



# 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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**VICE-PRESIDENT (NORTH)**  
MAHINDER SINGH

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HEERA SINGH  
Mob. No. 9868241160

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ANIL KUMAR

**SECRETARY (FOR NCR)**  
JAGDISH

**FOUNDER MEMBER**  
SHRI BHAGWATI PRASAD  
RETD. INS. COMMISSIONER

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**SECY. FINANCE**  
RAJ KUMAR

**ASSISTANT SECY. FINANCE**  
UMESH KUMAR

**VICE-PRESIDENTS**  
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G. SELVA KUMAR(S. ZONE)  
RAJENDRA TUDU(E. ZONE)  
M. G. SORTE (W. ZONE)

**ASST. SECY GENERAL**  
ANITA SURESH(N.ZONE)  
G. NARAYAN SWAMY(S.  
ZONE)  
R. N. MALLICK (E. ZONE)  
SUNIL KR. DEDE (W. ZONE)

**JOINT SECRETARY**  
KULDEEP KUMAR(N. ZONE)  
D. Y. GIRI (S. ZONE)  
VIDHYANAND DAS(E. ZONE)  
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GOVERDHAN DAS(N. ZONE)  
K. SATYANARAYANA SWAMY  
(S. ZONE)  
SUDIP KUMAR SARKAR  
(E. ZONE)  
RAM CHANDRA JATIA  
(W. ZONE)

**INTERNAL AUDITORS**  
KULDEEP KUMAR  
KAILASH CHAND

F.No.AIESIC.SC/ST.FED.2015-088

Dated 29<sup>th</sup> December, 2020.

To,

**Prof. (Dr.) Pradeep Kumar Joshi**

Chairman,

Union Public Service Commission (A.P.2),

Dholpur House, Shahjahan Road,

New Delhi – 110069.

Subject: **Regarding - Gross Irregularities in the DPC  
Proposal for Promotion of the non-existent  
post of Sr. Deputy Director in ESIC.**

Respected Sir,

It has been noticed since last two years that ESIC in order to favour Directly Recruited Officers had unlawfully meddled with pre-existing RR for the post of Regional Director Gr. 'B'/Joint Director, Deputy Director without following the requirement of cadre restructuring and placed an Agenda Supplementary II for amendments of Recruitment Regulations for the post of Deputy Director, Sr. Director and Regional Director "Gr. B"/Joint Director in 173rd Meeting of ESI Corporation held on 16<sup>th</sup> February, 2018. The agenda also submitted proposal for framing of Recruitment Regulations for the non-existent post of Senior Deputy Director in pay matrix of Level 11.

2. The issues involved in agenda were:

- a) for framing of Recruitment Regulations for the non-existent post of Senior Deputy Director in pay matrix of Level 11,
- b) for amendments of Recruitment Regulations for the post of Deputy Director and Regional Director "Gr. B"/Joint Director.
- c) Reduction of the post of Deputy Director and Joint Director.
- d) Removing of Non-functional upgradation of Deputy Director.

Contd. Page No. 2/-

Since, all matter pertains to the Cadre Restructuring, it was opposed by some of the members of the august house to refer matter to cadre restructuring committee as was also recorded in minutes of the meeting. (Enclosed as Annexure – A).

3. One of the Hon'ble Members (Shri R.K. Tripathi) expressed his concern that posts of Sr. Deputy Director is being created, and existing posts of Deputy Director is being reduced. The issue pertains to the Restructuring and the same may be referred to the Restructuring Committee. (Annexure – A)

4. One of the Hon'ble Members (Shri C.P. Singh) also expressed his concern over the frequent changes being made in RRs and it was also expressed that this issue basically involves curtailment / creation of posts, which needs to be examined thoroughly and hence recommended the issue to be referred to the Restructuring Committee. (Annexure – A).

5. The then DG, ESIC also stated that the Restructuring Committee looks into the requirement of staff and officers and this matter pertains to only change of Recruitment regulations which has been framed as per DOPT norms and it shall be examined at the level MoL&E/DoPT/UPSC. (Annexure – A).

6. Here the then DG, ESIC had also proposed for only change of Recruitment Regulations which was approved by the House.

7. Hence, only Recruitment Regulations for the post of Deputy Director, Sr. Deputy Director and Regional Director Gr. B/Joint Director were approved by the House as these were proposed for change only. The Recruitment Regulation for the non-existent / not created post of Senior Deputy Director was initial and advance framing of RR.

8. In view of above the Ministry of Labour and Employment vide their letter No. S-38016/21/2013-SS-I (Pt.III) dated 03-12-2018 had directed ESIC to put the matter of creation of new posts of Sr. Deputy Director in the forthcoming meeting of ESI Corporation to be held on 05-12-2018 and to get the approval of the Corporation for same. (Annexure – B)

9. The direction of Administrative Ministry was violated by the then DG, ESIC and the proposal for creation of new post of Senior Deputy Director was not placed for approval of apex body in meeting of ESI Corporation held on 05-12-2018. Further to it, it was wrongly reported in Supplementary Reporting Item No. ESIC-2 that, it is desired by the MoL&E that a reporting item regarding creation of posts of Senior Deputy Director be placed in the next meeting. (Annexure – C)

10. While discussing the Action taken Report on the Recommendations/ Decisions of the 181<sup>st</sup> meeting of ESI Corporation held on 13.02.2020 under Agenda Item No. ESIC-2 placed before 182<sup>nd</sup> meeting of ESI Corporation, Shri S.P. Tiwari, Hon'ble Member had raised the issue that creation of post of Senior Deputy Director has only been reported to the corporation and the same has not been examined by the Sub-Committee on Restructuring which was seconded by the Vice-chairman also. Hon'ble Chairman also concurred with this and said that report of restructuring committee may be submitted within a month. But till today the matter of creation of new posts of Sr. Deputy Director has not been placed in the meeting of ESI Corporation. (**Annexure – D**). From this it is amply clear that the post of Sr. Deputy Director is neither examined by the cadre restructuring committee nor approved by apex body of ESIC. Hence, the posts of Sr. Deputy Director are non-existent.

