

UNION PUBLIC SERVICE COMMISSION'S FILE NO.1/39(3)/2024-PD-6
ESI Corporation Reference No.A-33/13/01/2024 E.I

Minutes of the meeting of the Departmental Promotion Committee held on 11.09.2024 at 11.00 AM in the office of Union Public Service Commission, New Delhi.

PRESENT:		
1.	Member, Union Public Service Commission	Chairman
2.	Director General, ESIC	Member
3.	Insurance Commissioner (P&A), ESIC	Member

ITEM: **DPC - Promotion to the post of Regional Director Grade- 'B'/ Joint Director (Pay Level-12 in the pay matrix Rs. 78,800- 2,09,200/-) against the vacancy year 2024 in the Employees' State Insurance Corporation - regarding.**

The Committee considered the selection of officers for promotion to the post of Regional Director-B/Joint Director in ESIC against the vacancy year 2024 in the Pay Level-12.

2. The vacancy position as reported by the Department is as under:-

Vacancy year	UR	SC	ST	Total
2024	149	NA	NA	149

3. The Departmental Promotion Committee were informed of the following provisions contained in the DPC guidelines, circulated by the Department of Personnel & Training, vide their O.M. No.22011/5/86-Estt (D), dated 10.04.1989 :-

- (i) "6.1.2. - The DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them."
- (ii) "6.1.3 - While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result oriented performance as reflected in the ACRs and based on strict and rigorous selection process."
- (iii) "6.2.1(b) – The DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to the CRs for preceding five years, which became available during the year immediately preceding the vacancy/panel year."

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- (iv) "6.2.1(e) - The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of entries in the CRs, because it has been noticed that some times the overall grading in a CR may be inconsistent with the grading under various parameters or attributes."
- (v) "6.2.1(f) - If the Reviewing authority or the Accepting authority, as the case may be, has overruled the Reporting Officer or the Reviewing authority as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment provided it is apparent from the relevant entries that the higher authority has come to a different assessment conclusively after due application of mind. If the remarks of the Reporting Officer, Reviewing authority and Accepting authority are complementary to each other and one does not have the effect of overruling the other, then the remarks should be read together and the final assessment made by the DPC."

4. The Committee were further informed of the following subsequent additional guidelines issued by DOP&T:-

- (i) In cases where adverse remarks of Reporting/Reviewing/Accepting Authorities have been expunged or modified by the competent authority, the overall grading in the ACR has to be decided by the DPC in terms of DOP&T OM dt. 06.01.2010.
- (ii) The DOP&T vide O.M. No.21011/1/2010-Estt-A dated 13th April, 2010 have stipulated that "if an employee is to be considered for promotion in a future DPC and his ACRs prior to the period 2008-09 which would be reckonable for assessment of his fitness in such future DPCs, contain final gradings which are below the benchmark for his next promotion, before such ACRs are placed before the DPC, the concerned employee will be given a copy of the relevant ACRs for his representation, if any, within 15 days of such communication."
- (iii) In terms of DoP&T O.M. No.22011/5/2013-Estt.(D) dated 09.05.2014 in the event of the DPC deciding not to take cognizance of an order of the competent authority on the representation of the Government Servant on the entries/ gradings in APARs on the ground that the same is not a speaking order, the DPC shall make its assessment based on the entries in APAR and other relevant material facts including the representation of the Government Servant.
- (iv) While assessing the suitability of the officers on whom statutory penalty/penalties is/are imposed, the DPC may take into account the Guidelines of DoP&T issued vide O.M. No.22011/4/2007-Estt.(D) dated 28.04.2014.

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5. The Committee were also informed that in accordance with the instructions contained in para 6.3.1 of the DOP&T O.M. No.22011/5/86-Estt (D), dated 10.04.1989, read with subsequent O.M. No. 22011/5/91-Estt(D) dated 27.03.1997 and O.M. No. 35034/7/97-Estt(D) dated 08.02.2002, the Benchmark for promotion in the present case is **"VERY GOOD"**.

6. The Committee were informed that taking into account the instructions/guidelines issued by DOP&T, as detailed above, and in the absence of modalities of the Benchmark being attained by the Officers under consideration for promotion decided by the DoP&T, the Commission in exercise of their constitutional functions as envisaged in Article 320 of the Constitution took a conscious decision that an Officer attaining at least 4 Benchmark gradings out of the 5 ACRs should be assessed as "fit" for promotion and that this decision should be applicable to all DPCs pertaining to the vacancy year 2003-04 and subsequent years.

