due. The entries in the DCB Register are to be made immediately on receipt of triplicate copy of the challan from each establishment and subsequently to be compared with those of schedule of receipts received from the bank. The DCB Register is thus a basic and vital control record to watch the recovery and accounting of amounts due.

The following irregularities were noticed during the course of audit of Bihar, Delhi, Gujarat, Haryana, Kerala, Madhya Pradesh, Maharastra and Orissa regional offices:

(i) dues not entered promptly and amount received simply noted as amount due;

(ii) differences between challans and schedule of receipts could not be adjusted posting was completed only at the time of completion of annual accounts;

(iii) remittances in different accounts not verified with reference to receipts in subsidiary cashbook;

(iv) penal damages were not levied as belated remittances were not reviewed and defaulter's list not prepared from DCB register;

(v) failure to update the data in DCB register and reconcile the differences; and

(vi) ineffective monitoring mechanism to watch dues and arrears of establishments.

DCB register not maintained properly despite assurance in ATN

Despite the assurance given by the Ministry in ATN that systematic review of the DCB register would be conducted by RPFCs, the maintenance of the registers did not improve significantly and assessment of the extent of dues remained problematic.

9.1.7.2 Arrears of contributions

The Act provides for imprisonment of three years and levy of fine upto Rs 5000 for default in payment of inspection charges and administrative charges. Further imprisonment upto six months and fine upto Rs 5000 was prescribed for default in conditions leading to grant of exemption.

Arrears in contributions by employers continued to increase

Arrears towards provident fund contribution and administrative charges in respect of covered establishments decreased by 23.16 *per cent* from Rs. 65579.13 to Rs. 50391.31 lakh during the period 1993-94 to 1998-99 (Appendix XV and XVI). However, chances of recovery of arrears of Rs 24592.08 lakh in March 1999 in respect of 9212 establishments (Appendix XVII) were rendered remote by the delays in realising arrears as the defaulting establishments were reported to be under closure, liquidation and governed by stay orders from Courts.

Arrears of contribution and inspection charges in respect of exempted establishments increased by 468.25 *per cent* from Rs 431.24 lakh to Rs 2450.53 lakh during the same period (Appendix XVIII).

Organisation failed to utilise its own recovery machinery as arrears of dues from exempted establishments increased by 468.25 per cent during 1993-99

As per ATN of the Ministry, the Organisation was authorised since 1973 to have its own recovery machinery constituted in all regions headed by Regional Commissioner (Recovery) or Recovery Officer of the rank of Assistant Provident Fund Commissioner. It was obvious that the Organisation made little use of its recovery machinery since the arrears of dues increased by 468.25 *per cent* in respect of exempted establishments and only marginally decreased by 23.16 *per cent* for covered establishments. Further, there was no evidence of effective application of the penal provisions of the Act outlined above to ensure recovery of dues.

Test check of records of Delhi, Northeastern States and Orissa regions revealed that the accumulation of arrears was due mainly to assessment of dues on hypothetical / adhoc basis and abnormal delay in taking action for recovery.

9.1.7.3 Issue of revenue recovery certificates

All employers of covered establishments are required to deposit the dues assessed within the stipulated period. In case of failure by employers, the authorised officers of the Organisation are empowered to issue revenue recovery certificates (RRC), specifying the amount of arrears to the Recovery Officer for taking further necessary action to recover the amount from the establishment concerned. The Recovery Officer is empowered to attach and sell movable/immovable property of the establishment/employer, arrest the employer and appoint receivers to recover the amount specified in the RRCs.

RRCs pending recovery increased by 93.36 per cent during 1993-99

The number of RRCs pending due to lack of recovery increased by 93.36 from 19267 valued at Rs 19036.62 lakh in April 1993 to 17941 valued at Rs 36810.09 lakh in March 1999 (Appendix XIX). The accumulation of RRCs could have been avoided had EPFO made good use of the provisions of the Act with regard to the RRCs.

Reasons attributed for the delay in recovery of dues through RRCs were due to default ranged between one to 22 years; stay obtained from courts; closure of establishments, liquidation; inadequate balance; show cause notices, warrants of arrest could not be executed/served and undue delay ranging between one to seven years in action such as attach bank accounts, movable/immovable properties.

