



Annexure - I

HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN: C.I.G. MARG, NEW DELHI-110002.
<http://esic.nic.in>

F. No. A-33/13/4/2014(STS)- E-I

Dated:11.11.2014

OFFICE ORDER No. 179 of 2014

The Competent Authority has approved in-situ grant of Senior Time Scale in PB-3 Rs. 15,600-39,100/- + Grade Pay of Rs. 6600/- (on provisional basis) to the following Deputy Directors:-

Sl. No.	Name of the Officer S/Sh./ Smt.	Present Posting	Senior Time Scale effective from
1.	Thinesh Kumar Rangarajan	SRO Thirunelveli	05/10/13
2.	Utpal Sarkar	RO W. Bengal	05/10/13
3.	Rajiv Lal	RO Haryana	05/10/13
4.	Sankar S.	ESIH Coimbatore	05/10/13
5.	Hemant Kumar Pandey	Hqrs.	05/10/13
6.	Krishna Kumar S.	RO , Tamil Nadu	05/10/13
7.	Parthasarathy Panda	RO Orissa	05/10/13
8.	Deepak Malik	Hqrs.	05/10/13
9.	Manoj Kumar Shaw	RO Jharkhand	05/10/13
10.	Rakesh Chauhan	ESIMH J&K	05/10/13
11.	Kalicharan Jha	RO MP	05/10/13
12.	Rudradeep Dutta	RO W. Bengal	15/09/14
13.	Brijesh	RO Delhi	15/09/14
14.	Roopa Banerjee	ICT RO Delhi	15/09/14
15.	Sudarsanan P.	SRO Nagpur	15/09/14
16.	Abhilasha Jha	RO Mumbai	15/09/14
17.	Vikas Kundal	SRO Rohini	15/09/14
18.	Sanjeev Kumar	RO Delhi	15/09/14
19.	Sivaramakrishnan S.	RO Karnataka	15/09/14
20.	Rajnish Singh Chaudhary	ESIH Ludhiana	15/09/14
21.	Sudhakar Singh	SRO Gurgaon	15/09/14
22.	Guruvinder Singh	RO Mumbai	15/09/14
23.	Dushyant Pande	ESIMH, Basaidarapur	15/09/14
24.	Chandra Bhanu Jha	ESIH Manesar	15/09/14
25.	Amamath Tiwari	RO W. Bengal	15/09/14
26.	Maneesh Khulbe	RO Delhi	15/09/14
27.	Rakesh Kumar	Hqrs.	15/09/14
28.	Nishant Kumar	RO Jharkhand	15/09/14
29.	Manish Soni	RO M.P.	15/09/14
30.	K. Raghuraman	ESIMH Andheri	15/09/14
31.	Venu Gopal Alluri	RO A.P.	15/09/14
32.	Rakesh Kumar	RO Gujarat	15/09/14

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Deputy Director's Office
No. 768
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(Signature)

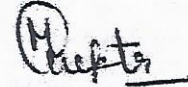
33.	Sahil Aggarwal	Hqrs.	15/09/14
34.	Manish Sharma	RO Rajasthan	15/09/14
35.	Bhupender Kumar	ESIMH Ahmedabad	15/09/14
36.	S. Karuppusamy	RO, Tamil Nadu	15/09/14
37.	Sunil Kumar Yadav	Hqrs.	15/09/14
38.	Prasanth D.	SRO Kollam	15/09/14
39.	Manoj Kumar	SRO Baroda	15/09/14
40.	Hari Om Prakash	Hqrs.	15/09/14
41.	Sukantia Chandra Das	RO Orissa	15/09/14
42.	Pranesh Kumar Sinha	RO Bihar	01/11/14
43.	Priyaranjan Sinha	RO Uttrakhand	15/09/14
44.	Jose Martin George	RO Kerala	15/09/14
45.	Lakshman Jee Gupta	RO UP	15/09/14
46.	Mangminlal Sitlhou	SRO Hubli	15/09/14
47.	Arasada Kishore	ESIH Sanathnagar	15/09/14
48.	Saikat Mandal	SRO Barrackpore	15/09/14
49.	Anil Kumar Ranga	SRO Surat	15/09/14
50.	K.R. Ravi Kumar	SRO Vijaywada	15/09/14
51.	Kanitha Selvi A.S.	ESIMH Chennai	15/09/14
52.	Nischal Kumar Nag	SRO Pune	15/09/14
53.	Mukesh Chandra Meena	Hqrs	15/09/14
54.	Suresh R.	SRO Coimbatore	15/09/14
55.	Vijayananth A.T.	SRO Salem	15/09/14
56.	Achintya Mandal	RO Assam	15/09/14
57.	Mohit Raja	RO Mumbai	15/09/14
58.	Arul Raj M.	SRO Thirunelveli	15/09/14
59.	Sunita Rawat	NTA Delhi	15/09/14
60.	Suneel Kumar Negi	RO H.P.	15/09/14
61.	Satyajit Kumar	SRO Aurangabad	15/09/14
62.	Digvijay Prasad Sinha	RO Chattishgarh	02/11/14
63.	P.N. Boipi	ESIMH Bangalore	15/09/14
64.	Patras Gregory Khalkho	SRO Bommasandra	15/09/14
65.	Neeraj Kumar Sharma	Hqrs.	15/09/14
66.	Tara Chand Sharma	ESIH Udyogmandal	01/10/14
67.	Surender Kumar Verma	Retired on 31/01/2014	04/06/13
68.	S. Thiyagarajan	Retired on 28/02/2014	04/06/13
69.	R.S. Mishra	RO Gujarat	04/06/13
70.	Aruna Sharma	SRO Peenya	04/06/13
71.	V.K. Goel	SSMC Rajasthan	04/06/13
72.	P Tripathy	RO Orissa	04/06/13
73.	Rajesh Kumar	RO Bihar	04/06/13
74.	Mahender Kumar	PGIMSR Andheri	04/06/13

Accepted

75.	Naresh Kumar	Vol. Retd. on 01.11.13	04/06/13
76.	J.R. Rao	Retd. on 30.09.13	04/06/13
77.	B.P. Pandey	Retd. On 30.11.13	04/06/13
78.	C.O. Tayade	Vol Retd. On 01.02.13	18/04/11

The pay of above officers in Senior Time Scale (STS) will be fixed in PB-3 Rs. 15,600-39,100/- + Grade Pay of Rs. 6,600/- as per the provisions of Rule 13 of CCS (revised) Pay Rules, 2008.

(Hindi Version will follow)



(MANISH GUPTA)
DEPUTY DIRECTOR-E.I

To:-

1. The officers concerned through their controlling officers.
2. PPS/PSS/PAs to DG/ All Divisional Heads, Hqrs. Office.
3. All the Regional Directors/ Directors/ Joint Director I/cs/ Joint Director-E-V, Hqrs.
4. Director (M) Delhi/ Director (M) Noida/ Director ESIH K.K. Nagar/ Director (FW).
5. All the Medical Superintendents of ESIC Hospitals & ESIC Model Hospitals
6. All concerned Director (F)/ JD(F)/ DD(F)/ AD(F).
7. All Directors, Zonal Vigilance/ Hqrs. Vigilance.
8. Guard File/ Spare Copy.