11. Some, of the Officers, in order to fulfil their personal gains are misleading not only Management of ESIC, but Hon'ble UPSC also and regularly pursuing proposal for conducting DPC for the post of Sr. Deputy Director which still today is non-existent.

12. Hence, this proposal is infected from following defects:

- i) Since, even today the post of Sr. Deputy Director stands non-existent, the sending of proposal for promotion for the post of non-existent post of Sr. Deputy Director is unlawful and defective and also violation and breach of privilege of apex body of ESIC in which some of members are Member of Parliament also including Hon'ble Minister for Labour and Employment.
- ii) The seniority list which was submitted with the proposal for DPC has violated DoP&T OM No. 35014/2/80-Estt (D) dated 7<sup>th</sup> February, 1986 (Enclosed as **Annexure - E**) by keeping notional and actual slots in all three seniority lists. The extract of relevant portion of para 3 of OM is as follows :

“the present practice of keeping vacant slots for being filled up by direct recruits of later years, thereby giving them unintended seniority over promotees who are already in position, would be dispensed with. Thus, if adequate number of direct recruits do not become available in any particular year, rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees.”

It is also violation of principle laid down by the Hon'ble Apex Court in K. Meghachandra Singh & Others versus Ningam Siro & Others in case No. Civil Appeal NO. 8833-8835 of 2019.

- iii) The unlawful seniority list submitted in the matter is under dispute in Principal Bench of Hon'ble CAT of Delhi in OA Case No. 1545/2020 filed by Shri Praveen Kumar vs ESIC also. (**Annexure – F**)
- iv) In recent time the Hon'ble CAT of Jaipur Bench in OA No. 291/194/2020 and Jammu Bench in OA No. 061/958/2020 had set a side seniority lists of UDCs casted in ESIC on the basis of similar defective principle. The Principal Bench, Delhi in OA No. 2579/2014 (MA No. 2202/2014) had also set a side seniority on similar grounds in Department of Posts.
- v) Here, it is also submitted that, many of the Deputy Directors who are going to be screened for promotion are still working on probation and hence the DPC proposal is defective and incomplete. Here, it is also reminded that the Note 4 of Column 11 of Recruitment Regulation for the post of Senior Deputy Director clearly prescribes that those who are promoted on relaxed terms in view of being senior to promoted juniors must have successfully completed their probation.
- vi) The third instalment of Seniority list was circulated on date 24-11-2020 and objections were called till 30-11-2020 by just giving time of six days only (three working days) against the norms of giving period of 30 days for filing objections.
- vii) Further to it, the Competent Authority to take decision on objections against Seniority list is Director General, ESIC and the Order has to be passed by the competent authority only, whereas the order for communicating third seniority list was issued by Insurance Commissioner (P&A) hence, the order is void-ab-initio for want of competence.
- viii) The DG, ESIC and UPSC had not been informed about all complaints, legal notices submitted before the litigation Committee of ESIC, judgment in various legal cases and impending court case on similar matter which are pending since long for examination and decision.
- ix) All these irregularities are being done on the behest of some corrupt officers who have indulged themselves in anti ESIC and anti-national conducts for gaining undeserving favour from management. And,, by such action Officers of SC and ST category were made to suffer.
- x) In this regard, the Recommendations of Chairman, National Commission for Scheduled Tribes and National Commission for Scheduled Castes with respect to creation of these RRs are still pending for compliance and not properly reflected before the DG, ESIC and UPSC before submitting this DPC Proposal. (**Annexure – G & H**)



13. Hence, it is requested for following actions :

- i) Since, even today the post of Sr. Deputy Director stands non-existent, hence, the proposal for promotion of DPC for the post of Sr. Deputy Director may be turned down.
- ii) The ESIC may be directed to Create new posts of Sr. Deputy Director and curtailment of post of Deputy Director and Joint Director after it is examined by Cadre Restructuring Committee of ESIC in consonance with the approval of apex body.
- iii) Since, the Seniority list is drawn in violation of DoP&T OM No. 35014/2/80-Estt (D) dated 7<sup>th</sup> February, 1986 and legal principle laid down by Hon'ble Apex Court in the case K. Meghachandra Singh & Others versus Ningham Siro & Others in case No. Civil Appeal NO. 8833-8835 of 2019, the ESIC may be directed to recast the seniority list or seek approval of DoP&T for such deviation.
- iv) To issue direction to Administrative Ministry to examine violation of their direction communicated vide letter No. S-38016/21/2013-SS-I (Pt.III) dated 03-12-2018 (enclosed **Annexure – B**) and other above indicated irregularities and take suitable action against those who are manipulating with and not implementing approved agendas in its true spirit and bypassing the decision of apex body of ESIC.

Thanks in anticipation of prevalence of Justice and Rule of Law.

Yours faithfully,



( Heera Singh )  
Secretary General

**Enclosed: As above.**

Copy to :

1. The Secretary, Ministry of Labour and Employment, Sharam Shakti Bhawan, New Delhi – for information and necessary action please.