9.1.7.4 Levy of damages on unexempted establishments

Arrears of damages recoverable on delayed remittances increased by 129.33 per cent

EPFO is empowered to levy and recover damages on belated remittances subject to the maximum of the amount in arrears computed at rates ranging between 17 to 37 *per cent per annum* from the employers. In order to watch levy and recovery of damages, a separate register is to be maintained. Arrears of damages from unexempted establishments increased by 129.33 *per cent* from Rs 3101.49 lakh to Rs 7112.86 lakh during 1993-99 (Appendix XX). Thus, even after the shift of the power to levy damages from State Government to RPFCs in 1973, there was no acceleration in the recovery of damages during 1993-99.

Abnormal delays and interesting aspects of the problem were noted during test check of records by Audit:

- Abnormal delay ranging between 1 to 20 years even to initiate action to levy damages on defaulting establishments in Delhi, Bihar, Kerala and Uttar Pradesh regions.

- In Maharastra region, damages of Rs 21.86 lakh from Company 'A' for delay in remittance of dues was not levied; the Commissioner, Thane, replied that damages would be levied in consultation with RO, Mumbai.

- Kerala region showed only Rs 144.14 lakh as pending damages in their annual report despite a sum of Rs 296.64 lakh being recoverable towards damages from five establishments.

- Delhi region failed to levy damages for delay ranging between 18 to 97 months in remitting the dues amounting to Rs 10.44 lakh in respect of 34 establishments.

9.1.8 Exempted establishments

Every establishment, which is a factory engaged in any specified industry and in which twenty or more persons are employed, is legally covered under the Act. Such establishments are called 'Un-exempted establishments'. Any establishment, to which the Act applies, may seek exemption from the provisions of the statutory scheme after satisfying that rates of contribution to provident fund are not less favourable than provided under the Act and employees are enjoying benefits not less favourable than benefits under the schemes.

After the grant of exemption, such establishments for the purpose of the scheme became 'Exempted establishments'. Exemption once granted is liable to be cancelled for contravention of any of the prescribed conditions governing exemption and on such cancellation the establishment would be required to comply with the provisions of statutory schemes.

9.1.8.1 Transfer of PF contributions

The employers of exempted establishments are required to transfer provident fund contributions to their respective Board of Trustees (BOT) by 20th of the following month (including grace period of five days). The Act provides for imprisonment upto six months and fine of Rs 5000 for failure to comply with the conditions under which exemption was granted.

Test check of relevant records disclosed the following :

Rs 116.83 lakh was not transferred during 1997-98 to BOT by ten exempted establishments in Orissa region

- Orissa regional office stated that during 1997-98 though only Rs 9920 lakh was received, Rs 10672 lakh was transferred to BOT. However, it was observed that Rs 116.83 lakh was not transferred during 1997-98 to BOT by ten establishments.
- Bihar region stated that an amount of Rs 15290.53 lakh was transferred during 1994-95 to BOT whereas in their Annual Report for 1994-95 it was shown as Rs 941.44 lakh. The figures remained unreconciled.
- despite the provisions in the Act, no action was taken against the defaulting establishments by the Organisation.

9.1.8.2 Investment by the Board of Trustees

Uninvested funds with BOT of exempted establishments increased by 322 percent during 1993-99

The Board of Trustees (BOT) of exempted establishments are required to invest every month the accumulated funds in the manner prescribed by the Central Government from time to time. BOT of exempted establishments are liable for imprisonment up to six months and fine of Rs 5000 for failure to invest accumulated funds. The amount which remained uninvested with the BOT increased by 322 per cent from Rs 14735.81 lakh in 1993-94 to Rs 62236.55 lakh as on 31 March 1999 (Appendix XXI). However, no action as provided in the Act was taken to curb the tendency of BOT to keep the accumulations idle or utilise the same themselves.

Test check in audit further revealed as under:

- BOT of exempted establishments of Karnataka region did not observe the prescribed pattern of investment during 1993-99,
- Bihar region did not maintain any record/register of investments,
- In Rajasthan region uninvested funds with BOT ranged between Rs 274.59 lakh and 1120.74 lakh during 1993-99, which resulted in loss of interest of Rs 465 lakh during the said period,
- In Northeast region Rs 6703.75 lakh remained un-invested at the end of 1998-99 resulting in loss of interest of Rs 804.45 lakh,
- In SRO Goa, Maharasthra region, on an average Rs 30 lakh had remained uninvested from April 1994 to February 1998 resulting in loss of interest of Rs 14.40 lakh.