¹[Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.]

(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.]

(3) Every appointment to ²[posts ³[(other than medical posts)] corresponding to ⁴[Group A and Group B] posts under the Central Government], shall be made in consultation with the ⁵[Union] Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for ⁶[a period] not exceeding one year:

⁷[Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.]

⁸[(4) If any question arises whether a post corresponds to a ⁴[Group A and Group B] post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.]

COMMENTS

Even if it is assumed that the respondent being an employee of a non-statutory canteen runs by the managing committee formed by the employees of the appellant at their regional office had acquired the status of the employee of the corporation, he is to be governed by the rules and regulation issued by the Corporation and not by the memorandum issued by the Central Government; *Director General, Employees' State Insurance Corporation v. B.K. Parida*, AIR 2000 SC 3571.

18. Powers of the Standing Committee.—(1) Subject to the general superintendence and control of the Corporation, the Standing Committee shall administer the affairs of the Corporation and may exercise any of the powers and perform any of the functions of the Corporation.

(2) The Standing Committee shall submit for the consideration and decision of the Corporation all such cases and matters as may be specified in the regulations made in this behalf.

(3) The Standing Committee may, in its discretion, submit any other case or matter for the decision of the Corporation.

19. Corporation's power to promote measures for health, etc., of insured persons.—The Corporation may, in addition to the scheme of benefits specified in

1. Ins. by Act 18 of 2010, sec. 6 (w.e.f. 1-6-2010).

2. Subs. by Act 44 of 1966, sec. 11(a), for "posts carrying a maximum monthly pay of five hundred rupees and above" (w.e.f. 17-6-1967).

3. Ins. by Act 29 of 1989, sec. 7(iii)(a) (w.e.f. 16-5-1990).

4. Subs. by Act 45 of 1984, sec. 3, for "Class I or Class II" (w.e.f. 27-1-1985).

5. Subs. by the A.O. 1950, for "Federal".

15. Fees and allowances.—Members of the Corporation, the Standing Committee and the Medical Benefit Council shall receive such fees and allowances as may from time to time be prescribed by the Central Government.

16. Principal Officers.—¹[(1) The Central Government may, in consultation with the Corporation, appoint a Director General and a Financial Commissioner.]

(2) The Director General shall be the Chief Executive Officer of the Corporation.

(3) ²[The Director General and The Financial Commissioner] shall be whole-time officers of the Corporation and shall not undertake any work unconnected with their office without the sanction of the Central Government ³[and of the Corporation].

(4) ⁴[The Director General or the Financial Commissioner] shall hold office for such period, not exceeding five years, as may be specified in the order appointing him. An outgoing ⁵[Director General or Financial Commissioner] shall be eligible for reappointment if he is otherwise qualified.

(5) ⁶[The Director General or the Financial Commissioner] shall receive such salary and allowances as may be prescribed by the Central Government.

(6) A person shall be disqualified from being appointed as or for being ⁷[the Director General or the Financial Commissioner] if he is subject to any of the disqualifications specified in section 13.

(7) The Central Government may at any time remove ⁷[the Director General or the Financial Commissioner] from office and shall do so if such removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total strength of the Corporation.

17. Staff.—(1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post ⁸[the maximum monthly salary of which ⁹exceeds such salary as may be prescribed by the Central Government]].

¹⁰[(2) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matter aforesaid, it shall obtain the prior approval of the Central Government:

1. Subs. by Act 29 of 1989, sec. 6, for sub-section (1) (w.e.f. 20-10-1989).

2. Subs. by Act 29 of 1989, sec. 6, for "The Principal Officers" (w.e.f. 20-10-1989).

3. Ins. by Act 44 of 1966, sec. 10 (w.e.f. 17-6-1967).

4. Subs. by Act 29 of 1989, sec. 6(iii)(a), for "A Principal Officer" (w.e.f. 20-10-1989).

5. Subs. by Act 29 of 1989, sec. 6(iii)(b), for "Principal Officer" (w.e.f. 20-10-1989).

6. Subs. by Act 29 of 1989, sec. 6(iv), for "A Principal Officer" (w.e.f. 20-10-1989).

7. Subs. by Act 29 of 1989, sec. 6(v), for "a Principal Officer" (w.e.f. 20-10-1989).

8. Subs. by Act 38 of 1975, sec. 3, for "with a maximum monthly salary of five hundred

Government of India
Ministry of Labour & Employment
Social Security Division
(SS-I Section)

Reference PUC.

2. This is regarding proposal for granting promotion on adhoc basis in the cadre of Regional Director Grade 'B' Joint Director, to five Deputy Directors(STS) who are fulfilling the eligibility criteria under the 'failing which' clause of column 11 of the existing RRs for the post (flag 'N').

3. ESIC has stated that the only 5 Deputy Director (STS) namely Shri R.S. Mishra (S.No.57), Smt Aruna Sharma(S.No.59), Shri VK Goel(S.No.63), Shri P. Tripathi (S.No.65) and Shri Rajesh Kumar(S.No.77) are fulfilling the eligibility criteria under the 'failing which' clause for consideration for promotion to the post of Regional Director Grade 'B' Joint Director while the others in the Seniority List are short of requisite qualifying and eligibility service by 5 to 6 years.

4. ESIC has further stated that there are presently the total 143 posts of Joint Director/Regional Director Grade 'B' out of which 116 posts are vacant. Since the juniors are fulfilling the eligibility criteria under failing which clause whereas the seniors are short of requisite qualifying and eligibility service by 5 to 6 years. ESIC referred the matter to its Panel Advocate, Shri P.C. Hora, who opined that as per Regulation 5 of the RRs of the post, the DG, ESIC has power to relax any provision of the regulations in respect of any class or category of persons after prior approval of the proposal of relaxation of the RRs by the Central Government and in consultation with UPSC (flag-'Y').

5. In view of the above, with approval of DG, ESIC, approval of the Government for relaxation in eligibility criteria for promotion as prescribed in column 11 of the RRs for the post of Regional Director Grade 'B' Joint Director, in five Deputy Directors who are senior to the above referred five officers, but not fulfilling the requisite qualifying service for promotion to the post of Regional Director Grade 'B' Joint Director, has been requested.

6. In view of the above and since the regular promotion to the post of Regional Director Grade 'B' Joint Director may take considerable time, approval of Hon'ble MoS(L&E), L&E may be solicited to allow considering the 5 Deputy Directors (STS) namely Shri R.S. Mishra (S.No.57), Smt Aruna Sharma(S.No.59), Shri VK Goel(S.No.63), Shri P. Tripathi (S.No.65) and Shri Rajesh Kumar(S.No.77), who are fulfilling the eligibility criteria under the 'failing which' clause for grant of promotion on adhoc basis in the cadre of Regional Director Grade 'B' Joint Director presently. However, UPSC may be consulted for regular promotion thereafter.

