



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.

103-105  
27/3/19

Yours faithfully

(D.K. Gupta)

Section Officer-SSW-II

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 ESIC 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.

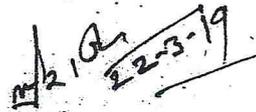
The department has not counted the adhoc service of AD although these ADs were promoted against the regular vacancies.

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

By Speed Post



Government of India  
National Commission for Scheduled Castes

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

Floor Vth, Loknaya 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 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 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