



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

PANCHDEEP BHAWAN, WING NO. 4, SHIVPURI, PREM NAGAR, DEHRADUN, U.K. – 248007

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(Regd.No. S/27858 of 1995)

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INTERNAL AUDITORS
KULDEEP KUMAR
KAILASH CHAND

F.No. AIESIC.SC/ST.FED. 2015-047.

Dated 16th August, 2018

To,

The Secretary,
Ministry of Labour and Employment,
Govt. of India, Shram Shakti Bhawan,
New Delhi - 110001.

Subject: Discriminatory Amendments/framing of Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director in ESI Corporation for harming interest of 24 Reserve Category Officer (10 SC and 14 (ST)).

Sir,

With due regard, I would like to invite your kind attention on my letter No. AIESIC.SC/ST.Fed. 2015-044-R.I dated 26th July, 2018(Primary Annexure - O).

2. In this regard I would like to submit that the ESIC is still pursuing the matter of harming the interest of 24 promoted officers of Reserved Category Officers (10 SC and 14 ST) by amending the Recruitment Rules.

3. As per the existing Regulations namely the Employees' State Insurance Corporation, Regional Director Grade 'B'/Joint Director Recruitment Regulations, 2013 a total of first lot of 45 promoted officers working as Deputy Director (Sr. Time Scale) will be eligible for promotion out of which 21 officers promoted will be of General Category and remaining 24 (SC-10 & ST-14) officers promoted will be of SC/ST category. A copy of list of officers who will become eligible for promotion on 01-01-2019 as per existing RR is enclosed as Primary Annexure - D. As per this Recruitment Regulation the first lot of Direct Recruitment Deputy Directors (Sr. Time Scale) are going to become eligible on 01-01-2020 Primary Annexure - D.



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4. Since, the proportion of SC/ST category officers getting promotion in year 2019-20 as per existing Recruitment Regulations is 53 percent of total number officers, ESIC, with an attitude of denying benefit of promotion to these officer is trying to meddle with existing Recruitment Rules in such a way that these officers could not get benefit of existing Recruitment Regulations.

5. The ESIC had proposed an amendment of Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director vide their Memorandum No. A-12(11)3/2017-E.I dated 29-12-2017. In this draft regulation the ESIC had proposed to make following changes which have got bearing on our members :-

A. It has proposed to remove existing primary as well as failing clause which was adopted with full consultation of Ministry, UPSC and DOPT. This proposed action of ESIC is detrimental to interest of promoted officers out of which majority belong to SC/ST category as explained in para 1 above.

B. In order to build up artificial gap between the post of Assistant Director, Deputy Director and Joint Director, the ESIC is trying to insert one more proposed non-existent cadre of Senior Deputy Director between Deputy Director and Joint Director which is being proposed to be done only to harm and alienate the interest of promoted officers which also included SC/ST officers. By this action ESIC had contemplated to create three grades which will perform same function for different scale of salary. It is gross violation of Right to Equality as principle of "same work same pay" is compromised.

C. In order to give unreasonable favour to Direct Recruitment Officers and harming interest of 24 SC and ST officers, the ESIC had further made a provision that the service rendered by Senior Deputy Director (Senior Time Scale) in level 11 shall also be counted as minimum qualifying service for promotion under primary clause as well as failing which clause. It is unconstitutional for following reasons :

i) The use of this provision will allow unjust enrichment to Direct Recruitment Officers for following reason :



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- a) Financial up gradation benefit for non functional posts
- b) Use of this non-functional experience counted as functional experience.

- ii) The proposed beneficiaries have gained this non-functional promotion through backdoor entry in just four years in violation of DOPT guidelines as contained in para 3.12.2 and then existing Recruitment Regulations.

D. The ESIC had in order to harm the interest of majority SC/ST officers along with some other General Category Officer had intentionally not incorporated a note to the effect that "the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules" in violation of guidelines given in para 3.1.3 of DOPT Guidelines on subject Framing/Amendment/ Relaxation of Recruitment Rules.

