



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

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

(Regd.No. S/27858 of 1995)

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

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Mob. No. 9868241160

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(W. ZONE)

**INTERNAL AUDITORS**  
KULDEEP KUMAR  
KAILASH CHAND

F.No.AIESIC.SC/ST.FED.2015-070 Dated 18<sup>th</sup>June, 2020.

To,

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

Subject : **DPC for the post of Regional Director Gr. 'B'/Joint Director in line with recommendation/Order of:**

- 1) **Hon'ble National Commission for Scheduled Tribes,**
- 2) **Hon'ble National Commission for Scheduled Castes,**
- 3) **Hon'ble High Court of Delhi in Case No. W.P.(C) 2723/2014 ESIC, Union of India vs. Shri Awadesh Prasad Tripathi and**
- 4) **various other Supreme Court decisions for considering adhoc service against regular vacancy as regular for promotion purposes.**

Madam,

A. Madam, with due regard, I would like to invite your kind attention on above cited subjects.

B. In this regard, I would like to submit that Shri K.G. Suresh, JD (E-I) is in habit of manipulating with facts and figures to implement his whims and fancies for his own interest or interest of some pampered officers of Finance Cadre. Since, I do not have any faith on his integrity and there is information that he had prompted his group of officers to bring lopsided view for their personal gains, I would like to submit following facts which are necessary while taking decision in the matter.

C. **Comments to Para 1 & 2:**

1. That, the Finance Cadre officers were given Senior Time Scale on provisional / temporary basis and still continue to be in Senior Time Scale on provisional basis (**Annexure – I**). For promotion to the post of Joint Director following requirements are must which the favoured officers do not fulfil:

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- a. Favoured Officers must be Sr. Deputy Director which they are not.
- b. Favoured Officers must be Deputy Director (Senior Time Scale) on regular basis which they are not.
2. The provisional / temporary up-gradation cannot be counted for promotion for the post of Joint Director.
3. The fact that these Finance Cadre officers are being positioned as Deputy Director Incharge in various SROs is incorrect as the Deputy Director Incharges have no DOP and using DOP of Joint Director by these officiating officers against the post of Joint Director for term of more than one year without consultation of UPSC is also gross violation of provision of Section 17(3) of ESI Act, 1948. **Annexure – II**.
4. The Favoured Officers are still working in the Sr. Time Scale on provisional basis and thus are not eligible for promotion even today.
5. They will be eligible for promotion to the post of Joint Director after completing 5 years in Sr. Deputy Director post. And right now, favoured officers are not even promoted to the post of Sr. Deputy Director.
6. Madam, favoured officer was appointed to the post of Deputy Director (Finance) on 05-10-2009. He was eligible for promotion for the post of Joint Director as per pre-revised RR on 01-01-2020.
7. The purpose of whole exercise of amending the RR for the post of Regional Director Gr. B/Joint Director was not to get their promotion but to deny promotion to 44 promotion cadre officers, out of which 24 Officers were of SC/ST category.
8. When individuals keep their interest above the interest of organization then not only organization loose, but individuals are also bound to loose.
9. If the provisional appointment is considered as regular in their case, then promotee cadre officer have also worked as Assistant Director on adhoc basis against regular vacancy on the recommendation of UPSC. By the same yardstick 44 promotion cadre officers become eligible for promotion on 01-01-2017 as per the then-prevailing RRs.

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10. If temporary service is not considered, then favoured officers will get promotion to the post of Joint Director only after 5 years of promotion to the post of Sr. Deputy Director not before 01-01-2026.

