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Government of India
National Commission for Scheduled Castes

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

Floor Vth, Loknayak Bhawan,
Khan Market,
New Delhi-110003
Dated:- 31.10.2019

To

The Director General
Employees State Insurance Corporation
Head Office, Panchdeep Bhawan
CIG Road, New Delhi

The Secretary (Labour),
Ministry of Labour & Employment,
Shram Shakti Bhawan,
Rafi Marg, New Delhi

Sub: Rep. received from Shri Heera Singh, General Secretary, All India ESIC SC/ST Officer's & Employees Federation, Panchdeep Bhawan, Wing No. 4, Shiv Puri, Prem Nagar, Dehradun, Uttaranchal regarding discrimination and harassment in services.


Sir,

I am directed to refer to the subject mentioned above and to enclose a copy of the proceedings of the discussion held on 04.09.2019 in the chamber of Dr. (Ms.) Swaraj Vidwan, Hon'ble Member, National Commission for SCs for taking necessary action at your end.

It is, therefore, requested that the action taken report on the recommendations may be furnished to the Commission within 30 days for placing the same before the Hon'ble Member.

Encl: As above

Yours faithfully,


(D.K. Gupta)
Section Officer

Copy for information 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, Uttaranchal

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 Bhatta, 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 Tripathi & 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

m/210 23-10-19
Dr. (Ms.) Swaraj Vidwan
Member