6. In this regard, our federation had written a letter bearing No. 2015-36 dated 25th September, 2017 to DG, ESIC. (**Primary Annexure - P**).

7. Further to above, our federation had written one more letter bearing No. 2015-37 dated 12th October, 2017 (**Primary Annexure - Q**).

8. In spite of our so many communication ESIC Management preferred to continue to harm the interest of 25 SC/ST Officers and proposed the new draft Recruitment Regulation before the ESI Corporation in its 173th Meeting as Agenda Item Supplementary - II with a total of 183 representations received against new Recruitment Regulations by maintaining utmost secrecy without publishing or providing findings/views of ESIC management so that the stand of ESIC could not reach the hands of offices who have represented against these new Recruitment Regulations.

9. Since, 24 Officers of Reserved Category (10 SC and 14 ST) were affected out of such amendment of Recruitment Regulation I also represented against it. My objections and observation against new Recruitment Rules were rejected on false and misleading grounds. In the meantime I came to know from some reliable sources that the Recruitment Regulations have been forwarded to UPSC for their consultation on 24-05-2018.

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10. In order to represent case of my affected member officers, I represented matter with Shri Vinay Mittal, Chairman, Union Public Service Commission vide my Representation dated 29-05-2018 enclosed as **Primary Annexure - M.**

11. My Representation was forwarded by UPSC to ESIC management for consideration and appropriate addressal. In that letter the UPSC had also directed ESIC Management to earmark a copy of disposal of my representation to UPSC for information and further processing the proposal.

12. In violation of UPSC direction the ESIC Management addressed the disposal of my representation vide their letter No. A-12(11)3/2017-E.I dated 12.7.2018 to Under Secretary (RR) UPSC and endorsed a copy of this letter to undersigned and informed me about their stand against my representation which was duly examined by ESI Corporation (Sl. No. 10 of APPENDIX - XI of the Agenda Item). A copy of disposal letter of ESIC is enclosed as **Primary Annexure - N.**

13. While going through the findings/views of ESIC Management, I was amazed to see that the findings submitted before the Hon'ble ESI Corporation were grossly incorrect and the ESIC Management had mislead Hon'ble ESI Corporation on various substantial facts while examining the subject.

14. Hence, I submitted my reminder F.No. AIESIC.SC/ST.FED. 2015-044-R-I dated 26-07-2018 to the Chairman, UPSC, giving him detail of factual errors and misleading stands taken by ESIC Management against my representation (**Primary Annexure - O.**).

15. However, no justice is forthcoming, hence a comparative statement of contents of my representation as Column No. 2, Comments of ESIC as Column No. 3 and My counter representation against the comments of ESIC as Column No. 4 are again submitted before your good office for directing the ESIC to desist from amending the Recruitment Regulations until the aggrieved lot of officers are not promoted.

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Sr. No.	Contents of my Representation (PRIMARY ANNEXURE - A)	Comments of ESIC while examining at Sr. No. 10 of APPENDIX – XI of Agenda Item No. Suppl. II ITEM No. ESIC 1 of 173 rd meeting of ESIC	My counter representation
1.	1. That, the existing ESIC Regional Director Grade 'B'/ Joint Director Recruitment Regulations, 2013 is as per the Guideline prescribed by DOPT for formulating Recruitment Rules and is beneficial for me. Changing it in any way will hamper my promotion prospects hence the same is opposed.	Amendments in RRs for the post is proposed as per direction of the MoL&E in order to remove anomaly in the existing RRs due to incorporation of failing which clause.	<p>1(a) The earlier RRs were duly approved by the ESIC in consultation with UPSC, DOPT and Ministry of Law and Justice. Whereas the letter No. S-38016/21/2013-SS-I dated 29th Nov, 2015 enclosed as Primary Annexure - B issued by MoL&E directing ESIC to amend RR for the post of JD was issued without approval of ESI Corporation, and hence the letter is not supported by lawful mandate. This unlawful fabricated letter was used as a base for initiating new RR of RD Gr. B/Joint Director.</p> <p>1(b) The same anomaly is also existing in RRs of Director which had affected Shri K.G. Suresh, J. D.(E – I) also but the same is considered as per DOPT norms.</p> <p>1(c) Usually, approvals of MoL&E are followed by ESIC in cases of DR Officers only. Now JD(E-I) is instrumental in changing RR as majority of benefiting officers are SC/ST. (Primary Annexure – D).</p> <p>1(d) There are glaring examples in past history of ESIC of not following approval of Government of India vetted by MoL&E, DOPT against the interest of Promoted Officers. A copy of such approval not followed in ESIC bearing file No. A-12018/04/2011-SS.I (Pt.I) dated 30-05-2016 is enclosed as Primary Annexure - C.</p>



