

(For downloading Annexure Please Press Ctrl + Right Click on Concerned Annexure)

From,

Heera Singh,
Deputy Director (STS)
Regional Office, ESIC,
Dehradun, Uttarakhand.

To,

The Director General,
Employees' State Insurance Corporation,
Punchdeep Bhawan,
CIG Road,
New Delhi 110002.

(THROUGH PROPER CHANNEL)

Subject: **Bringing Wrong facts before ESIC Corporation in its 173rd Meeting in Appendix XI of Supplementary Agenda II Item No. ESIC – 1 proposed for Amending Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director in ESI Corporation for harming my interest alongwith other 44 promoted DD (STS) Officers.**

Sir,

With due regard, I would like to invite your kind attention on subject cited above and to submit following facts for your sympathetic consideration please:

1. That, the ESIC vide their Memorandum No. A-12(11)3/2017-E.I dated 29.12.2017 had proposed amendments in Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director and called for comments on proposed RRs (**Enclosed as Annexure – A**).
2. That, I have submitted my objections vide my application dated 25-01-2018 against the Revised/Amended Recruitment Regulations as it was violative of DoP&T Guidelines and averse to my interest. (**Enclosed as Annexure - B**).
3. That, vide my above application, I have raised my objection to proposed amendments in Recruitment Regulations for the post of Regional Director Grade 'B'/Joint Director in ESI Corporation as the proposed amendment was going to harm my interest by enhancing my qualifying service from existing 12 years to 16 years in violation of various DoP&T Guidelines.
4. That, this proposal is clear cut violation of DoP&T Guidelines which is clearly spelt out in para 3.1.3 of DoP&T OM No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010 **enclosed as Annexure – C** and extract of which is as follows :

“Where the eligibility service for promotion prescribed in the existing rules is being enhanced (to be in conformity with the guidelines issues by this Department) and the change is likely to affect adversely some persons holding the feeder grade posts on regular basis, a note to the effect that the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules, could be included in the revised rules.”

5. That, this proposal is clear cut violation of DoP&T Guidelines which is also clearly spelt out in answer to Question No. 18 of Compendium of Frequently asked questions on Recruitment Rules issued by UPSC is **enclosed as Annexure - D**, extract of which is as follows :

“In case eligibility service for promotion prescribed in the existing rules is enhanced in accordance with a change in the Guidelines, which is likely to adversely affect certain members of the Service or incumbents holding a junior post on a regular basis, a note regarding retention of existing eligibility service in respect of such persons may be inserted in the Rules.”

6. That, the proposed new amended RRs was enhancing my qualifying service by 4 years and I will become eligible for promotion to the post of Joint Director on 01-01-2023 in place of existing dated i.e. 01-01-2019. A comparative list of officers who are going to be eligible for promotion as per the existing RRs vis-à-vis proposed new RRs are enclosed as **Annexure - E and Annexure - F** respectively.
7. That, because of this consequential effect, I myself represented against the proposed amendments and requested Administration vide my application dated 25-01-2018 for following the provision as contained in para 3.1.3 of DOPT O.M. No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010. A copy of my representation is enclosed as **Annexure - B**. A copy of DoP&T OM dated 31-12-2010 is enclosed as **Annexure - C**.
8. That, in this regard, I would also like to submit that the ESIC is still pursuing the matter to harm my interest along with other promoted DD (STS) Officers.
9. That, the ESIC is using a letter No. S-38016/21/2013-SS-I dated 29 November, 2015 issued by MoL&E and CAT court case as beacon light for sailing this unconstitutional amendment in RRs whereas the decision to amend the Recruitment Rules were not approved by ESIC in any of its meetings held on or before 29.12.2017. The letter was also infected with following defects as mentioned in following para 10 to 12 also.
10. That, this letter of MoL&E dated 29th November, 2015 was received in ESIC on 6th December, 2016.
11. That, the letter does not have any lawful mandate to interfere in the functioning of ESIC unless the proposal of going for amending the RR is approved by ESIC.
12. That, the letter has misreported wrong fact that the qualifying service for promotion for the post of Joint Director is to be counted not only in immediate lower grade but in posts even two level below giving the impression that qualifying service of three level are counted. Whereas contrary to it the qualifying service is counted of immediate two lower grades i.e. Assistant Director and Deputy Director since the Job, Duties, Responsibilities and Delegation of Powers of both the posts are similar. A copy of Delegation of Powers of both the posts is enclosed as **Annexure - G(a)**. Further the provision of falling clause treating the qualifying service of two lower grade is also being followed in the RRs for the post of Regional Director Grade A/Director (**Annexure - H**), Chief Engineer (**Annexure - I**), Executive Engineer (**Annexure - J**), Director (Official language)(**Annexure - K**) and Joint Director (Official Language)(**Annexure - K(a)**).