Secretary General

**By speed**



EMPLOYEES' STATE INSURANCE CORPORATION  
'PANCHDEEP BHAWAN', C.I.G. ROAD, NEW DELHI - 110 002.  
**e-mail** corporatcell.hq@esic.in t23230873

**No. V-11(15)-2/2017-Corp.Cell**

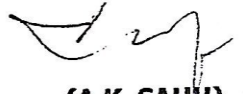
**Dated: 05.03.2018**

**Subject:- Minutes of 173<sup>rd</sup> meeting of ESI Corporation held on 16<sup>th</sup> February, 2018 at 3.00 P.M. reg.**

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Minutes of the 173<sup>rd</sup> meeting of ESI Corporation held on 16.02.2018 at 03:00 P.M. duly approved by the Chairman, ESI Corporation, are sent herewith.

Encl:- As above.

  
**(A.K. SAHU)**  
**JOINT DIRECTOR**

To  
**The Chairman, Vice-Chairman and Members of the ESI Corporation.**

Copy for information to:-

1. All Divisional Heads at Hqrs. Office.
2. Director (SS-I), Social Security Division, Ministry of Labour & Employment, Govt. of India, New Delhi.
3. Under Secretary (SS-I)/Section Officer (SS-I), Ministry of Labour & Employment, Govt. of India, New Delhi.
4. Finance-II, Ministry of Labour & Employment, New Delhi.
5. P.S. to Director General for kind information.

**MINUTES OF THE 173<sup>RD</sup> MEETING OF THE ESI CORPORATION HELD ON 16.02.2018 AT 3:00 PM AT PRAGATI MAIDAN, NEW DELHI**

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List of the Members who attended the meeting is at Annexure-I.

At the outset, the Director General, ESIC welcomed the Hon'ble Minister for Labour & Employment / Chairman, ESIC & all members of the Corporation, briefed the agenda and requested the Hon'ble Chairman for welcome address.

The Hon'ble Chairman welcomed all the members in 173<sup>rd</sup> meeting of the Corporation. While introducing the agenda items, he invited the members for the detailed discussion for betterment of ESI Scheme. Thereafter, Hon'ble Chairman released the Quarterly Magazine January, 2018 ESIC Samachar.

Thereafter, the agenda items were taken up for discussion.

<b>Item No.</b>	<b>Confirmation of the minutes of the 172<sup>nd</sup> meeting of ESIC-1</b>
	<b>ESI Corporation held on 06.12.2017.</b>

Shri Dilip Bhattacharya expressed his concern that despite item No. ESIC-12 pertaining to shifting of ESI-PGIMSRS Maniktala, Kolkata to Joka was deferred, the Doctors and Staff Nurses have been transferred from the said institute, which is causing lot of problems for IPs. He also expressed his concern that ARM work is not being carried out in the hospitals due to the instruction issued by the Chief Engineer.

DG stated this issue of merger of ESI-PGIMSRS, Maniktala is being examined by the Committee constituted in this regard, however, withdrawal of Doctors and Staff has been made for only those disciplines which have not been recognized by MCI. HDC is functional in the concerned hospital for development of the hospital.

<b>Item No.</b> <b>ESIC-4</b>	<b>Release Of Referral Bills By The Office Of SSMC/SMC/MS/D(M)D/RD</b>
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State Representatives requested for setting up 24x7 Hospital in North Eastern State like Sikkim. DG stated that the issue would be looked into based on the norms prevalent in this regard.

The proposal was approved by the Corporation as contained in the memoranda.

#### **SUPPLEMENTARY ITEM-II**

<b>Item No.</b> <b>ESIC-1</b>	<b>Amendments/Framing of Recruitment Regulations for the posts of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director in ESI Corporation.</b>
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Shri R.K. Tripathi expressed his concern that posts of Sr. Deputy Director is being created, however, existing posts of Deputy Director is being reduced. He stated that this issue pertains to the Restructuring and the same may be referred to the Restructuring Committee.

Shri C.P. Singh expressed his concern over the frequent changes being made in RRs. He also expressed that this issue basically involves curtailment / creation of posts, which needs to be examined thoroughly. He requested that the issue may be referred to the Restructuring Committee.

DG stated that the Restructuring Committee looks into the requirement of staff and officers and this matter pertains to only change of recruitment regulations which has been framed as per DOPT norms and it shall be examined at the level MoL&E / DoPT / UPSC.

The House agrees with the views of Director General and the proposal was approved as contained in the Memoranda.



<b>Item No. ESIC-2</b>	<b>Adding Sub Regulations under Regulation 15, Sub Regulations under Sub Regulation 15A and 15B for devising a mechanism for control of misuse in respect of SST Referral System</b>
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The proposal was approved by the Corporation as contained in the memoranda.

<b>Item No. ESIC-3</b>	<b>Establishing Vigilance Inspection Unit in ESIC Hospitals</b>
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The proposal was approved by the Corporation as contained in the memoranda.

<b>Item No. ESIC-4</b>	<b>Modified Employer's Utilization Dispensary (Modified EUD)</b>
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The proposal was approved by the Corporation as contained in the memoranda.

<b>REPORTING ITEMS</b>	
1.	Report on AYUSH
2.	Status of Arbitration Case WIPRO Vs ESIC as on 1/01/2018.
3.	Cooperation between ESI Corporation and Gesellschaft fur International Zusammenarbeit (GIZ), Government of Germany in the field of health insurance for secondary care services under ESI Scheme.
4.	Status of ESIC Hospital Varanasi, U.P. which was earlier running as State Government run ESIS Hospital.
5.	Delegation of powers to Regional Directors to make appointments to Nursing and Paramedical cadre posts in ESIC.
<b>SUPPLEMENTARY REPORTING ITEM-I</b>	
1.	Implementation of ESIC Scheme in new areas as per ESIC 2.0 during the year 2016-17
2.	Minutes of the 210 <sup>th</sup> Meeting of Standing Committee held on 31/01/2018

No. S-38016/21/2013--SS-I (pt.III)  
Government of India  
Ministry of Labour & Employment  
Social Security Division  
[SS-I Section]  
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Shram Shakti Bhawan, Rafi Marg,  
New Delhi, dated November, 2018.  
03.12.2018

To  
The Director General  
ESI Corporation  
"Panchdeep Bhawan"  
CIG Marg,  
New Delhi - 110 002.