7. Submitted please.

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Annexure - IV

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision : 24th April, 2019**

+ **W.P.(C) 2723/2014**

UNION OF INDIA & ORS Petitioners

Through: **Mr.Ripu Daman Bhardwaj,**
CGSC with Mr.T.P.Singh,
Advocate.
Mr. Yakesh Anand, Ms.Sonam
Anand and Ms. Deepshikha
Sansanwal, Advocates for P-2.

versus

AWADESH PRASAD TRIPATHI & ORS Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

S. RAVINDRA BHAT, J. (ORAL)

1. Respondent had approached the Central Administrative Tribunal (hereinafter referred to as "CAT") with several claims including a direction for grant of due service benefits for promotion under the then existing Employees' State Insurance Corporation (Regional Director Grade 'A'/Director) Recruitment Regulations, 2007, with all consequential benefits and also to count their *ad-hoc* service as Joint Director for all purposes. The Central Administrative Tribunal granted relief; as a result ESIC/Union of India instituted this proceedings under Article 226 of the Constitution.

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2. The respondent officers joined ESIC on various dates as direct recruits to the post of Deputy Directors in the pay-scale of Rs.2200-4000 revised subsequently to Rs.8000-13500 after the 5th Central Pay Commission (CPC). They were promoted as Joint Director on *ad-hoc* basis in the pay scale of Rs.10000-15200 on various dates during the period 2005-2007. These pay-scales were then changed to PB-III with grade pay Rs.6600/- per month in the wake of implementation of 6th CPC. The respondents/applicants claim that they became eligible for the non-functional grade upon entering the 14th year of service in January, 2009 but were denied since the Departmental Promotion Committees (DPCs) were not set up in the timely manner. The ESIC in the proceedings before the CAT defended its position contending firstly, that the Rules relied upon by the respondents/applicants had changed and that accordingly, there were no vacancies at the relevant time. It was also contended that respondents/applicants could not have claimed to be in regular service as their period of ad-hoc service could not be counted towards eligibility of promotion as Joint Director/Regional Director.

3. The CAT, following the judgments of *Y.V. Rangaiah vs. J. Sreenivasa Rao*, (1983) 3 SCC 284 and also *S.Sumnyan & Ors. vs. Limi Niri & Ors.* (2010) 6 SCC 791, held that since the vacancies existed under that regime and though the nomenclature given for the previous 2½ years service is between 2005 and 2007 was "*ad-hoc*", the respondents were entitled to claim it for the purpose of promotion given that DPCs were not held in timely manner, and that the vacancies had existed.

4. When this Court entertained the proceedings, the direction of CAT so far as it pertained to grant of promotion under the old Rules were not disturbed. Except for few employees, who were facing disciplinary proceedings, it is submitted before the Court that those entitled to be promoted were given that promotion from the dates they were eligible i.e. 2014 onwards. It is, however, contended on behalf of the ESIC that so far as grant of benefit from the anterior dates, this Court had suspended the operation of the CAT's impugned order. Thus, the period of ad-hoc service cannot be counted for the purpose of counting eligibility.

5. The eligibility criteria in this case is as follows:

SCHEDULE

RECRUITMENT RULES FOR THE POST OF REGIONAL DIRECTOR

GRADE 'A' DIRECTOR IN EMPLOYEES STATE INSURANCE CORPORATION

Name of post	Number of post	Classification	Scale of pay	Whether selection post or non-selection post	Whether benefit of added years of service admissible under Rule 30 of CCS (Pension) Rules, 1972	Age limit for direct recruits	Educational & other qualifications required for direct recruits	Whether age and educational qualification prescribed for direct recruits will apply in the case of promotees	Period of probation, if any
1	2	3	4	5	6	7	8	9	10
Regional Director Grade 'A'/ Director	34 (2007) (subject to variation dependent on work load)	Group 'A' Non-Ministrial	Rupees 12000-375-16500	Selection	No.	Not applicable	Not applicable	Not applicable	Not applicable
<p>Promotion*** Note: Where juniors who have completed their qualifying/eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less, and have successfully completed their probation period, for promotion to the next higher grade alongwith their juniors who have already completed such qualifying/eligibility service.</p>									
Method of recruitment whether by direct recruitment or by promotion or by deputation/absorption and			In case of recruitment by promotion/deputation/absorption, grades from			If a DPC exists, what is its composition		Circumstances in which	

the percentage of the posts to be filed by various methods	promotion/deputation/absorption to be made		UPSC to be consulted in making recruitment
11	12	13	14
Promotion falling which by deputation	<p><u>Promotion :</u> Regional Director Grade 'B'/Joint Director in the Scale of pay of Rs.10000-15200 with 5 years regular service in the grade falling which Regional Director Grade 'B'/Joint Director with 10 years combined regular service in the grade of Regional Director Grade 'B'/Joint Director in the Scale of pay of Rs.10000-15200 and Deputy Director in the scale of pay of Rs.8000-13500 out of which minimum 2 years regular service should be in the grade of Regional Director Grade 'B'/Joint Director.</p> <p><u>Note :</u> *** <u>DEPUTATION:</u></p> <p>Officers under the Central Government: a. (i) Holding analogous posts on regular basis in the parent cadre/department; or (ii) With five years' service in the grade rendered after appointment thereto on a regular basis in the scale of pay of Rs.10000-15200/-OR equivalent in the parent cadre/department; and b. Possessing 10 years' experience in administration/establishment/accounts matters. The departmental officers in the feeder category who are in the direct line of promotion will not be eligible for consideration for appointment on deputation. Similarly deputationists shall not be eligible for consideration for appointment by promotion. (Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall ordinarily not exceed 4 (four) years. The maximum age limit for appointment by deputation shall be not exceeding 56 years, as on the closing date of receipt of applications).</p>	<p><u>Group 'A'</u> Departmental Promotion Committee (for considering promotion)</p> <ol style="list-style-type: none"> 1. Chairman OR a Member of UPSC - Chairman 2. Director General, ESIC - Member 3. Insurance Commissioner/Financial Commissioner or Officer of equal rank looking after Human Resources Development, ESIC - Member. 	Consultation with UPSC is not necessary.