7. Attention of the Committee was also invited to the instructions contained in DOP&T O.M. No.35034/7/97-Estt(D) dated 08.02.2002, which inter-alia provide that "the DPC shall determine the merit of those being assessed for promotion with reference to the prescribed bench-mark and accordingly grade the officers as "fit" or "unfit". Only those who are graded "fit" (i.e. who meet the prescribed bench-mark) by the DPC shall be included and arranged in the select panel in order of their inter-se seniority in the feeder grade. Those officers who are graded "unfit" (in terms of the prescribed bench-mark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded "fit" (in terms of the prescribed bench-mark) by the DPC".

8. The Committee accordingly examined and assessed the APARs of the eligible officers for the vacancy year 2024. The DPC also went through the penalties imposed on various officers.

8.1 In this connection, the Committee noted the Supreme Court Judgment mentioned in para 5(b) of DOP&T OM dated 28.04.2014 regarding the guidelines on treatment of effect of penalties on promotion:-

"An employee has no right to promotion. He has only right to be considered for promotion. The promotion to a post and more so, to a selection post, depends upon several circumstances. To qualify for promotion, the least that is expected of an employee is to have an unblemished record. That is the minimum expected to ensure a clean and efficient administration and to protect the public interest. An employee found guilty of misconduct cannot be placed on par with the other employees, and his case has to be treated differently. In fact, while considering an employee for promotion his whole record has to be taken into consideration and if a promotion committee takes the penalties imposed upon the employee into consideration and denies him the promotion, such denial is not illegal and unjustified."

8.2 The Committee further noted the following provision as contained in para 7(g) of DOP&T OM dated 28.04.2014:-

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"In assessing the suitability of the officer on whom a penalty has been imposed, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of general service record of the officer and the fact of imposition of penalty, the officer should be considered for promotion. The DPC, after due consideration, has authority to assess the officer as 'unfit' for promotion. However, where the DPC considers that despite the penalty the officer is suitable for promotion, the officer will be actually promoted only after the currency of the penalty is over."

8.3 Accordingly, the Committee went through the entries and gradings contained in the APARs and the facts and circumstances leading to the imposition of penalty on various officers. Keeping in view the nature of misconduct for which the officers were penalized, the DPC made its own overall assessment and assessed the following officers as 'UNFIT' for promotion:-

S.No.	Name of the Officer (S/Shri)
1.	
2.	
3.	
4.	
5.	
6.	

8.4.1 Further, the Committee while assessing the APAR of Shri

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8.4.2 The Committee, while assessing the APAR of Shri Kan...
Remarks:

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8.4.3 On the basis of the remarks of Reporting Officers as well as Reviewing Officer as contained in the APARs of the following officials for the abovementioned years, as elaborated above, the Committee took a conscious decision that the officers have attitudinal deficiencies and lack certain essential professional qualities as are required to discharge the higher responsibilities associated with the post and therefore, considered them "Unfit for promotion" to Regional Director Grade- 'B'/ Joint Director:

S.No.	Name of Officer
1.	
2.	

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9. Accordingly, the outcome of the assessment of the eligible officers in the feeder grade for the vacancy year 2024 is as mentioned at **Annexure-I**.

10. On the basis of the assessment as indicated in **Annexure-I**, the Committee recommend the panel for the vacancy year 2024 for **Promotion to the post of Regional Director-B/Joint Director in the Pay Level-12 in ESIC against the vacancy year 2024** in the order stated at Annexure-II.

11. The recommendations of the DPC shall be subject to outcome of O.A NO. 2731/2023 filed by _____ against the seniority list of Deputy Director issued vide Memorandum no. A-24/15/01/2023-E.I dated 10.04.2023 pending in the Hon'ble CAT, PB, New Delhi.

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Assessment for the Vacancy Year 2024

Year	UR	SC	ST	Total
2024	149	NA	NA	149

Sl. No.	Name of the Officer (S/Shri/Ms.)	Assessment
1.		
2.		
3.		
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21.		

CONFIDENTIAL
ANNEXURE - I

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Sl. No.	Name of the Officer (S/Shri/Ms.)	Assessment
76.		
77.		
78.		
79.		
80.		
81.		
82.		
83.		
84.		
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87.		
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103.		

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Panel for the Year 2024

Year	UR	SC	ST	Total
2024	149	NA	NA	149

Sl. No.	Name of the Officer (S/Shri/Ms.)	Remarks
1.		
2.		
3.		
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