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2.	<p>2. That, as per DOPT instruction vide letter No. AB.14017/48/2010-Estt (RR) dated 31-12-2010 para 3.1.3 of DOPT Guidelines stipulate that, "RETENTION OF EXISTING ELIGIBILITY SERVICE</p> <p>3.1.3 Where the eligibility service for promotion prescribed in the existing rules is being enhanced (to be in conformity with the guidelines issues by this Department) and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis, a not to the effect that the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules, could be included in the revised rules."</p>	<p>Paragraph 3.1.3 of the DoP&T OM No. AB.14017/48/2010-Estt. (RR) dated 31-12-2010, does not apply in the instant case as here qualifying service for promotion has not been enhanced.</p> <p>By present revision in the RRs hierarchal structure from Deputy Director to Regional Director to Regional Director Grade 'B'/Joint Director is proposed to be changed.</p>	<p>2 The statement of ESIC is grossly incorrect and misleading from following reasons :</p> <p>2(a) As per existing RRs, 45 Officers (21-General, 10-SC and 14-ST) are going to be eligible on 01-01-2019. By these new RRs their qualifying service for promotion is going to be enhanced by five years to date 01-01-2024. List of such officers is enclosed as Primary Annexure –D.</p> <p>2(b) Not only this the aim of introducing this RR is also to squeeze the qualifying service of promotion of 11 officers who as per the existing RR are going to be eligible on 01-01-2020. By this new RR their qualifying service is going to be squeezed to 9 year Primary Annexure – E.</p> <p>2(c) Giving promotion in 9 years is violation of DOPT instruction as para 3.12.2 prescribes residency period of 10 years for promotion from Rs. 5400 to Rs 7600/- Primary Annexure – F.</p> <p>2(d) The aim of changing the hierarchal structure is to favor these corrupt officers as majority of them had already been allowed officiating appointment against the post of Joint Director for term of more than one year without consultation of UPSC in violation of provision of Section 17(3) of ESI Act, 1948. These officers had been assigned with the work of extracting illegal money from field offices. The Senior</p>
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			<p>Most officer of these 11 officers was trapped red-handed by CBI while receiving gratification from Private Party and is suspended. Copy of FIR in the relevant case is enclosed as Primary Annexure – G.</p> <p>2(e) The aim of this amendment is to influence ESIC by deploying favored officers in plum posting and in process to cause injustice to 24 SC and ST Officers. Whole of this work is being supervised by Shri K.G. Suresh, JD (E-I) in ESIC.</p>
3.	<p>2.i The Draft Recruitment Rules have been designed in such a way that it is going to make 11 officers eligible after completion of just 09 years on 01-01-2019 whereas as per the existing Recruitment Regulation and DOPT guidelines they are eligible after completing 10 years of service on 01-01-2020.</p> <p>2.ii On the contrary as per the existing Recruitment Regulation, 2013 a total of 45 officers (including myself) are going to be eligible on 01-01-2019. Whereas if the Recruitment Regulations are amended as proposed I along with 44 other officer will become eligible on 01-01-2024.</p>	<p>Amendments in RRs for the post is proposed as per direction of the MoL&E in order to remove anomaly in the existing RRs due to incorporation of failing which clause.</p>	<p>2(i&ii)(a) The ESIC had omitted or failed to deny my facts as it is truth.</p> <p>2(i&ii)(b) As far as the comments of ESIC is concerned, the earlier RRs were duly approved by the ESI Corporation in consultation with UPSC, DOPT and Ministry of Law and Justice. Whereas the letter No. S-38016/21/2013-SS-I dated 29th Nov, 2015 issued by MoL&E directing ESIC to amend RR for the post of Joint Director was issued without approval of ESI Corporation, UPSC, DOPT, Ministry of Law and Justice and hence the letter is not supported by lawful mandate.</p> <p>2(i&ii)(c) There are glaring examples in past history of ESIC of not following proper approval of Government of India duly vetted by MoL&E, DOPT in cases of benefit of Promoted Officers. A copy of such approval which was not followed</p>



