



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A No.100/343/2021

This the 15th day of February, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mrs.Aradhana Johri, Member (A)**

1. Mahinder Singh, Deputy Director,
ESI Hospital, Jhilmil, Block-D,
Jhilmil Colony, New Delhi-110 095,
S/o late Shri Ram Prasad,
R/o House No.195, Sector-9,
Bahudargarh, District- Jhajjar,
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2. Debabrata Pramanik,
Deputy Director, S/o late Krihnapada Pramanik,
R/o CB 48, AA I, Nandakini Co Opt Housing
Society Ltd, Flat 3B, Street No.223, Newtown,
Kolkata-700 156.
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3. Praveen Kumar, Deputy Director,
Headquarters Office,
Employees State Insurance Corporation,
New Delhi, S/o Shri BR Gupta,
R/o 66, Raj Nagar, Pitam Pura,
New Delhi-110 034,
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4. Heera Singh, Deputy Director, Regional Office
Employees State Insurance Corporation,
Dehradun, Uttarakhand, S/o late Shri Govind Singh,
R/o First Floor, 8, Vasundhra Kunj, GMS Road,
Dehradun, Uttarakhand-248 001.
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5. Sugan Lal Meena, Deputy Director,
Headquarters Office,
Employees State Insurance Corporation,
New Delhi, S/o late Shri Kishori Lal Meena
R/o F-153, Street No.37, Sadh Nagar,
Palam Colony, New Delhi-110 045.
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...Applicants

(By Advocate: Mr.Prateek Dhanda)

VERSUS

1. Employees State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan, Comrade Indrajeet Gupta Marg,
New Delhi-110 002, dir-gen@esi.nic.in
2. Union of India, Ministry of Labour & Employment,
Through its Secretary, Shram Shakti Bhawan,
Rafi Marg, New Delhi-110 001.
secy-labour@nic.in

...Respondents

(By Advocate: None)

ORDER (Oral)

Justice L. Narasimha Reddy:

The applicants joined the service of the Employees' State Insurance Corporation (ESIC) as Insurance Inspectors. They were promoted to the post of Assistant Director, in 2006 and to the post of Deputy Director in 2012. They were also extended the benefit of non-functional pay scale of the Senior Time Scale in that post, through an order dated 29.11.2017.



2. According to the rules that were in force at the relevant point of time, the next promotion was to the post of Regional Director. The ESIC has undertaken exercise of restructuring the establishment. After a prolonged exercise, it brought about the restructuring and introduced a post known as Senior Deputy Director, just below the post of Regional Director. The ESIC (Senior Deputy Director) Recruitment Rules, 2018 were framed and published on 15.12.2018. Similarly, the ESIC (Regional Director Grade 'B'/Joint Director) Recruitment Rules, 2018 were also published on the same date. For the post of Senior Deputy Director, the Deputy Directors with 5 years regular service in level 10, in the pay matrix (Rs.56,100-1,77,500), are eligible for promotion. For the post of Regional Director, Senior Deputy Director with five years regular service in level 11, in the pay matrix (Rs.67,700-2,08,700), are made eligible for promotion. A Note is added to the effect that the exiting Deputy Directors in non-functional pay scale under the nomenclature of Deputy Director (Senior Time Scale) in level 11, are entitled to count the service in that post as minimum qualifying service for promotion.

3. The applicants filed this OA challenging the ESIC (Senior Deputy Director) Recruitment Rules and ESIC (Regional Director Grade 'B'/Joint Director) Recruitment Rules, 2018. They have also challenged the memorandum dated 22.03.2018, through



which 180 posts of Senior Deputy Director are created at level 11.

4. The applicants contend that before the rules were framed, they became eligible for promotion straightway to the post of Regional Director, and on account of the said rules, an intermediary post viz., Senior Deputy Director has been created. They contend that their promotional avenues to the post of Regional Director are seriously impaired, and that the said Rules are liable to be set aside.

5. We heard Mr.Prateek Dhanda, learned counsel for the Applicants, at length at the stage of admission.

6. The applicants intend to challenge the two Recruitment Rules referred to above. It is true that before the rules were amended, the next promotion from the post of Deputy Director (Senior Time Scale) was to the post of Regional Director. However, it is not the case of the applicants that by the time the 2018 recruitment rules were framed, either there existed clear vacancies of Regional Director, or that they have acquired eligibility for promotion.

7. The competence of the Corporation to frame the regulations is not in doubt. No employee can insist that their employer



cannot reorganize the establishment. The only protection is that the accrued rights cannot be defeated. The protection that can be granted to them is that in case they became eligible to be promoted to the next higher post before the rules were amended, steps need to be taken in accordance with the unamended rules. If they did not become eligible, they have to take their chance in accordance with the new provisions of law. The rule making authority did take note of the existence of the post of Deputy Director (Senior Time Scale). In fact, the service rendered in that post is treated as equivalent to that of Senior Deputy Director. The applicants cannot expect a better protection than that.

8. The circumstances that led to the framing of the impugned rules were clearly explained by the respondents in their reply dated 09.07.2019, issued to one of the applicants. The relevant portion reads as under:

“6. You are placed at Sl.No.150 of the List of Deputy Directors and are junior to 120 direct recruits Deputy Directors. However, junior Deputy Directors, recruited to the post by promotion, was eligible to be considered for promotion to the post as per the pre-revised RRs for the post of Regional Director Grade ‘B’/Joint Director under failing which clause whereas senior Deputy Directors were not eligible to be considered for promotion. Hence, a conscious decision was taken to remove this anomalous situation and revised RRs for the post were notified on 15.12.2018. The insertion of the aforesaid Note prescribed in paragraph 3.1.3 of the aforesaid DoP&T OM dated 31.12.2010 would have defeated the very purpose of the amendments to the recruitment regulations for the post of Regional Director Grade ‘B’/Joint Director.”



The hardship or inconvenience caused to an individual employee cannot constitute the basis to interfere with any rule, which is otherwise in accordance with the law.

9. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Dsn/akshaya/