**D. Counter Comments to Para 3:**

1. The respondents in OA 732/2017 before Hon'ble CAT, Principal Bench were promoted with vetting from legal counsel of ESIC in Supreme Court and with the approval of Hon'ble Minister for Labour and Employment. **(Copy of Noting of approval is enclosed as Annexure - III).**
2. The prior approval of Hon'ble Minister for Labour and Employment was not taken by Management before taking contrary stand to the decision of Hon'ble Minister in Hon'ble CAT.
3. The case was mutually fixed by the petitioner and management respondents for unlawful consideration and the case has not been decided on merit.
4. Apart for getting unlawful consideration, the aim of this manipulation was also to harm the interest of 24 SC/ST category officers who were due to get promotion on 01-01-2019 and to favour a chunk of DD Finance cadre who were instrumental in selling the interest of ESIC.
5. The Hon'ble High Court of Delhi in Case No. W.P.(C) 2723/2014 ESIC, Union of India vs. Shri Awadesh Prasad Tripathi and Hon'ble Supreme Court in various other cases decided for considering adhoc service against regular vacancy as regular for promotion purposes and hence in view of this ratio 44 promotion cadre officers were eligible for promotion on 01-01-2017. **(Annexure - IV)**
6. The dispute in the matter is pending before Hon'ble National Commission for Scheduled Castes and Hon'ble National Commission for Scheduled Tribes where the earlier DG had made various verbal commitments which were not followed while submitting Action taken Reports.
7. The favoured Officers were further favoured by Shri K.G. Suresh, JD (E-I) while fixing their Seniority by doing following wrong acts :



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- i) The decision of Hon'ble Supreme Court in the case of N.R. Parmar vs. UOI dated 27-11-2012 and direction of DoPT OM No. 20011/1/2012-Estt(D) dated 4<sup>th</sup> March, 2014 was made effective retrospectively whereas as it was clearly mentioned in the para 5 (h) of ibid OM dated 04<sup>th</sup> March, 2014 that new principle for determination of inter se seniority of DR and promotees would be effective from 27-11-2012, the date of Supreme Court Judgement (**Annexure – IX**).
- ii) The Seniority list was circulated to only half cadres and the objection of officers who were being affected were not called for.

**E. Counter Comments to Para 4:**

1. Various wrong actions of previous Director General and officers of Estt.I to derail the system with ulterior motive have already been highlighted through my earlier letters. There are dozens of known cases of bringing wrong misleading facts before not only senior officers but also before Standing Committee of ESIC, apex body of ESIC and even in Parliament House.
2. The aim are to change the direction of investigation from real and serious facts to trivial issue with the help of his god father Shri K.G.Suresh, JD(E-I).
3. As far as my Federation is concerned my all complaints are submitted with substantial facts and evidences leaving no scope for any further probing of facts.
4. The proposal for amendment of Recruitment Rules for the post of Regional Director Gr. A and Regional Director Gr. B were moved on similar timeline. In both the cases the 'failing clause' was removed. RR for the post of Regional Director Gr. B was forwarded for publishing in Gazette notification as it was giving benefit to corrupt officers working under unofficial supervision of Shri K.G. Suresh, JD (E-I).
5. And on the contrary Shri K.G. Suresh preferred to sit on file of RR for the post of Regional Director Gr. A on his own volition as gazette publication of this RR was harming his own interest. The matter has been reported separately vide my letter No. AIESIC.SC/ST.FED.2015-067 dated 26-05-2020 with all evidences on which administrative/vigilance action is still pending



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**F. Counter Comments to Para 5:**

1. In this case petitioner and Management respondent were hand in glove and Management was taking contrary stand and intentionally not defended the decision of Hon'ble Minister for Labour and Employment before Hon'ble CAT for favouring the petitioners and the same was done on insistence of Shri K.G.Suresh, J.D. (E-I). **(Copy of Noting of approval is Annexure – III).**
2. It reflects poorly on favoured officer that he is making tall claims about complaints against unknown upright officers as false without any detail of complaint, names of such upright officers and proof of facts being false.
3. The favoured Officer had also challenged the wisdom of authorities who have deferred the DPC for the post of Director which is a grave misconduct requiring departmental action.

**G. Counter Comments to Para 6:**

1. Those officers who are pursuing the matter belong to finance cadre. The DG had also agreed to JD (E-I) while not forwarding the RR for the post of Director for publishing in gazette notification on the pretext of dismal performance of majority of the officers and some of them are either trapped by CBI or chargesheeted and there was an urgent need for separation of Finance and Admn. Cadre.
2. The finance cadre officers who are senior most and have been or are in process of being charge sheeted are as follows :
  1. Shri Thinesh Kumar (CBI Trapped)
  2. Shri Rakesh Chauhan (Charge sheeted)
  3. Shri Rajiv Lal (Procurement Irregularity. Under transfer on punishment. Charge sheet under process)
  4. Shri Utpal Sarkar (Charge sheeted under process)
  5. Shri Hemant Pandey (CVC Compliant Case under investigation)



