Petition addressed to the Prime Minister for Signature campaign

To,

The Prime Minister of India,
New Delhi

Sir,

We submit this Petition to bring to your kind notice and through your good office to the attention of the Honorable Parliamentarians of our country certain aspects of the re-introduced PFRDA bill, which will have adverse impact on the exchequer in general and on the prevailing service conditions of the Civil Servants. We pray that our submissions in this regard may please be caused to be considered earnestly and the implication of the provisions of the bill critically analyzed and examined and take decision to kindly withdraw the Bill from the Parliament.

We submit the following for your critical and objective analysis of the Bill:

1. The Concept of old age security for civil servant in the form of pension has a very ancient origin dating back as early as third century BC, the quantum being half of the wages on completion of forty years blemishless service to the king.

2. In the last century, one of the measures taken by the colonial rulers to attract talented personnel to the royal service was the introduction of pension scheme for civil servants in 1920. The Royal commission through its various recommendations improved the scheme and the 1935 Government of India Act provided it statuary strength.

3. The land mark judgment of the Supreme Court in D.S. Nakara and others Vs. Union of India (AIR-1983-SC-130) (applicable to the Central and State Government employees, teachers, and all stake holders of pension system) conceptualized pension stating that pension is neither a bounty nor a grace bestowed by the sweet will of the employer, but a payment for the past services rendered. It was construed as a right step towards socio-economic justice and a concrete assurance to the effect that the employee in his old age is not left in the lurch.

4. The fifth Central Pay Commission which was set up by the GOI in 1993 to go into the wage structure and pension scheme of the Central Government employees referring to the Judgment of the Supreme Court cited, observed (Para 127.6) that "pension is the statutory, inalienable and legally enforceable right earned by the civil servant by the sweat of the brow and being so must be fixed, revised, modified and changed in the way not dissimilar to salary granted to serving employees."

5. The guiding principle adopted in determining of pay package of civil servants is to spread out the wage compensation over a long period of time

whereby wages paid out during the work tenure is low in order to effect payment of pension of retirement. As such civil service pension is rightly termed as deferred wage. While in the organized private sector the employer is required to contribute equal share to the Provident Fund of the employees, the Government neither contributes to the Provident Fund of the civil servants nor takes any pension subscription from him.

6. In an unwarranted intervention in the Statutory defined benefit Pension system, the IMF in their work paper (WP/01/125,(2001) propounded the creation of a pension fund by eliciting from the Wage earners at the earliest stage of their employment so as to fetch an annuity decent enough to sustain him at the old age. In fact it was a suggestion for a retrograde change over from the defined benefit pension scheme to a defined contributory system. While suggesting so, they have categorically stated that India does not suffer demographic pressure experienced by major countries, for India's population beyond the age of 60 was about 7% in 2004 ch rose to 8.6% in 2010 and is estimated at 13.7% in 2030 and 20% in 2050.

7. The New contributory pension scheme enunciated by the Government of India and adopted by most of the State Governments is covered by the PRFDA bill. The bill inter alia, envisages a social security scheme for all who desire to have an annuity at his old age which is voluntary and not mandatory. However, in the case of Civil Servants, who are recruited to Government service after the prescribed cut-off date(1.1.2004 in GOI service) the scheme is mandatory in as much as the employees is bund to subscribe 10% of his emoluments to the Pension Fund and the Govt. being the employer would contributes equal amount. No employee is entitled to opt out of the scheme.

8. Despite the inability to bring in a valid enactment, the Central and all State Governments other than those of West Bengal, Kerala and Tripura through illegal executive orders decided to impose the contributory pension system arbitrarily on the Central and State Government employees. While the Govt. of India notification excluded the personnel in the armed forces and para-military establishments, the Governments of the Left ruled States of West Bengal, Kerala and Tripura consciously continued with the existing defined benefit pension system.

9. The PRFDA Bill stipulates that there will not be any explicit or implicit assurance of the benefit except market based guarantee. The subscriber is thus exposed to the following risks at the exit.

a) If there is a major market shock, the subscriber to the New Pension scheme may end with no ability to purchase an annuity.

b) Since annuity is and cannot be cost indexed, the real worth of the annuity might fall depending upon the inflationary pressure on the economy.

c) As per the scheme, the subscriber is to make the choice of investment portfolio. The Civil Servant being mostly uninformed in finance and investment related matters, he might end up in making wrong choices which would eventually rob him of the old age pension.

d) The subscriber is perforce to contribute to the charges of the investment managers, whose priority often is as to how much profit they could make through investment of the huge corpus of pension fund in the volatile share market.

10. The pension fund created by the employees' subscription and the employers 'contribution which directly flows from the exchequer (which is nothing but tax revenue of the Govt.) is made available for the stock market operations which is not only unethical but also blatant diversion of public fund for private profit, both Foreign and Indian capitalists.