9.1.8.3 Declaration of rate of interest lower than statutory rates

Exempted establishments declared lower rate of interest on Provident Fund account

1693 exempted establishments allowed during 1993-99 interest on provident fund lower (ranging between 0.2 per cent to 2 per cent) than statutory rate. The exempted establishments by paying lower rates got undue benefit at the cost of employees, who were denied their legitimate dues by way of interest.

9.1.9 Accounts

9.1.9.1 Issue of annual statements

Pending annual statements of unexempted establishments increased during 1993-99

Departmental rules require that an annual statement of member's account should be sent to each member as soon as possible after the close of each period of currency of contribution. The number of annual statements to be issued to the exempted establishments decreased from 556609 during 1993-94 to 23379 during 1998-99 (Appendix XXII).

However, the number of annual account statements to be issued to unexempted establishments increased by 40.80 *per cent* from 75.13 lakh during 1993-94 to 105.78 lakh during 1998-99 (Appendix-XXIII).

Test check of records further revealed as given below:

- Madhya Pradesh regional office stated that no case was pending; it was found in audit that as many as 158538 accounts statements involving 813 establishment for the year 1997-98 were still pending at the end of March 1999.

- Punjab region could not issue annual statements in 239195 cases out of 266739 due to employers' fault.

- Maharashtra region could not issue statements in 22.17 lakh cases due to the fault of the department.

9.1.9.2 Interest Suspense Account

Interest Suspense account is a proforma account operated in central office. According to the accounting procedure followed by the organisation interest earned on investments and securities, penal damages realised from employers and penal interest on misuse of funds by employees are credited to the account. Interest credited to members' account to exempted funds and on erroneous credits are debited to the account. The interest suspense account is to be compiled accurately and promptly to ensure that the balance in the account reflects the true position of interest to be credited to the subscribers' account. Any omission/commission in the data collected would adversely affect the interest of the subscribers.

Balance in interest suspense account doubled during 1993-99 despite special drive assured in ATN

In April 1992, Ministry in their ATN assured that the accounts had been brought on the computer and the suspense accounts would be cleared to a large extent by undertaking a special drive. The Ministry also added that instructions had been issued to the RPFC to maintain the interest suspense account register properly. However, it was seen in audit that balance in 'Interest Suspense Account' doubled from Rs 415830 lakh in March 1993 to Rs 817617 lakh in March 1999 (Appendix XXIV).

Audit examination of records of various regions revealed the following reasons for non-credit of interest:

- reasons such as non-receipt of remittances from the establishments;

- failure to credit interest of the current year to subscriber’s account in the subsequent year;

- non-crediting of unclaimed account;

- lack of effective monitoring;

- non-submission / incomplete submission of returns by the establishments; and

- records not maintained properly.

9.1.9.3 Unclaimed Deposit Accounts

Unclaimed deposit rose by 59.61 per cent during 1993-99

The provident fund accumulations of members remaining unclaimed for over a year are transferred to ‘Unclaimed Deposit Account’. The amount transferred to the account increased by 59.61 *per cent* from Rs 6973.19 lakh in 1993-94 to Rs 11129.78 lakh in 1998-99 (Appendix-XXV).

Infective efforts to pay unclaimed amounts to employees

Test check of records by Audit revealed that there was no system of periodical review of ledgers with the returns of subscribers leaving service, to ascertain amounts to be transferred to the unclaimed deposit account. Ministry claimed that the organisation had made necessary efforts to locate the subscribers who have not preferred their claims, through advertisements, display in notice boards of factories/establishments where they were employed and also by enlisting the co-operation of trade unions. Further the forms were also redesigned to have the permanent address of subscriber to ensure easy location.

However, the fact remained that measures taken by the Organisation were not effective since the unclaimed deposits had increased by 59.61 *per cent* during 1993-99.

9.1.10 Prosecution of defaulting establishments

The Organisation is empowered to file prosecution cases in criminal courts to recover arrears from defaulting establishments. Analysis of details revealed that out of 79800 cases, 33499 cases were settled during 1993-99 leaving a balance of 46301 cases (Appendix XXVI).