6. Learned counsel relied upon several decisions of the Supreme Court such as *K.Madhavan & Anr. vs. Union of India & Ors.* (1987) 4 SCC 566, *State of Haryana vs. Haryana Veterinary & Ahts Association & Anr.* (2000) 8 SCC 4. These decisions highlighted two aspects; (1) that when the eligibility condition with respect to minimum experience speaks of regular service, the Court should not be swayed by sympathy and (2) that *ad-hoc* service *per se* cannot be counted or reckoned for the purpose of promotion. In this case, at the outset, the Court notices that the CAT's reasoning was not that the applicants were *per se* entitled to count their *ad-hoc* service as in the case of *K. Madhavan* (supra) and the other decisions. On the other hand, there can be no challenge to the finding that the regular vacancies existed in the cadre of Joint Director/Regional Director, under the pre-existing Rules, despite which DPCs were not held in a timely manner. Consequently, for the purpose of exigencies of service, the respondents/applicants were granted *ad-hoc* service benefits of promotion. Significantly, it is not the petitioner's case that after the CAT's impugned order any of the petitioners were found ineligible; rather all of them- save and except those who faced disciplinary proceedings, were in fact promoted on the strength of their entire record.

7. The CAT's findings are premised upon the fact that regular vacancies for the post of Regional Director/Joint Director in the pay scale of Rs.10000-15300/- were available at all relevant time. However, the DPC (indicated in column 13) was never set up for the relevant years. These kinds of facts do not appear to have existed in

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the three judgments cited by the ESIC/UOI. Therefore, the CAT's findings cannot be characterised as unreasonable or contrary to principle. The ESIC was to blame itself for not holding the DPC at the relevant time. On the other hand, the corporation felt the need for services of the experienced personnel – the description that the respondents/applicants fulfilled, which resulted in their ad-hoc promotion. In these circumstances, to deny them the benefit of ad-hoc services and consequently, anterior dates of promotion, was unjust.

8. For the above reasons, this Court is of the opinion that there is no merit in the writ petition. The ESIC is directed to grant the consequential relief by way of promotion from the dates in accordance with the CAT's order within eight weeks from today, and also fix the differential pay at the relevant stage of the pay-scale and further grant revised pay-scale, pay fixation and pension fixation benefits to the respondents within the said period of eight weeks, and duly disburse the differential amount of pay/pension.

9. Writ petition is dismissed with above directions.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

APRIL 24, 2019

mr



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003.

File No. HS/1/2018/MLAB1/SEOTH/RU-III

Date: 07.06.2019

To,

1. The Director General,
Employee's State Insurance Corporation (ESIC),
Panchdeep Bhawan, Comrade Indrjeet Gupta (CIG)
Marg, New Delhi - 110002
2. The Secretary,
Ministry of Labour & Employment,
Shram Shakti Bhawan,
New Delhi- 110001

Sub: Minutes of Meeting taken by Hon'ble Chairperson, National Commission for Scheduled Tribes, (NCST) on. 09.05.2019 in the matter of Representation dated 16.08.2018 of Shri Heera Singh, Secretary General All India ESIC SC/ST Officers & Employees Federation, Panchdeep Bhawan, Wing No. 04 Prem Nagar, Dehradun, U.K. Regarding 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 out of which 14 Officers belong to ST Category.

Sir,

I am directed to enclose herewith a copy of Minutes of Meeting taken by Dr. Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 09.05.2019 for information and necessary action.

It is, requested that action taken report in this regard may please be sent to the Commission within months' time

Encl: As above

Yours faithfully,

(Dr. Lalit Mittal)
Director

Copy to:

1. Shri Heera Singh Secretary General All India ESIC SC/ST Officers & Employees Federation, Panchdeep Bhawan, Wing No. 04 Prem Nagar, Dehradun, U.K.
2. PS to Hon'ble Chairperson, NCST
3. SAS, NIC, NCST upload on the web site.

Government of India


NATIONAL COMMISSION FOR SCHEDULED TRIBES

(HS/1/2018/MLAB1/SEOTH/RU-III)

PROCEEDING OF SITTING TAKEN BY DR. NAND KUMAR SAI, HON'BLE CHAIRPERSON, NCST ON 09/05/2019 IN THE CASE OF SHRI HEERA SINGH, SECRETARY GENERAL, ALL INDIA ESIC SC/ST OFFICERS & EMPLOYEES FEDERATION, PANCHDEEP BHAWAN, WING NO.- PREM NAGAR, DEHRADUN (U.K) REGARDING DISCRIMINATORY AMENDMENTS/FRAMING OF RECRUITMENT REGULATIONS FOR THE POST OF REGIONAL DIRECTOR GRADE 'B'/JOINT DIRECTOR IN ESI CORPORATION FOR HARMING INTEREST OF 24 RESERVED CATEGORY OFFICER OUT OF WHICH 14 OFFICERS BELONG TO ST CATEGORY.

Date of sitting : 09/05/2019
List of officers present in sitting : Annexure

1. The National for Scheduled Tribes received a representation from Shri Heera Singh, Secretary General, All India ESIC SC/ST officers & employees federation regarding discriminatory amendments of recruitments regulations for the post of Regional Director.
2. In the case, as per the directions of the Hon'ble Chairperson the sitting has been convened on 09.05.2019 at 12.30 PM. In this regard, the sitting notice dated 16.04.2019 was sent to the Director General, ESIC and the Secretary, Ministry of Labour & Employment.
3. During the sitting, the petitioner appraised the Commission that the Department has opted for revision of RR in year 2018 for the post of Joint Director. The RRs are designed to favour the direct recruit officers. This was done because as per the previous RRs 45 officers were eligible for promotion of Joint Director who joined their service in cadre of SSO w.e.f. 01-01-2019. There were 24 SC/ST officials (including 14 ST Officers) who were eligible for promotion for Joint Director as per previous RRs. The representatives of All India ESIC SC/ST Officers' and Employees' Federation made their submission to the ESIC and Ministry of Labour and Employment to consider their view point while drafting the new RRs. The


नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India

ESIC as well as Administrative 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.

4. The petitioner also raised issue of inappropriately giving of Non-functional promotion for the post of DD to DD(STS) to affected officers and non-giving of functional promotion for the post of DD(STS) to JD by counting of adhoc service against regular vacancy of DD and AD respectively in violation of various ratio decided and derived from Supreme Court Decisions which were clearly re-affirmed in recent judgment in Case ESIC & Others vs Awadesh Prasad Tripathi & Others, W.P.(C) 2723/2014.
5. The petitioner further raised issue of violation of Regulation 7 (1) of Employees' State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959 read with Amendment of 2011 to the "Employees' State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959" and submitted that all DDs were provided DD (STS) NFSG after completion of service of four years vide Office Order dated 27-02-2009, 22-09-2011, 11-11-2014 and 22-09-2015 but the adversely affected DDs were provided DD (STS) NFSG after completion of five years by creating defective RRs of DD in violation of above provisions of ESIC (Staff and Conditions of Service) Regulations, 1959. Hence, the sanctity of ESIC (Staff and Conditions of Service) Regulations, 1959 should be maintained by providing this benefit to affected DDs after completion of service of four years.
6. The DG informed that the action of amendment of RR was issued on the direction of Administrative Ministry and we have just followed the directions. The petitioner submitted that earlier five persons were promoted on the basis of failing clause of pre-existing RRs after seeking legal advice of Shri P.C. Hota, ESIC empanelled Advocate of Supreme Court of India and the proposal was processed in Administrative Ministry and approved by the then Hon'ble Minister for L&E. Later on the same RR were declared as anomalous in same file with approval of Administrative Ministry.
7. The representative of Ministry of Labour & Employment informed that the letter was just an advisory and not direction issued under Section 92 of ESI Act, 1948 for declaring the RR as anomalous.
8. The Commission observed that in the process of change in RRs, the views/comments of the affected candidates/parties are to be taken into consideration but in instant case it appears that the view point of officials who joined as SSO in the cadre has not been considered by ESIC and Ministry of Labour and Employment. There appears to be some glaring