11. In the case of Civil Servants recruited after the cut-off date, the new scheme replaces the existing much better "defined benefit" pension scheme. In the process, the Government has created two classes of civil servants viz. the one with a defined benefit pension scheme and the other with the contributory pension scheme in which the employee is to part with 10% of his emoluments to become entitled for an old age social security subject to the vagaries of share market permits. Since in both the case, the pay, allowance, perks, and other benefits, privileges, duties and responsibilities are the same it amounts to wanton discrimination of one against another which is not sustainable in law, rather violative of the existing constitutional provisions.

12. The wage structure presently designed for those who are recruited prior to the cut-off date and after is on the same premise and is depressed to enable the Govt. to meet the pension liability in future. By imposing the new contributory pension scheme on the employees who are recruited after the cut off date the Govt. not only denies the statutory defined pension benefit to them but also compel them to contribute of earning an undefined annuity, which must be characterized as highly discriminatory.

13. Those who are covered by the contributory pension scheme will become entitled for an annuity, a portion of the accumulated contribution is able to purchase, basing upon the accretion to the fund from the investment. There is, however, no guaranteed minimum amount of pension for those who are covered by the new scheme, whereas the civil servants covered by the existing scheme do get a defined and guaranteed minimum pension and on his death his family members (wife, widowed and unmarred daughters and unemployed sons below the age of 25) become entitled for family pension. The discrimination factor is thus compounded.

14. The PFRDA Bill when enacted, it is rightly feared, will empower the Government to alter or even deny the present employees and pensioners the statutory defined pension benefit as has been done in the case of those who are appointed after the cut-off date.

15. It is stated that the prime objective of the introduction of the contributory pension scheme is to substantially reduce the outflow on account of pension liability. The major pension liability of Government is accounted for by Armed Deface personnel. They are however excluded from the purview of the contributory pension scheme. The personnel in the *Para Military forces* are also excluded from the ambit of the new Scheme. While doing so, (no doubt to attract the people to serve in the armed forces for security for the Nation) the Govt. is bound to meet the pension liability from the consolidated fund of India. *The argument advanced by the Govt. to cover the Civil Servants in the ambit of the new Pension scheme has been found to be unsustainable by the study commissioned by the 6th CPC. Shri.S. Chidambaram, Actuary, in his report, (Annexure to "A study of Terminal benefit of Central Government employees by Dt. K. Gayatri, Centre for Economic Studies and policy, Institute for Social and Economic change, Nagarbhavi, Bangalore) has pointed out that the Government liability on account of contributory pension scheme would in effect increase for a period spanning for the next 34 years from the existing Rs.14,284 Cr. to Rs.57,088 Cr. (2004-2038) and is likely to taper off only from 2038 onwards. The exchequer is bound to have an increased outflow for the next 34 years and will be called upon to bear the actual pension liability of defence personnel and personnel of para military forces, besides making the contribution to the Pension fund of the Civil servants recruited after the cut off date. The specious plea that the exchequer is bound to gain due to the contributory pension scheme is therefore not borne from facts.*

16. Of the present pension liability of the Govt. of India, which in 2004-05 was 0.51% of the GDP, 0.26% is accounted for by the Defence (which is 50% of the total pension liability.) The study report of the Centre for Economic Studies has concluded that the pension liability as a percentage to GDP which is just 0.5% presently is likely to decline given the growth rate of Indian economy.

17. Since most of the State Governments have chosen to switch over to "contributory pension scheme", in fairness (from the *Study conducted by the Centre for Economic Studies and policy*) it can be concluded that the pension liability of all the State Governments are bound to increase to three times of what is today by 2038.

18. The first version of the PFRDA Bill was placed before the Parliament by the NDA Government in 2003. The 6th CPC set up the Committee to go into the financial implication on account of the increasing number of pensioners and suggest alternative funding methodology in 2006. The said Committee came to the inescapable conclusion (repot submitted in 2007) that "the existing systems of pension are increasingly becoming complicated after the introduction of the New Pension scheme" and warned that "caution has to be exercised in initiating any further reforms". In the light of the conclusion of the said study report which revealed the fact of serious escalation in the pension payment outflow, the rationale of the re-introduction of the PFRDA bill in 2011 covering the civil servants is incomprehensible, Undoubtedly, the Bill when enacted into law will through the existing pensioners to a financially insecure future and the existing workers to the vagaries of the stock market. We, therefore, earnestly pray to your good-self to bring back all the civil servants including teachers irresespective of the date of entry into Government service as also those irregularly appointed within the ambit of the existing statutory defined pension benefit scheme.

We may, in fine, quoting the concluding paragraph (Page 76 of the report of the Centre for Economic Studies and Policy - Institute for Social and Economic Change) of the Committee set up by the 6th CPC.

> ***"Mainly given the fact that the future liability although may be large in terms of absolute size is not likely to last very long and does not constitute an alarmingly big share of the GDP which is also on the decline. It appears that pursuing the existing 'Pay as you go' to meet the liability will be an ideal solution."***

Appeal you, for the detailed reasons adduced in the foregoing paragraphs, that the new pension scheme enshrined in the PFRDA Bill may be withdrawn from the Parliament both in the interest of the Civil Servants and the exchequer.

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