The information regarding age wise pendency was provided to audit only by seven regions. As on 31 March 1999, 15717 cases were pending for more than three years.

9.1.10.1 Fines awarded by courts not collected

Organisation failed to prefer claims even in cases of award of fines by courts

The organisation is required to take prompt action to collect the fines awarded by the courts and deposit them in the Employees' Provident Fund Account. However even in nine cases where the courts had awarded fine of Rs 4.91 lakh pertaining to Haryana and Kerala regions, only Rs 0.04 lakh was recovered (Appendix XXVII) indicating very poor follow-up of awards of fines.

9.1.10.2 Action under the Indian Penal Code:

The Organisation was required to take action under Indian Penal code (IPC), in cases where after effecting deductions from the wages, the employers failed to remit the contributions. A complaint is to be filed in the court within seven days of approval for prosecution by the Regional Commissioner.

11387 cases of establishments defaulting on their contributions not proceeded against

There were 11387 such cases by the end of March 1999 as detailed in Appendix XXVIII. In most of the regions the registers for watching the progress of the prosecution cases were not maintained properly. Though outstanding dues increased by 261 *per cent* from Rs 132.49 lakh to Rs 478.36 lakh, prosecution cases under section 406/409 of IPC increased only by 26 *per cent* from 9039 to 11387 during the same period indicating very low priority given by the Organisation to proceed against the defaulting establishments utilising the legal recourse of IPC.

The following observations are made as a result of test audit.

- In Rajasthan and Gujarat regions there was abnormal delay ranging from 7 days to more than 90 days even in filing of complaints in the court.
- In Orissa region, in twelve cases decided during 1994-96 accused were acquitted by court due to improper presentation of the cases by the Organisation.
- In Madhya Pradesh region first information reports (FIR) in 427 cases were lodged during 1993-99. The Police authorities dropped 34 cases in 1998-99 but in remaining 393 cases no action to file challan in courts was taken by the Police.
- In Uttar Pradesh region 247 cases remained undisposed at the end of 1998-99. During 1997-98 and 1998-99, the police dropped 137 and 46 cases under section 406/409 of IPC respectively.

9.1.11 Investments

The contributions received by the Employees Provident Fund Organisation in respect of un-exempted establishments and by the Board of Trustees in respect of exempted establishments are to be invested in accordance with the pattern laid down by the Government from time to time.

9.1.11.1 Short recovery of interest

Progressive amount of investments made in three schemes was Rs 92709.44 crore

Portfolio management of the fund was handled by the Reserve Bank of India (RBI) upto 1994-95. The Central Board of Trustees(CBoT) appointed the State Bank of India (SBI), Mumbai, to act as Portfolio Manager for the organization with effect from April 1995. The progressive total of investments made in all the three schemes as of March 1999 stood at Rs 92709.44 crore.

In 64 cases interest amounting to Rs 14.26 crore was short recovered during 1997-98 and in 84 cases the interest of Rs 37.13 lakh was not received on due date. The department stated in April 1999 that the short recovery of interest was due to deduction of income tax at source by the Issuers/Registrars. However, it was observed from the reply that in 27 cases pointed out by Audit, though original TDS certificates for Rs 133.18 lakh had been received from the Portfolio Manager, Mumbai, the claims for refunds from the Income Tax authorities had not been preferred as of August 1999. EPFO was requested to provide the details of TDS certificates along with amount of income tax deducted during 1997-98 in the remaining cases and also during the years 1993-94 to 1996-97. The information was not provided to audit (December 1999).

Short recovery of interest in 230 cases amounting to Rs 73.90 crore detected during test check by audit

(ii) In 62 cases test checked during 1998-99, interest amounting to Rs 44.72 crore was short recovered. In 19 cases, interest chargeable for late remittance worked out to Rs 79.65 lakh in 1998-99.

(iii) Rs 25 crore was invested during July 1994 by RBI, Mumbai, (then portfolio manager), in 16 *per cent* HMT Bonds. HMT made part interest payment of Rs 2.25 crore and the recovery for the balance amount of Rs 13.75 crore was awaited.

