



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

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REMINDER - I

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INTERNAL AUDITORS
KULDEEP KUMAR
KAILASH CHAND

F.No.AIESIC.SC/ST.FED.2015-088 Dated 21st January, 2021.

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,**

The Order of Hon'ble Principal Bench of Central Administrative Tribunal, New Delhi to Stay DPC for promotion to the post of Sr. Deputy Director in ESIC - Reg.

Respected Sir,

With due regard, I would like to invite your kind attention on my letter of even number dated 29th December, 2020 which was sent to you by email on 01-01-2021 on Gross Irregularities in the DPC Proposal for Promotion for the non-existent post of Sr. Deputy Director in ESIC.

2. In this regard, I would like to bring it to your kind notice that the Hon'ble Principal Bench of Central Administrative Tribunal, New Delhi has Ordered in MA No. 2802/2020 and MA No. 2808/2020 to Stay DPC for promotion to the post of Sr. Deputy Director in ESIC a copy of which is enclosed as **Annexure - I**.

3. In above referred letter dated 29th December, 2020, I have enumerated a list of irregularities committed by officials posted in Administration Branch of ESIC and concealing material facts and bringing lopsided view of all these irregularities before DG, ESIC and UPSC.

Contd. Page No. 2/-

4. Following defects in DPC proposal were informed with all facts and figures, :

- i) 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 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 submitted with the proposal for DPC has violated DoP&T OM No. 35014/2/80-Estt (D) dated 7th February, 1986 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.
- 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 list of UDCs casted in ESIC based on 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 until 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 which clearly indicates the hurriedness of Administration to escape judicial scrutiny of these irregularities to give benefit to some.
- 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.

5. In this regard, I am again taking this opportunity to convey the Order of Hon'ble Central Administrative Tribunal Principal Bench in MA No. 2802/2020 and MA No. 2808/2020 to Stay DPC for promotion of the non-existent post of Sr. Deputy Director in ESIC and again request you for initiating 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/stayed.
- ii) The ESIC may be directed to Create new cadre 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 7th February, 1986 and legal principle laid down by Hon'ble Apex Court in the case K. Meghachandra Singh & Others versus Ningam 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 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

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

ORDER SHEET

No. Of Adjournment : 1

COURT NO. : 1

04/01/2021

M.A./2802/2020

O.A./1545/2020

M.A./2808/2020

ITEM NO: 15

FOR APPLICANTS(S) Adv. :

FOR RESPONDENTS(S) Adv.:

PRAVEEN KUMAR

-V/S-

EMPLOYEES STATE INSURANCE CORPORATION

Sr/rl Pradeep Danda

Sr/rl Kumar Rajesh

Notes of The Registry	Order of The Tribunal
	<p><u>MA No. 2802/2020 & MA No. 2808/2020</u></p> <p>The applicant in OA No. 1545/2020 filed these two MAs.</p> <p>2. MA no. 2808/2020 is filed with a prayer to allow the amendments in the OA.</p> <p>3. It is stated that during the pendency of the OA, the respondents published a seniority list dated 14.08.2020 on the basis of the judgment of the Hon'ble Supreme Court in Union of India & Ors. Vs. N.R. Parmar & Ors. (2012) 13 SCC 340. It is stated that by raising the same issue and dispute the OA was filed and despite that a fresh seniority list was published on the same lines. We allow the MA permitting the amendments to the OA. The OA amended OA filed by the applicants shall be taken on record.</p> <p>4. MA No. 2802/2020 is filed with a prayer to stay the seniority list dated 29.07.2019 in the cadre of Deputy Director up to the vacancy year 2010-11 as well as the subsequent seniority lists.</p>

5. The applicant contends that all the three seniority lists are prepared on the basis of the judgement of the Hon'ble Supreme Court in N.R. Parmar's case (supra), despite the fact that the Hon'ble Supreme Court dismissed the same in a subsequent judgment, and the same no longer hold good.

6. When the OA was taken up for hearing, we did not grant interim relief on the ground that we intend to hear the respondents in this behalf. Six weeks time was granted to the respondents to file reply. Even on the last date of hearing, the reply was not ready. Even now, the respondents did not file their reply. In case, the promotions take place in the meanwhile, serious complications would arise. We, therefore, stay further promotions to the post of Senior Deputy Director on the basis of the three seniority lists mentioned in the prayer in the MA.

7. Let the OA be listed on 21.01.2021, as scheduled earlier.

(PRADEEP KUMAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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