

Speed Post



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

GOVERNMENT OF INDIA

NATIONAL COMMISSION FOR SCHEDULED TRIBES

6th 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)
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 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 RESERVED CATEGORY OFFICER OUT OF WHICH 14 OFFICERS BELONG TO ST CATEGORY.

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

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 जनजाति 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
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National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

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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

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| 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

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|-----------------------|----------------|
| 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,

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|----------------------------|------------------|
| 1. Shri Bijaynand Pattnaik | Deputy Secretary |
| 2. Santosh Kumar Singh | Under Secretary |

Petitioner

- | | |
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| 1. Shri Heera Singh | General Secretary, All India ESIC Fedration |
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