9.1.11.2 Non-reconciliation of bank transactions:

State Bank of India (SBI) was appointed as bankers for the funds viz. Employees Provident Fund, Pension Fund and Insurance Fund. All employers are required to deposit their dues directly with SBI and its branches authorised to collect the dues. The branch, which maintained the accounts, was known as 'Link Branch' and others as 'Base Branches'. The contributions and other dues received by base branches everyday are to be remitted to the concerned link branch on the same day. Debit/Credit advises in respect of transactions in accounts along with corresponding statements and receipted duplicate copies of challans received by them from the base branches, are required to be sent daily to the regional commissioner/officer in charge of sub-regional office by the link branches of SBI.

As a result of reconciliation of bank statements in various regions as of March 1999, an amount of Rs 1231.52 lakh was short credited and a sum of Rs 919.24 lakh was erroneously debited.

Test check of relevant records in various regions further revealed the following irregularities:

(i) West Bengal region

- Service charges to SBI was to be paid on the total contribution received by the base branch on behalf of the EPFO, excluding the direct deposit to the link branch. Scrutiny of monthly and six monthly exchange statements of the SBI for the period September 1994 to March 1998 revealed that the bank charged an amount of Rs 43.94 lakh as service charges on the deposits directly received by link branch, Middletown Row, Calcutta. The Regional office did not exercise any control over such irregular payments.
- SBI settled only Rs 20.62 lakh between December 1993 and December 1998 against claims of Rs 255.39 lakh preferred during January 1995 and May 1999 for delayed credit.
- Interest credited by bank on the monthly balances under each of the above accounts was less than the actual amount of interest due to the extent of Rs 41.10 lakh in respect of Regional office, Calcutta.

(ii) Maharashtra (Mumbai) region

- The Organisation did not lodge claim of interest for Rs 31.51 lakh for delayed credit during the year 1995-96

- Rs100.08 lakh was debited to Administration Account (A/C No. 2) by the SBI during the period 1991-92 to 1997-98 without consulting the Organisation and the amount is yet to be reimbursed by SBI.

(iii) Karnataka region

- In July 1994, Rs 1545.35 lakh was short credited by SBI due to credit balance not carried over, credit not posted and credit balance carried over as debit balance. However, it was verified from records that an amount of Rs 208 lakh was credited by bank on 16.03.1998. The correct position was yet to be reconciled by the organisation.

(iv) Gujarat region

- No charges are leviable on direct deposits with link bank. However, SBI charged remittance charges of Rs 24.72 lakh during 1996-97 to 1998-99 even on direct deposit made in the link branch.

- Rs 430 lakh was transferred from SBI, Surat to SBI Main Branch, Mumbai to the investment account in June 1997, was not credited to the investment account till March 1999, resulting in loss of interest for Rs 90.30 lakh at the rate of twelve *per cent*.

- Sub Regional Office, Rajkot, transferred Rs 1.90 lakh in June, 1997 and Rs 4 lakh in July, 1995 to SBI Mumbai were not been credited to investment account till May 1999 resulting in loss of interest to Rs 3.51 lakh.

(v) Orissa region

- Delay in crediting funds in relevant accounts ranged between 15 and 371 days. Bank paid only Rs 14.74 lakh out of the interest of Rs 32.63 lakh claimed and the balance Rs 17.89 lakh was not yet recovered.

(vi) Bihar region

- The contributions received by the bank were not credited to the respective accounts on daily basis. There was delay in crediting the same ranging from one day to three years. The organisation preferred the claims to the bank for delayed credit up to December 1998. From January 1999 to March 1999 the claim was not lodged.

9.1.12 Settlement of claims

The claims for final payment of provident fund are to be settled within 20 days from the date of receipt. The settlement of claims was made mandatory within 30 days as per notification issued by the Govt. on 26 August 1997.

Though provident fund claims pending settlement decreased from 62126 in April 1993 to 49407 in March 1999 (Appendix XXIX), it was observed that as on 31 March 1999, delay in settlement of claims was upto one year in 49407 cases.

In accordance with the codal provisions, accumulations to the credit of employees should be transferred within ten days of the application for transfer. However it was noticed that 4544 cases of transfer were pending disposal in March 1999.

Claims upto Rs 2000 are sent by money orders and claims above Rs 2000 settled through cheques. However, out of 498038 claims settled by money orders during 1993-99, 23435 money orders were received as undelivered. Similarly, out of 2151812 claims settled through issue of cheques, 29166 cheques were received back undelivered during the same period.