violation of para No. 3.1.3 of DoPT Guidelines OM No. AB-14017/48/2010 Estt. (RR) dated 31-12-2010. The management of ESIC had misused arbitrarily the scope of interpretation of word "may" and "could" used in DoPT Guidelines for harming the interest of affected persons and to favour some person who otherwise were not eligible for promotion before the adversely affected persons.

9. The Commission, after listening to both sides made the following recommendation.

- 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.
- The DPC for the promotion of DD to JD for the years 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.
- 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".
- 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.

In compliance with the above recommendation, the Commission should be made aware of the action taken report within 1 month of receipt of the proceedings.

नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

7/59
4.6.019

NATIONAL COMMISSION FOR SCHEDULED TRIBES
(HS/1/2018/MLAB1/SEOTH/RU-III)

SUB : REPRESENTATION OF SHRI HEERA SINGH SECRETARY GENERAL, ALL INDIA ESIC SC/ST OFFICERS & EMPLOYEES FEDRATION, PANCHDEEP BHAWAN, WING NO.- PREM NAGAR, DEHRADUN (U.K) REGARDING 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 OUR OF WHICH 14 OFFICERS BELONG TO ST CATEGORY. ATTENDANCE OF PARTICIPANTS IN THE SITTING HELD ON 09/05/2019 AT 12.30 PM IN THE NATIONAL COMMISSION FOR SCHEDULED TRIBE, NEW DELHI.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

- | | | |
|-------------------------|------------------------|----------|
| 1. Shri Nand Kumar Sai, | Hon'ble Chairperson | IN CHAIR |
| 2. Ms. Anusuiya Uikey, | Hon'ble V. Chairpreson | |
| 3. Shri H. K Damor, | Hon'ble Member | |
| 4. Smt. M.C.I., | Hon'ble Member | |
| 5. Shri A.. K. Singh, | Secretary | |
| 6. Shri S. K. Ratho, | Joint Secretary | |
| 7. Dr. Lalit Latta, | Director | |
| 8. Shri A. K. Dwivedi, | Consultant | |

Officer of the ESIC, New Delhi

- | | |
|-----------------------|----------------|
| 1. Shri Raj Kumar, | DG |
| 2. Shri K G Suresh, | Joint Director |
| 3. Shri Manish Gupta, | Dy. Director |

Officer Of the Ministry of Labour and Employment,

- | | |
|----------------------------|------------------|
| 1. Shri Bijaynand Pattnaik | Deputy Secretary |
| 2. Santosh Kumar Singh | Under Secretary |

Petitioner

- | | |
|---------------------|---|
| 1. Shri Heera Singh | General Secretary, All India ESIC Fedration |
|---------------------|---|

Annexure - VI

By Speed Post



Government of India

National Commission for Scheduled Castes

(A Constitutional body set up under Article 338 of the Constitution of India)

File No. H-11/Labour-7/2018/SSW-II

Case No. 224/35/5/2018-1424

5th Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003

Dated : 27.03.2019

To,

The Director General
Employees' State Insurance Corporation (ESIC)
Head Office, Panchdeep Bhawan,
(CIG) Road, New Delhi-110002

The Secretary (Labour)
Ministry of Labour & Employment
Shram Shakti Bhawan
New Delhi-110001

Sub : Discrimination and Harassment in Services against Scheduled Castes.

Sir/Madam,

I am directed to forward proceedings of hearing held on 07.02.2019 before Dr. (Ms.) Swaraj Vidwan, Hon'ble Member of this Commission for taking necessary action and submission of action taken report within 20 days.

Received
27/3/19

1013-1015
27/3/19

Yours faithfully,

(D.K. Gupta)
Section Officer-SSW-

Copy to:-

Shri Heera Singh
General Secretary
All India ESIC SC/ST Officers' & Employees Federation
Panchdeep Bhawan, Wing No.4, Shiv Puri
Prem Nagar, Dehradun
Uttaranchal

National Commission for Scheduled Castes
File No. H-11/Labour-7/2018-SSW II
Minutes of the hearing on 07.02.2019

The hearing held on 07.02.2019. Shri Manish Gupta, Joint Secretary, M/o L&E, Shri R.S. Shrivastav, Director, ESIC, Shri Bhupendra Kumar, DD, ESIC, and petitioner Shri Heera Singh were present in the hearing.

The case was taken up. The petitioner appraised the Commission that the Department has opted for revision of RR in December 2018 for the post of Joint Director. The RRs are designed to favour the direct recruit officers. This was done because as per the previous RRs 45 officers were eligible for the promotion of Joint Director who joined their services in cadre of SSO w.e.t. 01.01.2019. There were 24 SC/ST officials who were eligible for promotion for Joint Director as per previous RRs. The representatives of All India ESIC SC/ST Association made their submission to the ESIC and Ministry of Labour and Employment to consider their view point while drafting the new RRs. 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. AB14017/48/2010 estt. (RR) dated 31.12.2010 by misleading the apex body of ESIC.

The petitioners also raised the issue of promotion for the post of DD to JD by counting of adhoc service of Assistant Director from 26.09.2003.

It was submitted 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 Commission observed that in the process of change in RRs, the views/comments of the affected candidates/parties are to be taken into consideration but in these instant case it appears that the view point of officials who joined as SSO in the cadre has not been considered by ESIC and Ministry of Labour and Employment. There appears to be some violation of DoPT para no. 3.1.3 of DoPT OM No. AB14017/48/2010 estt. (RR) dated 31.12.2010.

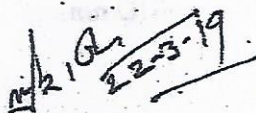
The department has not counted the adhoc service of AD although these ADs were promoted against the regular vacancies.

In view of above the Commission recommends that the case may be reviewed the view point/suggestions of the All India ESIC SC/ST federation must be considered to provide the justice to the petitioners. The adhoc period of ADs who were promoted against the regular vacancies may be counted for the purpose of promotion as per rules.

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.

The DoPT O.M. No. AB14017/48/2010 estt. (RR) dated 31.12.2010 may be implemented in toto by the Department.

ATR within 20 days.