Sub:- Amendment/framing of Recruitment Rules for the posts of Dy. Director,  
Sr. Dy. Director and Regional Director Gr. 'B'/Jt. Director in ESIC  
alongwith revised creation/sanctioned strength for the said posts.

Sir,

I am directed to refer to ESIC's letter no. A-12(11)3/2017-E.I dt.  
05.11.2018 & 13.11.2018 on the above subject and subsequent power point  
presentation on the issue before Secretary L&E by ESIC on 29.11.2018

2. As decided in the meeting, ESIC is requested to put the matter of creation  
of new posts of Sr. Dy. Director in the forthcoming meeting of ESI Corporation  
to be held on 05.12.2018 to get the approval of the Corporation for the same.

g.  
3/12

Encl.:- as above.

Yours faithfully,

(S.K. Singh)

Under Secretary to the Govt. of India

ACIP2A)

<b>SUPPL. REP. ITEM NO. ESIC- 2</b>	<b>Creation of posts of Senior Deputy Director and revised sanctioned strength for the posts of Deputy Director and Regional Director Grade 'B'/Joint Director in ESI Corporation.</b>
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In the 173<sup>rd</sup> meeting of ESI Corporation held on 16.2.2018, the proposal for amendments/framing of recruitment regulations for the posts of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director in ESI Corporation along with revised sanctioned strength for the posts of Deputy Director and Regional Director Grade 'B'/Joint Director and for creation of posts of Senior Deputy Director was approved by the Corporation. (Minutes of the meeting enclosed as **APPENDIX-I**)

The Union Public Service Commission vide their letter No. 3/12(7)/2018-RR dated 6.8.2018 approved the draft RRs for the posts with some modifications with the advice to notify the RRs within ten weeks. The RRs approved by UPSC, were forwarded to the MoL&E for approval of the Government and legal vetting from the Ministry of Law & Justice.

The MoL&E vide their letter No. S-38016/21/2013-SS.I (Pt. III) dated 11.10.2018 directed ESIC to get the approval of ESI Corporation for creation/revised sanctioned strength in respect of the posts of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director.

The MoL&E was informed that the Agenda item, besides the draft RRs, contained the number of posts of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director proposed to be created/revised as placed in APPENDIX-I to the Agenda Item. Thereafter, as per approval of the ESIC in the 173<sup>rd</sup> meeting, the sanction letter for creation of posts of Senior Deputy Director and revised sanctioned strength of Deputy Director and Regional Director Grade 'B'/Joint Director has been issued vide ESIC Memorandum No. B-11/14/1/2018-E.III dated 22.3.2018. (**APPENDIX-II**) However, it was desired by the MoL&E that a reporting Item regarding creation of posts of Senior Deputy Director and revised sanctioned strength for the posts of Deputy Director and Regional Director Grade 'B'/Joint Director be placed in the next meeting of ESI Corporation.

Accordingly, the draft RRs for the posts of Deputy Director, Senior Deputy Director and Regional Director Grade 'B'/Joint Director will be notified in the Gazette of India after receipt of approval of the MoL&E.

The revised sanctioned strength as given in Appendix-II is submitted for kind information of the Corporation.

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**EMPLOYEES' STATE INSURANCE CORPORATION**  
**'PANCHDEEP BHAWAN', C.I.G. ROAD, NEW DELHI – 110 002.**  
**www.esic.nic.in (23230139**  
**Email:- corporatecell.hq@esic.nic.in**

**No. V-11(15)/01/2020-Corp. Cell**

**Dated:- 01.09.2020**

**Subject:- Minutes of 182<sup>nd</sup> meeting of ESI Corporation held on 20<sup>th</sup> August, 2020 at 03.00 P.M. -reg.**

Minutes of the 182<sup>nd</sup> meeting of ESI Corporation held on 20.08.2020 at 03:00 P.M. duly approved by the Chairman, ESI Corporation, are sent herewith for information and necessary action.

**Encl.:- As above.**

*Nishant Kumar*  
**(NISHANT KUMAR)**  
**DEPUTY DIRECTOR**

To,

**The Chairman, Vice-Chairman and Members of the ESI Corporation.**

**Copy for information to:-**

1. All Divisional Heads at Hqrs. Office.
2. Director (SS-I), Social Security Division, Ministry of Labour & Employment, Govt. of India, New Delhi.
3. Under Secretary (SS-I) / Section Officer (SS-I), Ministry of Labour & Employment, Govt. of India, New Delhi.
4. Finance – II, Ministry of Labour & Employment, New Delhi.
5. P.P.S. to Director General.



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**MINUTES OF 182<sup>ND</sup> MEETING OF EMPLOYEES' STATE INSURANCE CORPORATION HELD AT 3:00 PM ON 20-08-2020 THROUGH VIDEO CONFERENCING AT MAIN COMMITTEE ROOM, 'C' WING, SHRAM SHAKTI BHAWAN, MINISTRY OF LABOUR & EMPLOYMENT, NEW DELHI.**


The 182<sup>nd</sup> meeting of Employees' State Insurance Corporation was held at 3:00 PM on 20-08-2020 at Sham Shakti Bhavan, New Delhi through Video Conferencing. The meeting was chaired by Shri Santosh Kumar Gangwar, Hon'ble Minister of State (Independent Charge), Labour & Employment, Government of India and Chairman, ESIC.