The following irregularities were noticed in respect of money orders / cheques received undelivered during the course of test check of records:

- In Tamil Nadu, Maharashtra and Haryana entries in respect of undelivered money orders and cheques were not made in the ledger cards.
- In Delhi region out of 377 cases of undelivered money orders and 238 cases of undelivered cheques re-entry in the respective ledgers was not made in 298 cases of money orders and 122 cases of cheques.
- In Maharashtra 202 cases and in Orissa 689 cases for which amount was sent by money orders had neither been received back as undelivered nor any acknowledgement as a token of receipt was received.
- 545 cases of cheques issued by Orissa region neither the cheques were received as undelivered nor acknowledgements were on record.

9.1.13 Implementation of schemes under EPFO

9.1.13.1 Employees ' Pension Scheme, 1995

Employees’ Family Pension Scheme 1971 was replaced by the Employees’ Pension Scheme, 1995. A part of contribution representing 8.33 *per cent* of the employees' pay is remitted by the employer to the Employees’ Pension Fund. Central Government contributes at the rate of 1.16 *per cent* of the pay of the members.

Outstanding claims had risen by twelve times from 2669 to 32993 during 1993-99. Failure in settlement of claims had deprived the beneficiaries of their legitimate claim to pension.

Damages recoverable for default stood at Rs. 653.86 lakh in March 1999

Damages at percentages ranging between 17 and 37 *per cent per annum* on the arrears are leviable for default in the payment of contribution to the

Employees' Pension Fund.The amount of damages recoverable from the defaulting establishments in respect of eight regions, for which data was available had risen from 141.75 lakh to Rs 653.86 lakh during the period 1993-99. The Organisation failed to recover its legal claims and deprived the subscribers of their rightful share under the schemes.

9.1.13.2 Employees' Deposit Linked Insurance Scheme, 1976

Contributions and administrative charges due to the fund increased by 226 and 218 per cent during 1993-98

All the members of the Provident Fund are required to become members of the scheme. The scheme is funded by the contribution made to Insurance Fund by the Employer at the rate of 0.5 *per cent* of the pay. Besides establishments are required to pay administrative charges for meeting the expenses.

While contribution due to the Insurance fund increased by 226 *per cent*, from Rs 429.86 lakh to Rs 1403 lakh during 1993-98, administrative charges due from various establishments increased by 218 *per cent* from Rs 62.88 lakh as on April 1993 to Rs 200 lakh as on 31 March 1998.

It was observed from the Annual Report of 1997-98 that only 15337 cases were settled within the prescribed time of 30 days. More than one month was taken to finalise 8721 cases and 2509 cases were not settled.

9.1.14 Computerisation of accounts

Poor progress of computerization was noted in West Bengal, Madhya Pradesh, Delhi and Tamil Nadu regions.

Test check of the progress made in computerisation in various regions revealed the following:

- In West Bengal region it was observed that during 1998-99 out of 2813244 account statements, only 37226 were issued by EDP centre and balance 2776018 statements were issued manually. No record was made available to audit in respect of other areas of computerisation.
- In Madhya Pradesh region EDP facility was not fully utilised for monitoring receipt and disposal of grievances from the subscribers / public.
- Northeast region:
    - computer system supplied in September 1992 was not functional due to defective and non-operative printer.
    - new system procured in March 1994 was not installed till May 1997
    - In SRO Shillong, computers remained non-functional since September 1998 as six computers supplied by Central Office, New Delhi, remained non functional.

- In SRO, Agartala, out of 18 terminal points of the 486 system procured at a cost of Rs.2.92 lakh, only 4 terminal points were made operative and balance 14 points remained idle for more than five years.

- Three modems received from Central Office in March 1999 required for NICNET connectivity remained idle since the installation and connection had not been given till March 1999.

- Delhi

  - Central Office of EPFO procured 43 computer systems for various offices of the Organisation from ECIL at a cost of Rs 75.71 lakh without observing the codal provisions for open tender. Further Rs 71.93 lakh was paid upto March 1999 without ascertaining the proper installation and functioning of the systems.