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			<p>in ESIC issued from file No. A-12018/04/2011-SS.I (Pt.I) dated 30-05-2016 and not followed by ESIC is enclosed as Primary Annexure - C.</p> <p>2(i&ii)(d) The similar approvals were followed by ESIC in the cases of various DR Officers and Shri K.G. Suresh, Joint Director Establishment - I himself availed benefit of such approval in past. But now he is instrumental in not following this approval as majority of effective officers are SC/ST. (Annexure G of Primary Annexure – A).</p>
4.	<p>3. That, the persons who are proposed beneficiary of proposed draft Recruitment Regulation had already reaped unlawful benefit of getting non-functional promotion for the post of Deputy Director (STS) after just completing four years of service without mandate of the then Existing Recruitment Regulation and also in violation of DOPT Instructions as contained in para 3.12.2.</p>	<p>The Deputy Director (STS) has been given to the officer concerned at the relevant time as per approval of the MoL&E. There is no violation of DoP&T instruction as Deputy Director (STS) is a non functional pay scale and not a promotional post.</p>	<p>3(a) There was no provision for such promotion in Recruitment Regulations for the post of Deputy Director and the same benefit was provided to all officers majority of whom were Direct Recruitment Officers/General Category Officers with just simple approval of MoL&E.</p> <p>3(b) But when there was turn of promoted officer's out of which majority belonged to SC and ST category the same was denied in spite of approval of MoL&E (Primary Annexure - C).</p> <p>3(c) Even Shri K.G. Suresh, Joint Director (E-I) who is primarily responsible for conducting of DPC and amendments in RRs has himself got this benefit which is being denied to other promoted Officers for reason that majority of them belong to SC and ST category. List of such officers is enclosed as Primary</p>



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			Annexure - D. The aim of revising the RR is also to deny timely promotion to promoted officers and invariably deny promotion to SC/ST officers.
5.	<p>4. The first note of column No. 11 of Schedule of Draft Recruitment Regulation, 2017 states that "service rendered by Senior Deputy Directors in non functional pay scale under the nomenclature of Deputy Director (Senior Time Scale) shall also be counted as minimum qualifying service for promotion under primary clause as well as failing which clause." It is unconstitutional for following reasons :</p> <p>i) The use of this provision will allow Direct Recruitment Officers double benefit for nothing a) Financial up gradation benefit for non functional post b) Use of this non-functional experience counted as functional experience.</p>	<p>The Note has been provided as per DoP&T guidelines. However this provision will also be scrutitized by MoL&E and UPSC.</p>	<p>4. The USPC is being mislead on following accounts to influence their opinion :</p> <p>4(i)(a) That, the Hon'ble CAT has directed ESIC to approve the RR as per the petition of Hemant Kumar Pandey and others vs. UOI and other which is grossly misplaced and factually incorrect.</p> <p>4(i)(b) The Hon'ble CAT has directed ESIC to approve RR after receiving the objections of all the Stakeholders, including the applicants in MA No. 4051/2017 who in the instant case are Promoted Officers within period of three months. By ignoring genuine objections of applicants in MA No. 4051/2017 on flimsy and factually incorrect grounds the ESIC has disobeyed direction of Hon'ble CAT.</p> <p>4(i)(c) But unfortunately the Management of ESIC is misleading ESI Corporation, MoL&E and UPSC with wrong facts to favor intended 11 officers</p>



