



# ALL INDIA ESIC SC/ST OFFICERS' & EMPLOYEES' FEDERATION

PANCHDEEP BHAWAN, CIG ROAD, NEW DELHI – 110002.

EMAIL : heera@myesic.com & mahinder@myesic.com

www.myesic.com

"Affiliated with All India Confederation of SC/ST Organisations"

(Regd.No. S/27858 of 1995)

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**VICE-PRESIDENT (NORTH)**  
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HEERA SINGH  
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(E. ZONE)  
RAM CHANDRA JATIA  
(W. ZONE)

**INTERNAL AUDITORS**  
KULDEEP KUMAR  
KAILASH CHAND

F.No. AIESIC.SC/ST.FED. 2015-039. Dated 07th December, 2017

To,

The Director General,  
Employees' State Insurance Corporation,  
Panchdeep Bhawan,  
CIG Road, New Delhi - 110002.

Subject: **Gross violation of Section 17 Sub-Section 3 of ESI Act, 1948 while making officiating or temporary appointment against the post of Joint Directors I/c by posting Deputy Director I/c in SROs without consultation of UPSC and violation of ESIC Revenue Manual in SRO Nandnagri.**

Respected Sir,

With due regard, I would like to invite your kind attention on subject cited above and submit following facts :-

1. The provision of Section 17 sub section 3 clearly states that

“Every appointment to posts (other than medical posts) corresponding to group A and group B posts under the Central Government shall be made in consultation with the Union Public Service Commission :

Provided that this sub-section shall not apply to an officiating or temporary appointment for a period not exceeding one year.”

A copy of extract of Sub-Section 3 of Section 17 of the Employees' State Insurance Act, 1948 is enclosed as **Annexure-A**.

2. In this regard, I would like to bring it to your kind notice that on 21<sup>st</sup> October, 2016 an Open ended Office Order No. 222 of 2016 dated 21-10-2016 was issued through File No. A-22/13/1/2016-E-I in which 15 Deputy Directors were designated as Deputy Director I/c. A copy of Order is Enclosed as **Annexure - B**.



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3. This Order was issued in violation of provision enacted in Sub-Section 3 of Section 17 as no consultation was sought from the UPSC. The consultation of UPSC was further required as the officers concerned were made to exercise the financial and administrative powers as per the delegation of powers conferred to Joint Director (I/c) as per the combined booklet of delegation of powers 2005.
4. This Order was further in violation of Criteria laid down for Deployment of Group 'A' Officers in (Non-medical) posts which clearly prescribes that the relevant SROs will be headed by an officer of the level of Joint Director vide Memorandum No. B-11/11/1/11-E.III. dated 01-12-2011 enclosed as **Annexure - C**.
5. The Competent Authority was kept in darkness and UPSC was not consulted only because there was a malafide intention of placing known DR officers on strategic positions whereas the Recruitment Rules for the post of Joint Director was against the Directly Recruited Officers.
6. Further to above it is also submitted that the delegated powers of Joint Director (I/c) cannot be delegated to Deputy Director (I/c) unless change in combined booklet of delegation of powers 2005 is incorporated with the approval of Standing Committee and ESIC. Since, the powers were delegated to Deputy Director (I/c) without following due procedure the posting of Deputy Director (I/c)s is illegal.



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7. In this regard, I would further like to submit that Shri K.G. Suresh, Joint Director Establishment - I is behind all these irregularities as enlisted above and he is continuously directing/helping/supporting many of these DR DD I/c in various kind of illegal activities and some of these DD I/c are bent upon the spoil career of promotee Officers.
8. In the same disputed Office Order one Mr. M. George, Joint Director was posted as Joint Director (I/c) of SRO, Marol whereas the then Director General, had given a clear instruction that before any action for this indiscipline is taken, let the Regional Director, Ahmedabad inquire into all the cases and submit a report. In the meantime, the Director I/c, SRO Surat should be posted in areas other than Revenue till the Inquiry Report is submitted and decision taken by the Corporation. The person was posted in SRO, Marol as Joint Director I/c without the decision of Corporation. A copy of Noting page No. 30/N to 37/N of File No. S-13/1/2014-CAIU is enclosed as **Annexure - D.**
9. Recently, one Shri R. Thinesh Kumar, Deputy Director I/c, SRO Madurai was caught red handed by the CBI accepting bribe of Rs. 15,000/- to delay the payment of outstanding dues to ESIC of damages and for this official favour, apprehended officer demanded illegal gratification. A copy of FIR (Under Section 154 Cr.PC) is enclosed as **Annexure-E.**
10. As per the para 21.19 of Chapter XXI of ESIC Revenue Manual it is clearly mentioned that RDs / JD I/c have been delegated powers to sanction payment of arrears in instalments subject to the following guidelines :