- Tamil Nadu

  - due to inherent deficiency of the manual control, the data in the computerised system lacked integrity resulting in incorrect calculation of interest and generation of incorrect account statements,

  - establishments should be allocated unique codes and any duplication or inaccuracy would adversely affect the integrity of data. Test check revealed allocation of more than one code to 35 establishments, existence of meaningless strings as names of 692 establishments and allocation of duplicate numbers to 49 establishments,

  - a check of sample data disclosed non-agreement of the annual wages with the sum of monthly wages in 17519 cases,

  - in 49562 cases the total contribution of the employees did not agree with the sum of their monthly contributions and such discrepancy was noticed in 82887 cases of employer's contributions,

  - annual account statements were printed based on erroneous data and corrections carried out on the opening balance, when the accounts of the subsequent year were taken up for processing. In the sample data test checked, 35793 such corrections were noticed,

  - the accounting of receipts was still being done manually despite the computerisation of the processing of accounts, compilation and generation of annual account statements. An exclusive package developed by NIC for purpose and received by the regional office in 1994-95 had not been implemented till June 1999.

9.1.15 Outstanding advances

Unadjusted advance increased by fifty-two percent during 1993-99

Unadjusted advance increased by fifty-two *per cent* from Rs 423.91 lakh in 1993-94 to Rs 645.08 lakh at the end of March 1999. The information of advances was not provided to audit by Gujarat, Karnataka, and Maharashtra and West Bengal regions whereas Haryana and Punjab regions made partial information available.

The matter was referred to the Ministry in December 1999; their reply was awaited as of January 2000.

Employees' State Insurance Corporation

9.2 Loss of interest

Employee's State Insurance Corporation suffered a loss of interest amounting to Rs 30.93 crore due to ineffective investment management.

SDA with RBI bears lower rate of interest as compared to other nationalised banks

Employees State Insurance Corporation (ESIC) has been making investments in the special deposit account (SDA) with Reserve Bank of India from August 1988 at an interest rate of 12 *per cent per annum*, payable yearly as on 31 March of every year. As the rate of interest for fixed deposits in the majority of nationalised banks for period exceeding three years was 13 *per cent per annum*, interest compounded quarterly makes the effective yield of 13.65 *per cent per annum* as against 12 *per cent* interest available in special deposit account. Keeping in view this fact, the ESIC requested the Government to increase the rate of interest on SDA with RBI but the Government did not agree with the proposal of the ESIC. The Government, permitted the ESIC in June 1992 to keep its fresh savings with nationalised banks from 1992-93 and subsequently allowed the ESIC in April 1994 to also withdraw interest accrued to the SDA every year.

The ESIC however, did not take advantage of these relaxations given by the Government which resulted in avoidable loss of interest as detailed below:

(i) ESIC made fresh deposits in SDA with RBI instead of nationalised banks viz. Rs 21.65 crore in 1992-93, Rs 159.30 crore in 1994-95 and Rs 4 crore in 1995-96. This resulted in a loss of Rs 3.05 crore *per annum* as shown below:

Table 9.2 (i) : Loss of interest

(Rs in crore)

Year of deposit	Amount of deposit	Loss of interest for one year (i.e 13.65 % -12%)
1992-93	21.65	0.36
1994-95	159.30	2.63
1995-96	4.00	0.06
	Total	**3.05**

(ii) The Ministry of Labour permitted the ESIC in April 1994 to withdraw accrued interest on deposits in SDA every year. But ESIC withdrew a very small amount of accrued interest and suffered interest loss of Rs 20.69 crore as below:

Table 9.2 (ii) : Loss of interest on short withdrawn amount

(Rs in crore)

S.No	Year	Accrued interest	Amount withdrawn	Amount short withdrawn	Loss of interest on short withdrawn amount @ 1.65% upto 31.3.99
1	1994-95	239.84	32.35	207.49	13.69
2	1995-96	277.27	239.00	38.27	1.89
3	1996-97	287.18	277.00	10.18	0.34
4	1997-98	288.67		288.67	4.77
				Total	**20.69**

(iii) The Ministry of Labour permitted the ESIC in February 1997 to withdraw Rs 200 crore per year from the principal amount from 1998-99. However, the ESIC did not withdraw Rs 200 crore from the principal amount deposited in SDA for making the deposits in nationalised banks. Consequently the ESIC also suffered a loss of Rs 3.30 crore as interest loss for one year (1998-99).