**The list of members who attended the meeting is at Annexure- "I".**

At the outset Smt. Anuradha Prasad, Director General, ESIC, welcomed all the participants to the meeting. She stated that due to ongoing COVID-19 pandemic, the meeting of Corporation could be held after an interval of about six months. She briefed that during this period 219<sup>th</sup> meeting of Standing Committee was held on 06-07-2020 in which many decisions were taken including the approval of the Annual Accounts of ESIC for the financial year ending on 31-03-2020 which has been handed over to CAG for audit. After that she requested the Hon'ble Chairman, ESIC, to address the meeting.

Hon'ble Chairman welcomed Shri Ram Kripal Yadav, Member of Parliament and Member, ESIC, Shri Heeralal Samariya, Secretary, MoL&E and Vice Chairman, ESIC, Dr. K. K. Agrawal, Member ESIC, Director General, ESIC, Smt. Sibani Swain, A.S.&F.A., MoL&E, Ms. Vibha Bhalla, J.S., MoL&E and all other members of ESIC who had joined the meeting through Video Conferencing.

He stated that as everyone knew our country is undergoing a grave pandemic caused due to COVID-19 and therefore, in such a scenario though the responsibility of ESIC has grown manifold, ESIC has been able to perform its role very satisfactorily. He informed that as on today the ESI Scheme is implemented in 566 districts of India out of 722 districts. He also informed that 21 hospitals of ESIC have been declared as dedicated COVID Care centre by respective State Governments. In addition to this ESIC has been providing quarantine facility of 1300 beds through its hospitals situated in Bihta, Alwar, Korba and Gulbarga. He also informed that facility for COVID-19 testing as per ICMR guidelines has been provided in the ESIC hospitals of Faridabad, Basaidarapur and Sanath Nagar. The facility of plasma therapy is also provided at ESIC hospitals Faridabad and Sanathnagar. He expressed his gratitude to the Corona warriors of ESIC who have been at the forefront of war against COVID-19.



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He stated that the efficacy of the positive decisions taken in the meetings depends upon their implementation and added that there have been instances when the implementation of the decisions has been considerably delayed which needs to be checked. He pointed out that many cases relating to pendency of various bills have been brought to his knowledge which needs to be expedited. He also pointed out that decisions relating to promotion, Recruitment Rules, service matters, and terms & conditions of services of employees of ESIC need to be taken on priority basis. He observed that many posts are lying vacant and the same need to be filled up on urgent basis which would improve the services of ESIC and would also provide employment opportunities to the youths. He called for a time bound programme for filling up all vacancies. He also called for ensuring transparency in transfer and posting of employees of ESIC. He informed that he has directed ESIC to start online transfer and posting system by 2021.

He said that any services relating to ESIC beneficiaries should be stopped only when the arrangement of alternate and better facility has been ensured. He agreed that facility for all kinds of Secondary and Super Speciality treatment should be there in ESIC hospitals but also cautioned that decision relating to stopping of any kind of facility / services should be taken only after ensuring availability of alternate and better facility as these kinds of decision directly impact the beneficiaries and such decisions should be taken only after considering all relevant factors.

He informed that in many cases Non-COVID ESIC beneficiaries have not been provided medical treatment at Non-COVID ESIC hospitals and they have unnecessarily been forced to get themselves examined first for COVID-19 from other hospitals. The beneficiaries of ESIC should not be unnecessarily harassed and it should be ensured that no such instance is repeated in future. As soon as the matter came to his notice he constituted the Committee to investigate the matter and issued detailed guidelines to prevent reoccurrence of such incidences.

He drew the attention of the meeting to the role of "AYUSH" in fight against COVID-19 and said that ESIC should also take all efforts to propagate and provide the AYUSH facilities in all ESIC hospitals and pointed out that filling up the post of MC-AYUSH in ESIC would be an important milestone in this regard. He informed that he had met some Homeopathic personnel of ESIC who informed him that facility for providing homeopathic treatment is not being given sufficient attention. He said that it is good to provide attention to Allopathic mode of treatment but we should pay equal attention to other systems of medical treatment also.

He informed that to help our IPs in the situation caused due to Covid-19 a proposal for increasing the limit of unemployment allowance available under **Atal Beemit Vyakti**



**Kalyan Yojana** from 25% to 50% is being placed before the Corporation. The eligibility conditions under this scheme have also been proposed to be relaxed so that maximum eligible IPs can get the benefit.

He informed that the suggestions given by members of ESIC have been included as agenda item for this meeting so that we can get the benefit of their ground level experience to improve the services of ESIC.

After this he requested D.G., ESIC to carry on the proceedings of the meeting and present the agenda items and reporting items before the Corporation.

The agenda items and reporting items were presented by DG, ESIC before the Corporation. The item wise details of the discussion held in respect of each agenda item and reporting items is as under:

<b>ITEM No. ESIC-1</b>	<b>Confirmation of the Minutes of the 181<sup>st</sup> meeting of ESI Corporation held on 13.02.2020.</b>
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The Director General explained that two members Shri Saurabh Aggarwal and Shri S.P. Tiwari had submitted their comments on the Minutes of 181<sup>st</sup> meeting of ESIC which have been replied to them. No other comments have been received from the members.

Sh. Ghisulal B. Kalal stated that the issues raised by him in the previous meeting of ESIC have not been reported correctly. Chairman advised him to intimate his objection in writing so that the same may be corrected.

Hon'ble Chairman requested all members that if they have anything to say on the minutes of 181<sup>st</sup> meeting they may provide the same within one week so that further action can be taken.

With the above deliberations, the Corporation approved the Minutes of the 181<sup>st</sup> meeting of the ESI Corporation held on 13.02.2020.