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	<p>ii) The beneficiaries have gained this non-functional promotion through backdoor entry in just four year in violation of DOPT Guidelines as contained in para 3.12.2. Whereas many of the officers were provided non-functional promotion after five years only.</p>	<p>The Deputy Director (STS) has been granted to eligible Deputy Director initially after four year as per approval of the MoL&E and thereafter after five years as provision for Deputy Director (STS) were incorporated in the RRs for the post of Deputy Director in June, 2015.</p>	<p>4(ii)(a) It is wrong to say that DD (STS) was granted initially, it was initially granted to 57 officers w.e.f. 04-02-2009 by accepting the service of 4 years <u>Annexure – G of Primary Annexure - A.</u> Among the beneficiaries also included Mr. K.G. Suresh, Joint Director (E-I) who is presently instrumental in denying this benefit to promote cadre offices as majority of them belong to SC and ST category by not following various MoL&E orders and by attempting to change this RR.</p> <p>4(ii)(b) Subsequently, DD (STS) was granted to 16 officers w.e.f. 29-03-2011 after 4 years regular service. <u>Annexure – H of Primary Annexure - A.</u></p> <p>4(ii)(c) Further to above DD (STS) was again granted to 78 officers w.e.f. date ranging from 18-04-11 to 15-09-2014 after 4 years service. <u>Annexure – I of Primary Annexure - A.</u></p> <p>4(ii)(d) Again DD (STS) was granted to 46 officers w.e.f. 22-03-2015 after 4 years service. <u>Annexure – J of Primary Annexure - A.</u></p> <p>4(ii)(e) But since now all officers after 22-03-2015 were promoted officers and majority of them belonged to SC and ST this benefit was stopped to be given after four years of service on flimsy ground and ESIC failed to see any anomaly in it.</p>
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			<p>4(ii)(f) Here it is pertinent to mention that as per the amendment of 2011 to the Employees' State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959 the first Schedule, Serial No. 8 clearly prescribes that Deputy Director (STS) grade pay of Rs. 6600 is to be granted on completion of 4 years of Regular Service as Deputy Director and this will be effective from 04-02-2009. A copy of ESIC (Staff and Conditions of Service) Regulation 1959 along with amendment dated 3-11-2011 is enclosed as Primary Annexure - H).</p> <p>4(ii)(g) With the introduction of RR of DD in June, 2015 and present proposed RR there is overlapping of ESIC (Staff and conditions of Service) Regulations and Recruitment Regulations 1959 for the post of Deputy Director with respect to period of service for giving STS to DDs. Since, ESIC (Staff and Conditions of Service) Regulation 1959 is supreme which provides for residency service of just four years, the RR of Deputy Director losses its value over this supreme regulations (Primary Annexure – H).</p> <p>4(ii)(h) The ESIC has misled ESI Corporation and UPSC on all above points.</p>
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6.	5. The 135 posts of Joint Director as shown in existing Recruitment Regulation has been changed to 94 in draft Recruitment Regulations, 2017. The note marked as asterisk is contradictory as it reflects that the figure is not yet finalized.	Post of Joint Director in the Draft RRs as put up on the official website of the ESIC vide Memorandum No. A-12(11)3/2017 -E.I. dated 29.12.2017 were tentative and subject to change after approval of the competent authority which was expressly mentioned in the draft RRs. Along with present proposal revised sanctioned strength of the posts have also been put up for approval of the Corporation.	<p>5(a) ESIC itself is accepting that on the date of circulation of Draft RRs the number of sanctioned post of Joint Director which was earlier 135 and now proposed to be 94 is subject to variation.</p> <p>5(b) In this regard, it is informed that under the provision of Section 17 (1) of ESI Act, 1948 ESIC cannot create a new post of Senior Deputy Director with which the maximum monthly salary of which exceeds such salary as prescribed by the Central Government. Hence before framing Recruitment Rules approval of Central Government is necessary which has not been received till now.</p> <p>5(c) Since, the creation of post of Sr. Deputy Director requires prior approval of Central Government framing of Recruitment Regulation of the same post is beyond the mandate of ESIC as the same is premature and needs to be summarily rejected.</p> <p>5(d) A posts which has not yet been lawfully created cannot be considered as a feeder cadre for the post of Regional Director Gr. B/Joint Director.</p> <p>5(e) Without receiving the prior approval of Central Government for creation of post of Sr. Deputy Director decreasing posts of Joint Director is injustice to those Deputy Director who are in line of promotion for the post of Deputy Director.</p>
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ALL INDIA ESIC SC/ST OFFICERS' & EMPLOYEES' FEDERATION