(Dr. (Ms.) Swaraj Vidwan)
Member

Annexure - VII



Government of India

National Commission for Scheduled Castes

(A Constitutional body set up under Article 338 of the Constitution of India)

File No. H-11/Labour-7/2018/SSW-II

5th Floor, Loknaya Bhawan,
Khan Market,
New Delhi-110003
Dated:-16.03.2020

To

Shri Heera Singh
General Secretary,
All India ESIC SC/ST Officer's & Employees Federation
Panchdeep Bhawan, wing No. 4
Shiv Puri, Prem Nagar,
Dehradun, Uttarnchal.

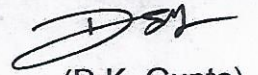
Sub: Representation received from Shri Heera Singh, General Secretary, regarding discrimination and harassment in services.

Sir/Madam,

I am directed to refer to the subject mentioned above and to enclose a copy of the reply/action taken report received from concerned authorities/department vide letter NoA-12(11)3/2017-E.I(Vol.IV) dated 09.12.2019 for your information.

Encl: As above

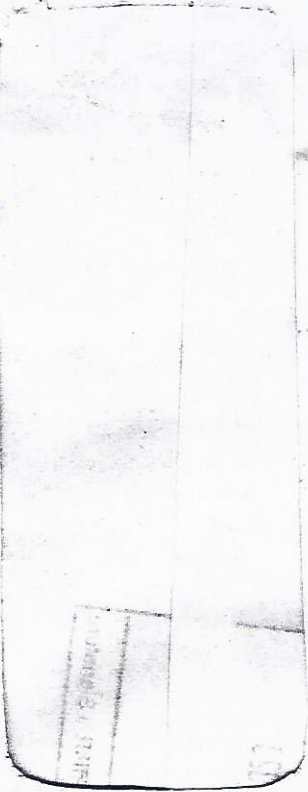
Yours faithfully,


(D.K. Gupta)
Section Officer

Received on 12 June, 20.



H-11/above/7/2018/SSW-11



Despatch
NCSC
5th Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003



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ON INDIA GOVERNMENT SERVICES

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Market Road BNPL SP Hub	08/06/2020 18:18:15	248001	41.30	Inland Speed Post	Dehradun GPO	10/06/2020 13:06:19

Event Details For : ED497012362IN

Current Status : Item Delivery Confirmed

Date	Time	Office	Event
10/06/2020	13:06:19	Prem Nagar SO Dehradun	Item Delivery Confirmed
10/06/2020	10:51:45	Prem Nagar SO Dehradun	Out for Delivery
10/06/2020	10:28:32	Prem Nagar SO Dehradun	Item Received
10/06/2020	04:21:44	Dehradun NSH	Item Bagged
09/06/2020	20:27:58	Dehradun NSH	Item Received
08/06/2020	22:05:07	Market Road BNPL SP Hub	Item Dispatched
08/06/2020	20:42:27	Market Road BNPL SP Hub	Item Bagged
08/06/2020	18:18:15	Market Road BNPL SP Hub	Item Booked

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ROESI CORPORATION
देहरादून | DEHRADUN

11 JUN 2020

आमरी न० Diary No.	हस्ताक्षर Signature
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APPENDIX-XI

EXAMINATION OF THE SUGGESTIONS/COMMENTS RECEIVED FROM THE STAKEHOLDERS IN CONNECTION WITH PROPOSED AMENDMENTS/FRAMING OF RECRUITMENT REGULATIONS FOR THE POSTS OF DEPUTY DIRECTOR, SENIOR DEPUTY DIRECTOR AND REGIONAL DIRECTOR GRADE 'B'/JOINT DIRECTOR IN ESI CORPORATION AS PUT UP ON THE OFFICIAL WEBSITE OF ESIC VIDE MEMORANDUM NO. A-12(11)3/2017-E.I DATED 29.12.2017 IN COMPLIANCE OF DOPT OM NO. AB-14017/61/2008-ESTT. (RR) DATED 13.10.2015.

Sl. No.	NAME OF THE OFFICER Sh/Smt.	Objections/Suggestion received	Examination of suggestions/comments
1 to 6	<p>Tessy Franco, DD, SRO Thiruvannathapuram</p> <p>Boben Rapheal, Deputy Director, RO Thrissur, Kerala</p> <p>G. Kuruppan, DD, ESICH Ernakulam</p> <p>E. D. Raveendran, DD (STS), SRO Kozhikode</p> <p>K. Sasidharan, DD, SRO, Coimbatore</p> <p>J. Varghese, DD, SRO Kozhikode</p>	<p>1. Existing RRs for the post of Regional Director Grade 'B'/Joint Director published on 02.11.2013 and there are no compelling circumstances for amendments of the proposed RRs within 4 years. By increasing the residency period for promotion to the post of Joint Director No. of Officers including us will be adversely effected. As per existing RRs, we would be eligible for promotion on 01.01.2019.</p> <p>2. As per DoP&T instructions vide letter No. AB.14017/48/2010-Estt. (RR) dated 31.12.2010, para 3.1.3 provides for insertion of proviso clause as follows Para 3.1.3 <i>"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 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, could be included in the revised rules"</i></p> <p>3. The draft notification is not legally sustainable. There is no such posts of "Sr. Deputy Director" in pre-revised PB-3 GP Rs. 6600/- in ESIC. As there is no order regarding creation of the post of "Sr. Deputy Director" as on date of publishing of draft notification, the draft RR formulated taking into consideration the service in an assumed cadre is not legally valid.</p> <p>4. As per existing RRs, we would complete 12 years of combined regular service as Assistant Director and Deputy Director by 08.11.2018 and will be eligible for promotion w.e.f. 01.01.2019 whereas as per draft RRs we will have to wait further from 24.07.2017 to become regular Sr. Dy. Director first depending on the vacancy position which ultimately delays my legitimate right for promotion. This may result in denial of chance of promotion as many of the DDs like me now STS may retire within 3 to 5 years period.</p> <p>5. Draft RRs will provide undue advantage to Directly</p>	<p>1. In the pre-revised recruitment regulations for the post of Regional Director Grade 'B'/Joint Director notified on 22.7.1995, for promotion to the post, five years regular service as Deputy Director (Insurance/Administration/Finance/Training) was prescribed.</p> <p>In the year 2011 hierarchal structure of the aforesaid two posts was changed with up gradation of the post of Regional Director Grade 'B'/Joint Director from Grade Pay Rs. 6600/- to Grade Pay Rs. 7600/- and provision of grant of (STS) to Deputy Directors in the grade pay of Rs. 6600/-. Due to change in the hierarchal order of the posts, revised RRs for the post of Regional Director Grade 'B'/Joint Director were notified on 2.11.2013. In the revised RRs, for promotion to the post of Joint Director ten years regular service as Deputy Director under Primary Clause and twelve years combined service as Deputy Director and Assistant Director out of which five years regular service as Deputy Director has been provided.</p> <p>The revised provisions of the RRs for the post were notified with the approval of the ESI Corporation, MoL&E, UPSC and after taking opinion from the DoP&T.</p> <p>The revised provisions in the RRs are creating a peculiar situation where junior Deputy Directors appointed to the post by promotion are being considered for promotion to the post of Joint Director ignoring senior Deputy Director appointed by direct recruitment.</p> <p>The MoL&E vide their letter No. S-38016/21/2013-SS.I dated 29.11.2016</p>