<b>ITEM No. ESIC-2</b>	<b>Action Taken Report on the Recommendations/Decisions of the 181<sup>st</sup> meeting of the ESI Corporation held on 13.02.2020.</b>
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During discussion on the agenda Hon'ble Chairman requested all members that if they have anything to say on the Action Taken Report, they may provide the same within one week so that further action can be taken.

Shri S.P. Tiwari said that in respect of Aadhar seeding in database of IPs (Item No. ESIC-3) it has been mentioned that the same would be done after Social Security Code Bill is

passed. He said that Aadhar seeding should be started on priority basis as it would improve IP services. Regarding item No ESIC-9 he said that facility of surprise visit on 3 days of notice should be included in the recent instruction issued relating to visit of non official members of ESIC. Regarding item number "Reporting ESIC 5" he said that ATR presented before the meeting is not clear. He also suggested that this issue should be deliberated by the Restructuring Committee of ESIC. He also said that creation of post of Senior Deputy Director has only been reported to the Corporation and the same has not been examined by the Sub-Committee on Restructuring. Shri G.N. Jena also concurred with the views of Shri Tiwari and stated that though sub-committee of ESIC on restructuring was formed in January 2018, no meeting has taken place yet. Vice chairman stated that Sub-Committee may be requested to examine the issues relating to restructuring and submit their report within one month. He also remarked that there are many vacancies in ESIC which need to be filled up on urgent basis. Chairman also concurred with this and said that a time bound programme for filling up of all vacancies should be framed and report of restructuring committee may be submitted within a month.

Shri Sanjay Bhatia wanted to know the status of the report of the committee mentioned at SI No 2 of the ATR. It was informed that the committee was formed in March and due to Covid-19 the work has still not been completed. Vice chairman advised that the committee may please submit their recommendation within one month. Shri Sanjay Bhatia also suggested that a time frame should be there for the committees to submit their report. Shri Bhatia also wanted to know the status of notification mentioned at SI. No. 4 of ATR. It was informed that notification has been issued on 27<sup>th</sup> July 2020. He also wanted to know the status of case mentioned at SI. No. 6 of ATR. It was informed to him that opinion of ASG has been sought on the matter and further action would be taken accordingly. He also wanted to know about the status of SI. No. 16 of ATR. It was explained that instruction for providing super specialty treatment from first day of insurable employment subject to finalization of appeal filed against the order of Delhi High Court has been issued on 18-08-2020.

Shri G.N. Jena also raised the issue relating to mandatory seeding of Aadhar number in ESIC data base. He said that many IPs would not be having Aadhar number and it should be ensured that no IP is denied the benefit of ESIC for lack of Aadhar number. Vice chairman assured him that no IP would be denied benefit of ESI Scheme for want of Aadhar number, and, if any IP is not having Aadhar number, ESIC would help him in getting the same.

During discussion on ATR Shri Ram Kripal Yadav, Hon'ble M.P. presented his views on ESIC hospital Bihta. He said that infrastructure of ESIC hospital Bihta is very good and it is one of the best hospitals in Bihar in terms of infrastructure. However, the same is not being



utilized due to lack of manpower. The machines installed in the hospital are being damaged. Therefore, urgent action should be taken to make the hospital functional. Chairman requested him to give suggestion to improve the facilities of the hospital. Shri Ram Kripal Yadav mentioned that promotion in many cadres such as A.D., D.D., and J.D. have been pending for many years. The same should be expedited at the earliest.

Ms. Dola Sen mentioned that decision relating to extension of PIP of 2019-20 should be immediately taken as the period of engagement of all ARM agencies has expired in July 2020. She also said that some amount of emergency fund should be given to all ESIS/ESIC hospital to meet expenses of emergency nature. She also suggested that the committee formed at local level for tie-up arrangement with private hospitals for providing Super Speciality hospitals should include the representatives of State Government also. She said that it would ensure tie up with better hospitals for Super Speciality Treatment. She also requested that ESI hospital Sealdah should be developed as centre of excellence for certain disciplines. She stated that in the last meeting of ESIC she had raised the issue of pending promotion of employees of ESIC HQ which is still pending. She also requested that filing of court case by Employee's Union of ESIC headquarter should not be linked with their promotion. She requested Hon'ble Chairman to expedite the matter. Chairman assured that suitable action would be taken.

Vaidya Shri Devendra Triguna raised the issue of non finalization of Recruitment Rules of MC(AYUSH). He requested that the Recruitment Regulations of MC(AYUSH) should be finalized urgently. He also raised the issue of ESI Narela hospital which is still to be made fully functional. He said that remuneration being paid to contractual pharmacists of ESI hospital Narela is only Rupees Eleven thousand which is very less. He also requested that policy relating to opening of AYUSH Hospital / Dispensary should be reviewed and set up of AYUSH facility in every ESIS / ESIC hospital should be ensured. Chairman assured him that he would look into the matters raised as he is also interested in development of AYUSH facility in ESIC.

With above observations, Action Taken Report as proposed was approved by the Corporation.

<b>ITEM No.</b> <b>ESIC-3</b>	<b>Covid Pandemic a "Wakeup Call for ESIC".</b> <b>(Submitted by Dr. K.K. Agrawal, Member, ESIC)</b>
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The agenda was presented by Dr. K.K. Agrawal. He explained that the proposal, as contained in the agenda are targeted towards ensuring better utilization of ESIC / ESI hospitals and thereby ensuring better facility to beneficiaries.

No.35014/2/60-Estt(D)

Government of India

Ministry of Personnel, Public Grievances and Pensions  
(Karmik, Lok Shikayat Tatha Pensions Mantralaya)  
DEPARTMENT OF PERSONNEL AND TRAINING

North Block, New Delhi-1  
the 7 February, 1966.