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7.	<p>6. The ESIC Regional Director Grade 'B'/ Joint Director Recruitment Regulations, 2013 had come into existence on 23rd October, 2013 By proposing draft Regional Director Grade 'B'/Joint Director Recruitment Regulation. 2017 we are reviewing it just after four years is violation of Part III para 3.1.5 of Guidelines on framing / amendment / relaxation of recruitment rules and clearly indicates biasness of Management towards a particular group of officers. The abstract of guideline is as follows :</p> <p>"The Recruitment Rules should be reviewed once in 5 years with a view to effecting such change as are necessary to bring them in conformity with the changed position, including additions to or reductions in the strength of the lower and higher level posts."</p>	<p>Draft RRs for the post has been prepared as per direction of the MoL&E in order to remove the anomaly in the existing RRs.</p>	<p>6(a) The earlier RRs were duly approved by the ESI Corporation in consultation with UPSC, DOPT and Ministry of Law and Justice. Whereas the letter No. S-38016/21/2013-SS-I dated 29th Nov, 2015 issued by MoL&E directing ESIC to amend RR for the post of Joint Director was issued without approval of ESI Corporation, UPSC, DOPT, Ministry of Law and Justice and hence the letter is not supported by lawful mandate. This unlawful fabricated letter was used as a base for initiating new RR of RD Gr. B/Joint Director.</p> <p>6(b) There are glaring examples in past history of ESIC of not following proper approval of Government of India duly vetted by MoL&E, DOPT in cases of benefit of Promoted Officers. A copy of such approval which was not followed in ESIC issued from file No. A-12018/04/2011-SS.I (Pt.I) dated 30-05-2016 and not followed by ESIC is enclosed as Primary Annexure - C.</p> <p>6(c) The similar approvals were followed by ESIC in the cases of various DR Officers and Shri K.G. Suresh, Joint Director Establishment - I himself availed benefit of such approval in past. But now he is instrumental in not following this approval as majority of effective officers are SC/ST. (Annexure G of Primary Annexure – A).</p>
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8.	7. In column No. 11 of Schedule of draft ESIC Regional Director Grade 'B'/ Joint Director Recruitment Regulations, is crafted in such a manner that it clearly reflects that it is being molded to help some persons who will get unjust career enrichment. The proposed primary clause should have failing clause also as per DOPT guidelines which clearly prove that the management is changing all Recruitment Regulations for benefit of 11 officers (out of which one officer is trapped by CBI) who are going to be benefitted from this undue and untimely changing of Recruitment Rules.	This suggestion is not as per DoP&T guidelines.	7(a) As per the para 3.11.2 of DOPT instruction it is clearly prescribed that for computing the base for promotion the number of sanctioned posts in the two grades and not the number of vacancies at any one point of time should be taken into consideration. 7(b) Further to above, as per the para 3.11.8, In cases where there are two or more feeder grades, a separate percentage for promotion may be prescribed to each of the feeder grade. Here, instruction provides for provisioning of percentage for merger of multiple feeder grades such as DD (Finance) and DD (Admn.). But no percentage for promotion is prescribed in RR of RD Gr. B/JD among DD (Finance) and (Admn.) which are two independent cadres recruited under the provision of two different Recruitment Regulations. 7(c) With the introduction of Sr. Deputy Director the RRs for the post of Director are also going to be violative of DOPT instructions as the residency service of 3 level of grades will be counted i.e. Joint Director, Sr. Deputy Director and Deputy Director.
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			<p>7(d) In RR of JD we are rejecting provisioning of failing clause whereas in RR of Director we are accepting provisioning of failing clause and the person who are accepting its legality are none other than the core functionaries of Establishment i.e. Mr. K.G. Suresh, JD (E-I) who all the way is trying to prove the RR of JD as illegal.</p> <p>7(e) It is clearly reflecting that the Joint Director (E-I) is acting with ulterior motives in the instant case for harming interest of SC/ST officers and in process is trying to create RR which will squeeze the residency period of service for 11 DD (Finance) officers by existing 10 to 9 years against the DOPT guidelines prescribed in para 3.12.2 of DOPT OM No. AB 14017/61/2008-Estt. (RR) dated 24.3.2009 and dated 12.03.2010.</p>
9.	Hence, I oppose incorporation of new ESIC Regional Director Grade 'B'/ Joint Director Recruitment Regulation. 2017as it is destined to harm my career progression.	No Comments	In view of above, I still find the observation and comments as violative of not only DOPT Guidelines but it is also violating various pious provision of the ESI Act, 1948.