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H. Madam, apart from above, it is also the need of hour to bring following facts before your good self as Shri K.G. Suresh, J.D. (E-I) will not bring these facts before your good office :

1. As per the pre-revised RR for the post of Regional Director Gr. B/Joint Director me and my 43 promotee (14 ST & 10 SC) colleagues were eligible for promotion on 01-01-2019 as per the norms followed in previous case which was consented by ESIC legal counsel for Hon'ble SC and finally with the approval by Hon'ble Minister for Labour and Employment.
2. In order to spoil our promotion prospect Shri K.G. Suresh, JD (E-I) involved in following unethical acts:
  - i) Favoured DR officers in CAT case by not defending the decision of Hon'ble Minister for Labour and Employment.
  - ii) While seeking approval of ESI Corporation in its 173<sup>rd</sup> meeting held on 16<sup>th</sup> February, 2018 did not inform the august house about the adverse impact of increase of four years to 44 officers out of which 24 officers were of SC/ST category **(Annexure – VIII)**.
  - iii) On the contrary Shri K.G. Suresh, JD (E-I) also misreported in Agenda stating that "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". Whereas it is admitted fact that qualifying service for promotion was being enhanced by 4 years with respect to 44 promotees cadre officers **(Annexure – VIII)**.
3. The matter was raised before the Hon'ble Chairman National Commission for Scheduled Tribes and the recommendation made by the Commission were as follows **(Annexure - V)**:
  - i) The DG, ESIC and Administrative Ministry are expected to amend the RRs and make provision for adding protection clause to protect the interest of those persons whose qualifying service for promotion is enhanced by new RR and make it effective retrospectively as no one should get harmed.

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- ii) The DPC for the promotion of DD to JD for the year 2016-17, 2017-18, 2018 and 2019 may be held immediately and the 14 eligible ST Officers and others if available should be promoted as per their eligibility condition.
  - iii) The affected 10 persons should be provided DD (STS) NFSG after completion of regular service of four years as per condition prescribed in Regulation 7 (1) of Employees' State Insurance Corporation Regulations, 1959 read with Amendment of 2011 to the "Employees' State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959".
  - iv) The petitioner also raised the issue that the Secretary General of their Federation had been unwillingly transferred out of Delhi to cause harm to functioning of their Federation and demanded for his posting in ESIC Hqrs. Office which is necessary for betterment of members of Associations of their All India Federation.
4. The matter was raised before Hon'ble National Commission for Scheduled Castes and the recommendation made were as follows **(Annexure – VI)**:
- i) The ESI as well as Ministry had not considered the view point of the Officials who joined as SSO and deliberately favoured direct recruit officials violating the para no. 3.1.3 of DoPT OM No. AB-14017/48/2010 estt. (RR) dated 31-12-2010 by misleading the apex body of ESIC.
  - ii) It was observed that on 01-01-2016 9 SCs were to be promoted as JD by counting of adhoc service, but the DPC was not held. The DPC for the promotion of DD to JD for the year 2017-18, 2018 and 2019 may be held immediately and the 9 eligible SC officers should be promoted as per their eligibility on 01-01-2016.
  - iii) The DoPT OM No. AB-14017/48/2010 estt. (RR) dated 31-12-2010 may be implemented in toto by the Department.
5. The rejoinder was filed before the Hon'ble Chairman National Commission for Scheduled Tribes by our Federation and the case is still due for second hearing in the matter.



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6. The second ATR of ESIC was received in the matter on 10-06-2020 and a rejoinder is in process of being filed in Chairman National Commission for Scheduled Castes by our Federation with a request for second hearing (**Annexure – VII**).

## **PRAYER**

In this regard, you are requested to kindly consider implementing the recommendation/decision of

- Hon'ble National Commission for Scheduled Tribes,
- Hon'ble National Commission for Scheduled Castes,
- Hon'ble High Court of Delhi in Case No. W.P.(C) 2723/2014 ESIC, Union of India vs. Shri Awadesh Prasad Tripathi and
- various judgment of Hon'ble Supreme Court in the matter.

Further to above, you are also requested to recast the seniority of whole cadre of Deputy Director by applying para No. 5 (h) of DoPT OM No. 20011/1/2012-Estt(D) dated 4<sup>th</sup>March, 2014.

Thanking you,

Yours faithfully,

( Heera Singh )  
Secretary General

**Enclosed: as above.**