OFFICE MEMORANDUM

Subject:- General Principles for determining the seniority of various categories of persons employed in Central Services.

As the Ministry of Finance etc. are aware, the General Principles for determination of seniority in the Central Services are contained in the Annexure to Ministry of Home Affairs O.M. No.9/11/55-RPS dated 22nd December, 1959. According to Paragraph-6 of the said Annexure, the relative seniority of direct recruits and promotees shall be determined according to rotation of vacancies between the direct recruits and the promotees, which will be based on the quota of vacancies reserved for direct recruitment and promotion respectively in the recruitment rules. In the Explanatory Memorandum to these Principles, it has been stated that a roster is required to be maintained based on the reservation of vacancies for direct recruitment and promotion in the recruitment rules. Thus where appointment to a grade is to be made 50% by direct recruitment and 50% by promotion from a lower grade, the inter-se seniority of direct recruits and promotees is determined on 1:1 basis.

2. While the above mentioned principle was working satisfactorily in cases where direct recruitment and promotion kept pace with each other and recruitment could also be made to the full extent of the quotas as prescribed, in cases where there was delay in direct recruitment or promotion, or where enough number of direct recruits or promotees did not become available, there was difficulty in determining seniority. In such cases, the practice followed at present is that the slots meant for direct recruits or promotees, which could not be filled up, were left vacant, and when direct recruits or promotees became available through later examinations or selections, such persons occupied the vacant slots, thereby became senior to persons who were already working in the grade on regular basis. In some cases, where there was short-fall in direct recruitment in two or more consecutive years, this resulted in direct recruits of later years taking seniority over some of the promotees with fairly long years of regular service already to their credit. This matter had also come up for consideration in various Court cases both before the High Courts and the Supreme Court and in several cases the relevant judgement had brought out the inappropriateness of direct recruits

.....2/-

of later years becoming senior to promotees with long years of service.

3. This matter, which was also discussed in the National Council has been engaging the attention of the Government for quite some time and it has been decided that in future, while the principle of rotation of quotas will still be followed for determining the inter-se seniority of direct recruits and promotees, the present practice of keeping vacant slots for being filled up by direct recruits of later years, thereby giving them unintended seniority over promotees who are already in position, would be dispensed with. Thus, if adequate number of direct recruits do not become available in any particular year, rotation of quotas for purpose of determining seniority would take place only to the extent of the available direct recruits and the promotees. In other words, to the extent direct recruits are not available, the promotees will be bunched together at the bottom of the seniority list, below the last position upto which it is possible to determine seniority on the basis of rotation of quotas with reference to the actual number of direct recruits who become available. The unfilled direct recruitment quota vacancies would, however, be carried forward and added to the corresponding direct recruitment vacancies of the next year (and to subsequent years where necessary) for taking action for direct recruitment for the total number 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 selected against the carried forward vacancies of the previous year would be placed en-bloc below the last promotee (or direct recruit as the case may be) in the seniority list based on the rotation of vacancies for that year. The same principle holds good in determining seniority in the event of carry forward, if any, of direct recruitment or promotion quota vacancies (as the case may be) in the subsequent years.

Illustration:

Where the Recruitment Rules provide 50% of the vacancies in a grade to be filled by promotion and the remaining 50% by direct recruitment, and assuming there are 10 vacancies in the grade arising in each of the years 1966 and 1967 and that 2 vacancies intended for direct recruitment remained unfilled during 1966 and they could be filled during 1967, the seniority position of the promotees and direct recruits of these two years will be as under :

<u>1985</u>		<u>1987</u>	
1.	P1	9.	P1
2.	D1	10.	D1
3.	P2	11.	P2
4.	D2	12.	D2
5.	P3	13.	P3
6.	D3	14.	D3
7.	P4	15.	P4
8.	P5	16.	D4
		17.	P5
		18.	D5
		19.	D6
		20.	D7

4. In order to help the appointing authorities in determining the number of vacancies to be filled during a year under each of the methods of recruitment prescribed, a Vacancy Register giving a running account of the vacancies arising and being filled from year to year may be maintained in the proforma enclosed.

5. With a view to curbing any tendency of under-reporting, suppressing the vacancies to be notified to the concerned authorities for direct recruitment, it is clarified that promotees will be treated as regular only to the extent to which direct recruitment vacancies are reported to the recruiting authorities on the basis of the quotas prescribed in the relevant recruitment rules. Excess promotees, if any, exceeding the share falling to the promotion quota based on the corresponding figure, notified for direct recruitment would be treated only as ad-hoc promotees.

6. The General Principles of seniority issued on 22nd December, 1959 referred to above, may be deemed to have been modified to that extent.

7. These orders shall take effect from 1st March, 1986. Seniority already determined in accordance with the existing principles on the date of issue of these orders will not be reopened. In respect of vacancies for which recruitment action has already been taken, on the date of issue of these orders either by way of direct recruitment or promotion, seniority will continue to be determined in accordance with the principle in force prior to the issue of this O.M.

8. Ministry of Finance etc. are requested to bring these instructions to the notice of all the Attached/Subordinate Offices under them to whom the General Principles of Seniority contained in O.M. dated 22.12.1959 are applicable within 2 weeks as these orders will be effective from the next month.

Sd/-

(Aarti Khosla)

Joint Secy. to the Govt. of India

To

All Ministries/Departments of the Govt. of India....4/  
etc. etc.



VACANCY REGISTER

1986

1987

1988

ETC.

1. Total number of vacancies arising during the year ...

2. BY DIRECT RECRUITMENT

(i) No. of vacancies to be filled:

(a) Vacancies of the year (as per quota prescribed) ...