13. That, the Administration of ESIC in furtherance of their intention to amend RRs while examining my contention had misled the Hon'ble ESIC in its 173rd meeting by making following wrong observations :

“Paragraph 3.1.3 of the DoP&T OM No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010 does not apply in the instant case as here qualifying service for promotion has not been enhanced.”

A copy of Annexure XI of Supplementary II Item No. ESIC-1 is enclosed as **Annexure – G.**

14. That, the Administration contrary to their observation against my objection not only is enhancing our qualifying service but on the other hand is also trying to squeeze the qualifying service of promotion of 11 officers who as per the existing RR are going to be eligible on 01-01-2020 and with proposed amendment are being groomed to be promoted on 01-01-2019. By not incorporating direction as contained in para 3.1.3 of DoP&T OM No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010 the Administration is trying to keep room for manipulating the RR in the favour of 11 officers. By doing so the Hon'ble ESIC is also misinformed with respect to highlighted content in **Annexure – G.**
15. That, the Administration had not only misinformed Hon'ble ESIC with respect to my objection but has also misinformed Hon'ble ESIC regarding objections of all 94 promoted officers. **(Annexure - G can be referred. All misinformed facts are highlighted along with the name of officers in response of whom facts were misinformed to Hon'ble ESIC).**
- 16(a) That, further to above, it is also submitted that Hon'ble ESIC, UPSC, Ministry of Labour & Employment and Ministry of Law & Justice are being misled by Administration of ESIC on following accounts also to influence their opinion :
- 16(b) That, the Hon'ble CAT has directed ESIC to approve the RR as per the petition of Hemant Kumar Pandey and others vs. UOI and other which is **grossly misplaced and factually incorrect.**
- 16(c) That the Hon'ble CAT has directed ESIC to approve RR after receiving the objections of all the Stakeholders, including the applicants in **MA No. 4051/2017 who in the instant case are Promoted Officers** within period of three months. By ignoring genuine objections of applicants in MA No. 4051/2017 who are promoted officers of ESIC on flimsy and factually incorrect grounds the ESIC has disobeyed direction of Hon'ble CAT. A copy of Court Decision of case in which I was also a respondent is **enclosed as Annexure – H.**
- 16(d) The Management of ESIC is misleading all with wrong facts to favour intended 11 officers. The Hon'ble court had issued direction to amend RR after giving due hearing to objections of all stakeholders whereas I myself being one of the respondent in this case was not provided reasonable hearing and the RR is proposed to be amended against the framework of Guideline as contained in para 3.1.3 of DoP&T OM No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010.

17. As per the Note 1 of column. 11 of proposed RR for the post of Regional Director Gr. 'B"/Joint Director it is proposed that the service rendered by Senior Deputy Directors in non-functional pay scale under the nomenclature of Deputy Director (Senior Time Scale) in Level 11 shall also be counted as minimum qualifying service for promotion. Here it is pertinent to mention that favoured officers were given non-functional upgradation **purely on ad-hoc and temporary basis** in Level – 11 after completion of just four years without receiving any mandate from the then existing RRs, whereas the affected officers were given non-functional upgradation on regular basis after 5 years. **Annexure – I and Annexure - J enclosed.**

The Recruitment Regulations has been framed/amended on the basis of misleading facts without affording reasonable hearing to me and the detail para wise comments of ESIC with respect to my representation and my counter comments are **enclosed as Appendix - I.**

Hence, it is my humble submission that my request of incorporation guideline as contained in para 3.1.3 of DoP&T OM No. AB 14017/48/2010 Estt.(RR) dated 31-12-2010 and procedure prescribed in answer to question No. 18 of Compendium of Frequently asked questions on Recruitment Rules issued by UPSC should be followed in letter and spirit in our case and :

- a. To add a Note in column No. 11 of the Employees' State Insurance Corporation, Regional Director Gr. 'B'/Joint Director Recruitment Regulations, 2017 to the effect that "the eligibility service shall continue to be the same for persons holding the feeder posts on regular basis on the date of notification of the revised rules" as per the guidelines given in para 3.1.3 of DOPT Guidelines issued on subject Framing/Amendment/ Relaxation of Recruitment Rules.
- b. To remove Note No. 1 from column No. 11 of the Employees' State Insurance Corporation, Regional Director Gr. 'B'/Joint Director Recruitment Regulations, 2017 as it is giving unlawful favour of squeezing of qualifying service to some officers who are not otherwise eligible as per para No. 3.12.2. of DOPT Guidelines issued on subject Framing/Amendment/Relaxation of Recruitment Rules as the post of Dy Director (STS) being non-functional have no constitutional sanctity for being treated as feeder cadre for primary as well as failing which clause.

Yours faithfully,

(Heera Singh)
Deputy Director (STS)
Regional Office,
Dehradun, Uttarakhand.

Dated : 17-10-2018

Enclosed : **Appendix – I along with Enclosures as above.**

Copy to : To, The Regional Director, RO, ESIC, Dehradun – (Enclosed two copies)
- With a request to forward my representation to Headquarters Officer through proper channel.