(iv) During 1997-98 the ESIC invested a sum of Rs 667.38 crore in State Bank of India and other nationalised banks as under:

Table 9.2 (iii) : Investment in various banks

(Rs in crore)

State Bank of India	330.50
Oriental Bank of Commerce	96.88
Indian Bank	83.50
Canara Bank	47.50
Bank of India	98.00
Dena Bank	5.00
United Bank of India	5.00
State Bank of Patiala	1.00
Total	**667.38**

ESIC made investments at lower rate

Out of Rs 667.38 crore a sum of Rs 203.10 crore was invested at a rate of interest ranging between 10.5 *per cent* and 12.5 *per cent*, whereas higher rate of interest ranging between 12 *per cent* and 13 *per cent* was available with other nationalised banks. This resulted in an avoidable loss of Rs 3.89 crore to the ESIC.

The above ineffective management of investment by the ESIC resulted in a loss of interest of Rs 30.93 crore as under:

Table 9.2 (iv)

(i)	On fresh deposits	Rs 3.05 crore
(ii)	Non-withdrawal of accrued interest	Rs 20.69 crore
(iii)	Non-withdrawal of Principal amount	Rs 3.30 crore
(iv)	Investment on lower rate of interest	Rs 3.89 crore
	Total	**Rs 30.93 crore**

Non-adherence of Government instructions and ineffective investment resulted in loss of Rs 30.93 crore

On being pointed out in audit, the Management stated that ESIC is not an investment organisation but a social security organisation. The rate of interest had never been the only criteria for ESIC investment but security of its funds was the paramount factor.

The reply of the ESIC is not tenable as deposits in other nationalised banks are also as secure as with RBI, and Government had permitted such changes after due consideration of the matter.

The matter was referred to the Ministry in July 1999; their reply was awaited as of February 2000.

9.3 Unutilised capital due to indudicious decision

185 staff quarters constructed at a cost of Rs 1.54 crore, out of that 160 lying unutilised since 1991 because of their poor condition and failure of Employees State Insurance Corporation in assessment of proper requirement of staff quarters.

ESIC purchased land for staff quarters in November 1968

With a view of providing facility of residential accommodation to its employees at Ahmedabad, ESIC purchased a piece of land at Vasna, Ahmedabad in Gujarat in November 1968 at a cost of Rs 2.73 lakh. An additional amount of Rs 3.70 lakh was also paid in April 1977 and Rs 0.13 lakh in February 1979 towards cost of land. Thus, total cost of land worked out to Rs 6.56 lakh. The original owners of the land went to the Civil Court against land acquisition demanding higher compensation. The case was decided in the year 1977. Director General, ESIC, accorded administrative approval in January 1982 for the construction of 170 staff quarters at a cost of Rs 100.71 lakh which was subsequently re-revised to Rs 147.82 lakh in October 1990 for construction of 185 staff quarters. State PWD was engaged as construction agency for these quarters on 'Deposit Work' basis in February 1982. PWD started work in April 1984 with the stipulation to complete work by October 1986. The entire estimated amount was required to be deposited by ESIC before the commencement of work. By the time the work commenced the ESIC deposited Rs 12.00 lakh. Subsequent deposits were made between June 1984 and June 1991. It is seen from this that the obligatory flow of funds could not be ensured by ESIC. The last instalment was deposited in June 1991 and PWD completed the work in July 1991.

State PWD started work for construction of 185 staff quarters in April 1984

Work was completed in july 1991

Number of detects in construction of staff quarters were noticed

At the instance of the Regional Director, ESIC, Ahmedabad, an inspection of the completed works was got conducted in December 1991 which resulted in the detection of a number of defects in construction. PWD however did not rectify these defects and ESIC took over possession of these defective quarters. The quarters have not been allotted to the staff till August 1999.

160 quarter were not allotted as there was no demand for these quarters

Ministry stated in December 1999, since there was no applicant interested in the allotment of these quarters at Ahmedabad, the 160 type -II staff quarters could not be allotted. Only 25 quarters of other types were allotted.

The fact remained that this is a case of improper planning and poor monitoring of work by ESIC resulting in delay :

a) of more than thirteen years in the use of land

b) in completion of project by five years due to irregular flow of fund and lack of monitoring

c) taking possession of defective quarters

d) non-allotment of quarters resulting in waste of resources (Rs.1.54 crore) and delay of assets due to disuse; and

e) payment of substantial amount on account of house rent allowance to the employees which could have been avoided had the project been planned, monitored and quarters allotted.