(b) Vacancies of the previous year(s) brought forward ...

(c) Total ...

(ii) No. of vacancies actually filled ...

(iii) No. of vacancies carried forward ...

3. BY PROMOTION

(i) No. of vacancies to be filled

(a) Vacancies of the year (as per quota prescribed) ...

(b) Vacancies of previous year(s) brought forward ...

(c) Total ...

(ii) No. of vacancies actually filled ...

(iii) No. of vacancies carried forward ...

NOTE: 1. The methods of recruitment mentioned above are only illustrative; those prescribed in the relevant recruitment rules will be reflected in this Register

.....2/-

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**ORDER SHEET**

No. Of Adjournment : 2

COURT NO. : 2  
04/12/2020  
O.A./1545/2020

PRAVEEN KUMAR  
-V/S-  
EMPLOYEES STATE INSURANCE CORPORATION

ITEM NO:15

FOR APPLICANTS(S) Adv. : Shri Prateek Dhanda

FOR RESPONDENTS(S) Adv.: Sh. Rajeev Kumar, counsel for respondent no. 2 & 3  
None for respondent no. 1

Notes of The Registry	Order of The Tribunal
	<p>Notice to the Resp. No. 1 i.e. ESIC has been served. However, there is no representation on behalf of Resp. No. 1.</p> <p>In the interest of justice, Resp. No. 1 are granted three weeks more time to submit their reply.</p> <p>Learned counsel for Resp. No 2 &amp; 3, Sh. Rajeev Kumar seeks and is allowed three weeks' time to file reply.</p> <p>Rejoinder, if any, may be filed within a period of two weeks thereafter.</p> <p>List on 21.01.2021.</p> <p>( R. N. SINGH) MEMBER (J)</p> <p>( PRADEEP KUMAR) MEMBER (A)</p> <p>sunita/anjali/pinky</p>

Speed Post



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

6<sup>th</sup> 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 Latta) 6/2019  
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)

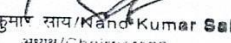
PROCEEDING OF SITTING TAKEN BY DR. NAND KUMAR SAI, HON'BLE CHAIRPERSON, NCST ON 09/05/2019 IN THE CASE OF SHRI HEERA SINGH, SECRETARY GENERAL, ALL INDIA ESIC SC/ST OFFICERS & EMPLOYEES FEDERATION, PANCHDEEP BHAWAN, WING NO.- PREM NAGAR, DEHRADUN (U.K) REGARDING DISCRIMINATORY AMENDMENTS/FRAMING OF RECRUITMENT 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.

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

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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 जमाती 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 |
|---------------------|---|



**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.

*M. Swaraj Vidwan*  
22-3-19  
(Dr. (Ms.) Swaraj Vidwan)  
Member



National Commission for Scheduled Castes  
File No. H-11/Labour-7/2018-SSW II

A hearing was conveyed on 04.09.2019 before the Commission to discuss the case of Shri Heera Singh, regarding discrimination and harassment in services.

Shri Raj Kumar, DG, ESIC, Smt. Prabha Bhalla, Joint Secretary, Ministry of L&E, Shri P.B. Mani, Additional Commissioner (P&A) appeared before the Commission. The Petitioner was also present.

The petitioner appraised the Commission with following facts which has taken place after 07-02-2019 :-

1. The petitioner informed that the Shri Manish Gupta, Joint Secretary of Administrative Ministry had accepted in last meeting that the petitioner and his members are harmed by the revision of Recruitment Regulations for the post of Regional Director Gr. 'B'/Joint Director and will get the matter examined in DOPT. The commitment was not fulfilled.
2. The petitioner further informed that during intervening period one relevant judgement of Hon'ble High Court, Delhi was received in the matter of ESIC & Others vs. Awadesh Prasad Triptathi & Others in case No. W.P.(C) 2723/2014, in which it was decided that to deny affected persons benefit of Adhoc service and consequently, anterior dates of promotion is unjust.
3. The petitioner submitted that the facts on the basis of which the above case was decided was similar to our facts as :
  - i) The Corporation also felt the need for services of affected experienced personnel for the post of Assistant Director.
  - ii) The affected persons fulfilled the description of Recruitment Regulations for the post of Assistant Director.
  - iii) Due to unknown administrative reasons affected persons were promoted on Adhoc basis against regular vacancy.
  - iv) Further, the UPSC also considered promotion of affected persons against year 2002-03 and 2003-04.
4. The petitioner also submitted that some of their members are facing economic boycott as they were denied promotion against vacancy year 2002-03 and 2003-04 inspite of vacancy being available. The rights were restored after a long struggle by conducting a review DPC. Again they are facing same perpetual economic boycott by denying SC/ST officer their right of promotion.
5. The petitioner also submitted that during the intervening period a similar case was also heard by the Hon'ble Chairman of National Commission of Schedule Tribes on 09-05-2019 for cause of promotion of 14 Scheduled Tribe Officers. In the proceeding it was established that during the amendment of Recruitment Regulations "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.

6. The respondent department ESIC could not substantiate their arguments provided vide their Action taken Report dated 06-05-2019.
7. The petitioner was firm on his submission dated 14-06-2019 filed against the Action Taken Report of ESIC.

The Commission observed that its recommendation dated 07.02.2019 and has not been implemented by the department.

In view of above facts of the case the Commission observed that the department may consider all the points raised by the Petitioner in his representation and submit a detailed report to the Commission. The Action Taken Report be submitted within 30 days.

Dr. (Ms.) SWARAJ VIDWAN  
Member  
National Commission for Scheduled Castes  
Government of India  
New Delhi

*Dr. (Ms.) Swaraj Vidwan*  
23-10-19  
Member