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16. In this regard, I would further like to submit that ESI Corporation body and USPC are being misled on following accounts to influence their opinion :

16(a) That, the Hon'ble CAT has directed ESIC to approve the RR as per the petition of Hemant Kumar Pandey and others vs. UOI and other which is **grossly misplaced and factually incorrect.**

16(b) That the Hon'ble CAT has directed ESIC to approve RR after receiving the objections of all the Stakeholders, including the applicants in **MA No. 4051/2017 who in the instant case are Promoted Officers** within period of three months. By ignoring genuine objections of applicants in MA No. 4051/2017 who are promoted officers of ESIC on flimsy and factually incorrect grounds the ESIC has disobeyed direction of Hon'ble CAT.

16(c) But unfortunately the Management of ESIC is misleading ESI Corporation, MoL&E and UPSC with wrong facts to favor intended 11 officers. The Hon'ble court had issued direction to amend RR after giving due hearing to objections of all parties which was not provided.

16(d) Here it is pertinent to mention that the genesis of letter No. S-38016/21/2013-SS-I dated 29 November, 2015 issued by MoL&E on the basis of which whole proposal of Amending the RRs was prepared is not known, as the decision to amend the Recruitment Rules were not approved by ESIC in its any of the meetings held on or before 29th November, 2015. Hence, this letter does not have any lawful mandate to interfere in the functioning of ESIC.

17. From above facts it is clear that in ESIC things are being manipulated in order to harm interest of 45 promoted Officers who are becoming eligible on 01-01-2019 as per the existing Recruitment Rules out of which 21 officers are of General Category, 10 Officers are of SC Category and 14 Officers are of ST Category.

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18. The Recruitment Rules are being framed keeping in view ulterior motive of harming the interest of promoted officers and specially SC and ST Officers.

19. In order to achieve this target of amending RR for the post of RD Gr. B/JD all kind of unreasonable resources are being exploited by and to the benefit of eleven DD(F) cadre officers. Various cases of extracting of money for manipulating MoLE, UPSC, DOPT came into our knowledge. A copy of my letter dated 07-12-2017 is enclosed as **Primary Annexure - I.**

20. The senior most persons whom the Officials of ESIC are trying to promote as JD by manipulating RR was wrongly appointed in officiating capacity as Joint Director Incharge, SRO Madurai in violation of provision contained in Section 17(3) of the ESI Act, 1948 and in hurry of collecting illicit money the concerned officer got trapped by CBI red handed (**Primary Annexure - G.**)