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- i) The employer should be required to furnish Bank Guarantee for the timely payment of monthly instalment.
- ii) Employer should undertake to pay the current dues of the Corporation within the prescribed time limit.

A copy of relevant page is enclosed as **Annexure - F.**

11. The first para of chapter XXI.e (**Annexure - F**) explains the definition of Arrears. It states that Where the authorized officer issues a certificate to the Recovery Officer in form C-19 (Contribution), C-19 (Interest) and D-19 (Damages) under his signature specifying the amount to be recovered from the defaulting employer, the same is called "arrears".

12. From para 10 and 11 above it is clear that the RDs / JDs I/c have been delegated powers to sanction payment of arrears in instalments where as no such power is vested with Authorised Officer passing Order under Section 85 (B) of ESI Act, 1948 as the amount assessed under Section 85 (B) becomes arrears only when D-19 is passed. The DD I/c Nandnagri is also violating the laid down procedure by sanctioning instalments during proceeding u/s 85 (B) by forgoing the requirement of issuing D-19.

13. In Sub Regional Office, Nandnagri, Shri Rajiv Lal the DD I/c is also delaying the payment of outstanding dues to ESIC by fixing instalment during hearing afforded to employers under Section 85 (B) by violating above procedural requirement. A copy of Order passed under Section 85-B of the ESI Act, 1948 in the case of M/s Shubham Enterprises Code No. 10001051110001001 along with printout of C-6 is enclosed as **Annexure - G.** A copy of

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similar Order passed under Section 85 (B) of the ESI Act, 1948 in the case of M/s Caretech Packaging Private Limited Code No. 10001078720000802 along with printout of C-6 is enclosed as **Annexure - H**. Apart from above there are many more instances and the same might be done in other SROs. Whenever we try to explain rule position to Shri Rajiv Lal he treats it as insubordination. A copy of Form ESI CP 13 to be submitted by employer before sanction of instalment is enclosed as **Annexure - I**.

14. On 28<sup>th</sup> April, 2017, I was transferred to RO Dehradun. On 1<sup>st</sup> May, 2017 the DD Incharge offered to mediate with Headquarters Office for cancelling my transfer order for which he demanded Rs. 2 Lakhs, which I refused instantly. Annoyed of my refusal he immediately wrote a note directing me to clear pendency before getting relieved. The same was informed to Headquarters Office vide my letter dated F. No. AIESIC.SC/ST.FED. 2015-32 dated 06<sup>th</sup> June, 2017 enclosed as **Annexure - J**.

15. A part from above, there are numerous other stances of violation of procedural codes i.e. where action is required to be followed under Section 45 A the main action were deferred and in place of it prosecution action are initiated. In some cases the DD I/c had directed to initiate action under Section 45 A for just 3 months in place of 5 years against Defaulter unit.

With these substantial facts, I would humbly request you to kindly

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- a) nullify the posting of all DDs as DD l/c communicated vide Office Order No. 222 of 2016 dated 21-10-2016 and issue direction to related ACs/Directors/Joint Directors of the concerned Region to rectify all major decisions of such DD l/cs.
- b) Take action against Shri K.G. Suresh, Joint Director (E-I) for his dubious role in promoting interest of DR Officers for unreasonable means.
- c) To initiate inquiry on irregularities intimated by the undersigned with respect to functioning of SRO Nandnagri.

Yours faithfully,

Enclosed as above.

( Heera Singh )  
Secretary General

Copy to :

1. Chief Vigilance Officer, ESIC, Hqrs Office, ESIC, New Delhi 110002 for information and necessary action please.