		<p>Recruited Dy. Directors at the same time totally denying the legitimate rights of promotion to the promoted Deputy Directors from the cadre of Assistant Director.</p> <p>6. Frequent changes in RRs/Framing proposed draft RRs is not serving any real purpose to the Corporation interest also but merely aimed at non inclusion of portion of service of promoted deputy directors to deny them a possible chance for promotion.</p> <p>7. It is requested that the proposal for amendments in RRs for the post may kindly be dropped.</p>	<p>(date was inadvertently written as 29.11.2015) directed the ESIC to examine the issue and send the proposal to the Ministry for amendment to recruitment regulations in consultation with UPSC.</p> <p>2. Paragraph 3.1.3 of the DoP&T OM No. AB.14017/48/2010-Esttrr (RR) dated 31.12.2010, does not apply in the instant case as here qualifying service for promotion has not been enhanced. By present revision in the RRs hierarchal structure from Deputy Director to Regional Director Grade 'B'/Joint Director is proposed to be changed.</p> <p>3. The post of Senior Deputy Director is a new proposed post with specified number of post in place of existing post of Deputy Director (STS) and approval of the competent authority is being taken simultaneously with this proposal.</p> <p>4. Revised provision has been provided as per direction of the MoL&E and in order to remove the anomaly in the existing RRs for the post of Regional Director Grade 'B'/Joint Director.</p> <p>5. There will be no undue advantage to the directly recruited Deputy Directors. On the contrary in the existing RRs many Deputy Director appointed by direct recruitment are in disadvantageous position as their junior are being considered for promotion before them.</p> <p>6. Present proposal for amendments in RRs for the post is as per direction of the MoL&E and also that after implementation of seventh CPC recommendations revision in RRs for the post was already due.</p>
7 to 9	<p>M. Asokan, DD, RO, Chennai</p> <p>V. Md. Abdul Kareem, DD, SRO Coimbatore</p> <p>S. Vijayan, DD, RO, Chennai</p>	<p>1. Draft RRs for Sr. Deputy Director:- There is no need to create a separate cadre as Sr. Dy. Director. The status-quo may be maintained.</p> <p>2. In accordance with DoP&T O.M. No. AB-14017/48-2010 para 3.1.3, the following notes should be inserted in draft RR of Joint Director. <i>"Failing which combined regular service of 12 years in the Grade of Deputy Director in Level – 10 (Rs. 56,100-1,77,500/-) including the regular service rendered as Deputy Director (STS) with pay matrix level 11 (Rs. 67,700-2,08,700/-) and Assistant Director or Section Officer or Manager Gr. -I in the pay matrix level 8</i></p>	<p>These suggestions have already been examined against Sl. No. 1 to 6</p>

		<p>(47,600-1,51,100/-), out of which 5 years of regular service should be in the grade of Deputy Director in the Grade of Deputy Director in Level -10 (Rs. 56,100-1,77,500/-) (including the regular service rendered as Deputy Director (STS) with Pay Matrix Level 11 (Rs. 67,700-2,08,700/-)"</p> <p>3. It is therefore humbly requested to consider the above mentioned comments positively.</p>	
10.	Heera Singh, DD(STS), SRO Nand Nagri	<p>1. The post of Dy. Director and Assistant Director are functionally similar having same delegation of powers. Hence, functionally the cadre of Asstt. Director and Dy. Director should be treated as same. Grievances with respect to proposed draft RRs are as follows:-</p> <p><u>For draft ESIC Deputy Director Recruitment Regulations 2017</u></p> <p>1. The existing RR of Dy. Director had come into existence on 12.12.2014 with provision of NFSG to Dy. Director in column 4 of schedule of regulation. By proposing draft RRs, we are reviewing it just after 3 years which is violation of part 3 para 3.1.5 of guidelines on framing/amendments/relexation of recruitment rules and clearly indicates biasedness of management towards a particular group of officers. The abstract of guidelines is as follows:-</p> <p><i>"The recruitment rule 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."</i></p> <p>2. The process of circulating draft ESIC Dy. Director recruitment regulation 2016 is still under process and even before the same could be finalized this new draft recruitments regulations 2017 has also been circulated.</p> <p>3. The number of posts of DDs in draft regulation of 2016 was shown 515 and in draft regulation 2017, it is shown 385.</p> <p>4. Column No. 4 of schedule RRs provides for giving non function pay scale in level 11 of pay matrix on completion of five years which is contrary to earlier practices in which the Deputy Directors were given Non Functional Sr. Time Scale just after completing four years of service.</p>	<p>1. Due to proposed change in the hierarchal structure of the posts with introduction of the post of Senior Deputy Director with specified number of post in place of Deputy Director (STS) amendments in RRs for the post of Deputy Director is essential.</p> <p>2. If the present proposal for amendments in RRs for the post of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director is approved, the previous proposal for amendments in RRs for the post of Deputy Director initiated in 2016 will become infructuous due to change in the hierarchal structure.</p> <p>3. Number of posts has been decreased due to provision of specified number of posts in the higher post of Senior Deputy Director.</p> <p>4. In the existing RRs for the post of Deputy Director notified in 2015 Non Functional Pay Scale has been provided after five years of regular service.</p>

For draft ESIC Sr. Deputy Director Recruitment Regulations 2017

1. 180 posts of Sr. Dy. Director has not yet been created and sanctioned by the appropriate authority. Hence, declaring No. of posts 180 in Recruitment Year 2017 is grossly incorrect and manipulation with facts of the case.

2. The existing RR of Dy. Director had come into existence on 12.12.2014 with provision of NFSG to Dy. Director in column 4 of schedule of regulation. By proposing draft ESIC Sr. Dy. Director RRs, we are reviewing it just after 3 years which is violation of part 3 para 3.1.5 of guidelines on framing/amendments/relaxation of recruitment rules and clearly indicates biasedness of management towards a particular group of officers.

3. In column No. 11 of draft RR of Sr. Deputy Director no failing which clause is incorporated and as per DOP&T guidelines, failing clause should be inserted. The management is changing all RRs for benefit of 11 officers who are going to be benefited from this undue and untimely changing of RRs.

For draft ESIC Regional Director Gr. B/Joint Director Recruitment Regulations 2017

1. The existing RRs for the post of Regional Director Gr. B/Joint Director is as per the guidelines prescribed by DoP&T for formulating recruitment rules and is beneficial for me. Changing it in any-way will hamper my promotion prospects. Hence the same is opposed.