21. Various complaints to this effect were received in ESIC headquarters office and Mr. K.G. Suresh, Joint Director E-I is not only involved with this syndicate of dacoits but he is wholeheartedly protecting all these kind of officers. A copy of my letter dated 07-12-2017 is enclosed as **Primary Annexure - I.**

22. ESIC is habitual of doing wrong things to promoted officers and SC/ST officers. With having such malicious motives they also succeeded in getting cooperation of UPSC. In past also the UPSC had failed to uphold its high esteem by not conducting free and fair DPCs but also while conducting Recruitment of Deputy Director for ESIC various irregularities were observed.

23. On 19th, 20th, 22nd, 25th, 26th September and 1st November, 2006 the UPSC conducted DPC for the Post of Assistant Director in ESIC for vacancies pertaining to the years from 2001-02 to 2004-05. While conducting this DPC UPSC intentionally discriminated SC/ST officers on following Accounts (**Primary Annexure - J** is speaking order issued by the Competent Authority in the matter).

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- i) Nearly one and half dozen available fit officers of SC/ST category were not promoted as they were getting big jump in seniority.
- ii) Those SC/ST officers who were not meeting the desired benchmark were promoted on relaxed standard by ignoring the right of fit officers in order to avoid Supersession of SC/ST officer over General Category Officers.
- iii) While the matter was disputed by some of the affected persons the UPSC was compelled to review this DPC and as a result some officers were reverted and six officers were promoted. Had all the affected officers represented their case before the review DPC, the review DPC would have been compelled to further promote one dozen more officers with benefit of seniority jump.
- iv) This Federation had got the honour of inquiring and exposing various issues of corruption in ESIC and a copy of one such exposure is also enclosed with this letter for your kind information please (**Primary Annexure - K & L**).

24. Hence, in view of above and in the interest of 24 affected officers belonging to Scheduled Caste and Scheduled Tribe Category, I would like to request you to kindly use your august office for bringing justice to affected persons by initiating following actions :

- i) To direct the DG, ESIC to immediately withhold the action initiated for Amendments/framing of Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director in ESI Corporation for above mentioned reasons.
- ii) To immediately withhold the action initiated for Amendments/framing of Recruitment Regulations for the post of Sr. Deputy Director as it is violative of Section 17(1) of ESI Act, 1948 which prescribes that ESIC cannot create a new post with which the maximum monthly salary of which exceeds such salary as prescribed by the Central Government. Hence before framing Recruitment Regulation approval of Central Government was a must which has not been received till now. The decision of ESIC is bad at law.

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- iii) To immediately withhold the Recruitment Regulation for the post of Deputy Director as for giving Sr. Time Scale the RR prescribes for five years regular service which is directly in violation of the First Schedule of the amendment of 2011 to the "Employees' State Insurance Corporation" (Staff and Conditions of Service) Regulations, 1959 and hence bad at law.
- iv) However, In case the DG, ESIC considers it inevitable to review the Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director, he may be impressed to incorporate following amendments to save the interest of affected 24 SC & ST Officers.
- a. To add a Note in column No. 11 of the Employees' State Insurance Corporation, Regional Director Gr. 'B'/Joint Director Recruitment Regulations, 2017 to the effect that "the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules" as per the guidelines given in para 3.1.3 of DOPT Guidelines issued on subject Framing/Amendment/ Relaxation of Recruitment Rules.
- b. To remove Note No. 1 from column No. 11 of the Employees' State Insurance Corporation, Regional Director Gr. 'B'/Joint Director Recruitment Regulations, 2017 as it is giving unlawful favour to some officers who are not otherwise eligible as per para No. 3.12.2. of DOPT Guidelines issued on subject Framing/Amendment/Relaxation of Recruitment Rules as the post of Dy Director (STS) being non-functional have no constitutional sanctity for being treated as feeder cadre for primary as well as failing which clause.

Yours faithfully,

(Heera Singh)

Secretary General

Enclosed : as above.