2. As per DoP&T instructions vide letter No. AB.14017/48/2010-Esttrr (RR) dated 31.12.2010, para 3.1.3 provides for insertion of proviso clause as follows
Para 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 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, could be included in the revised rules"*

3. The draft RRs have been designed in such a way that it is going to make 11 officers eligible after completion of just 9 years on 01.01.2019 whereas as per the existing RRs and DoP&T guidelines, they are eligible after completing 10 years of service on 01.01.2020. On the Contrary, as per the existing RRs 2013, total of 45 officers (including my self) are going

1. The post of Senior Deputy Director is a new proposed post with specified number of post in place of existing post of Deputy Director (STS) and approval of the competent authority is being taken simultaneously with this proposal.

2. Due to proposed change in the hierarchal structure of the posts with introduction of the post of Senior Deputy Director with specified number of post in place of Deputy Director (STS) amendments in RRs for the post of Deputy Director is essential.

3. There is no such DoP&T guidelines which prescribed incorporation of failing which clause necessarily. On the contrary one of the reasons for amendments in RRs for the posts of Regional Director Grade 'B'/Joint Director is to remove anomaly arising due to incorporation of failing which clause in the RRs of the post.

1. 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.

2. 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. By present revision in the RRs hierarchal structure from Deputy Director to Regional Director Grade 'B'/Joint Director is proposed to be changed.

3. Revised provision has been provided as per direction of the MoL&E and in order to remove the anomaly in the existing RRs.

to be eligible on 01.01.2019. Whereas if the RRs are amended as proposed, I alongwith 44 other officers will become eligible on 01.01.2024.

4. The person who are beneficiary of proposed draft RRs had already reaped unlawful benefit of getting Non functional promotion for the post of Dy. Director STS after just completing 4 years of services without mandate of the then existing RRs and also in violation of DoP&T instructions as contained in para 3.12.2.

5. The 1st Note of column No. 11 of schedule draft RR 2017 states that "service rendered by Sr. Dy. Director in Non functional pay scale under the nomenclature of Dy. Director Sr. 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:-

I. The use of this provision will allow direct recruitment officers double benefit for nothing for following reasons:-

(a) financial upgradation benefit for non functional post
(b) use of this non functional experience counted as functional experience.

II. The beneficiaries have gained this non functional promotion through backdoor entry in just four year in DoP&T guidelines as contained in Para 3.12.2 whereas many of the officers were provided non function promotion after five years only.

6. 135 posts of Joint Directors as per existing RRs has been changed to 94 in draft RRs 2017. The note marked as asterisk is contradictory as it reflects that the figure is not yet finalized.

7. The proposed draft RRs are in violation of Para 3.1.5 of existing guidelines for framing/amendments/relaxation of recruitment rules which provides review of RRs once in 5 years.

8. In column No. 11, the proposed primary clause should have failing which clause as per DoP&T clause which clearly proved that the management is changing all recruitment regulations for benefit of 11 officers who are going to be benefited from these undue and untimely changing of RRs.

Hence, incorporation of new ESIC Recruitment Regulations 2017 for the post of Dy. Director, Sr. Dy. Director and Regional Director Gr. B/Joint Director is opposed.

4. 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.

5. (i) The Note has been provided as per DoP&T guidelines. However this provision will also be scrutinized by MoL&E and UPSC.

(ii) The Deputy Director (STS) has been granted to eligible Deputy Director initially after four years 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.

6. 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.

7. 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.

8. This suggestion is not as per DoP&T guidelines.

No. 20011/1/2012-Estt. (D)
Government of India
Ministry of Personnel, Public Grievances & Pension
Department of Personnel & Training

North Block, New Delhi,
Dated the 4th March, 2014

OFFICE MEMORANDUM

Subject: Inter se seniority of direct recruits and promotees - instructions thereof

The undersigned is directed to refer to the subject mentioned above and to say that the fundamental principles of inter se seniority of direct recruits and promotees in Central Civil Services/posts were laid down in the Department of Personnel & Training (DOPT) O.M. No. 9/11/55-RPS dated 29.12.1959 which provided, inter alia, that the relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees, which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively, in the Recruitment Rules.

2. The carrying forward of unfilled slots of a vacancy year, for being filled up by direct recruits of later years, was dispensed with through modified instructions contained in DoPT O.M. No.35014/2/80-Estt.(D) dated 7.2.1986 which provides that rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. The unfilled direct recruitment/promotion quota vacancies would be carried forward and added to the corresponding direct recruitment/promotion quota vacancies of the next year (and to subsequent years where necessary) for taking action for the total number of direct recruitment/promotion according to the usual practice. Thereafter, in that year, while seniority will be determined between direct recruits and promotees, to the extent of the number of vacancies for direct recruits and promotees, as determined according to the quota for that year, the additional direct recruits/promotees selected against the carried forward vacancies of the previous year, would be placed en-bloc below the last promotee/direct recruit, as the case may be, in the seniority list, based on the rotation of vacancies for that year.
3. All the existing instructions on seniority were consolidated by DoPT through a single O.M. No. 22011/7/86-Estt(D) dated 03.07.1986.
4. In view of divergent stance taken by different Ministries/Departments on interpretation of 'available direct recruits and promotees' in the context of OM dated 7.2.86, the DoPT had issued O.M. No. 20011/1/2006-Estt.(D) dated 3.3.2008 which provided that the actual year of appointment, both in the case of direct

recruits and promotees, would be reckoned as the year of availability for the purpose of rotation and fixation of inter se seniority.

5. The matter has been examined in pursuance of Hon'ble Supreme Court Judgment on 27.11.2012, in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar vs. UOI & Ors in consultation with the Department of Legal Affairs and it has been decided, that the manner of determination of inter-se-seniority of direct recruits and promotes would be as under:

- a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent/withdrawn *ab initio*;
- b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of *inter se* seniority between direct recruits and promotees;
- c) The available direct recruits and promotees, for assignment of *inter se* seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;
- d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;
- e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.
- f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;
- g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;
- h) The above principles for determination of *inter se* seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors

- i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened.

7. As the conferment of seniority would be against the Recruitment Year in which the recruitment process is initiated for filling up of the vacancies, it is incumbent upon all administrative authorities to ensure that the recruitment process is initiated during the vacancy year itself. While requisition for filling up the vacancies for direct recruitment should be sent to the recruiting agency, complete in all respects, during the vacancy year itself, the timelines specified in the Model Calendar for DPCs contained in DoPT O.M. No.22011/9/98-Estt(D) dated 8.9.98 and the Consolidated Instructions on DPCs contained in O.M. No.22011/S/86-Estt(D) dated April 10, 1989 should be scrupulously adhered to, for filling up the vacancies against promotion quota.



(Mukta Goel)
Director

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13. NIC for updation on the website.



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