



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

O.A. No. 31/2020

With

O.A. No. 3390/2019

O.A. No. 3395/2019

O.A. No. 3397/2019

O.A. No. 3398/2019

This the 29th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

O.A. No. 31/2020

Vijay Kumari Dagar
Aged about 43 years
W/o Satpal Dagar
R/o House No.1602, Sohna Road
Sector-55, Ballabhgarh
Faridabad, Haryana-121004
DOJ : 20.03.1997
Presently working as Assistant
ESIC Medical College & Hospital
Faridabad, Haryana
(Group 'C')

...Applicant

(By Advocate: Mr. Mohit Tyagi with Mr. Prakhar Bhatnagar)

Versus

1. Employees' State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan,
CIG Road, New Delhi- 110002.
2. The Insurance Commissioner,
Employees' State Insurance Corporation,
Headquarters Office, Panchdeep Bhawan
CIG Road, New Delhi-110002.



3. The Additional Commissioner & Regional Director
Employees' State Insurance Corporation,
Regional Office, Panchdeep Bhawan,
Sector-16, Near Laxmi Narayan Mandir,
Faridabad, Haryana-121002.

...Respondents

(By Advocate: Mr. Krishna Kant Sharma)

O.A. No. 3390/2019

Rajbir Singh,
Aged about 53 years,
S/o Shri Jodha Ram,
R/o: House No. 103, ESIC Colony,
Sector-16, Kheri Kalan,
Faridabad, Haryana-121002.
DOJ: 26.12.1994
Presently working as Assistant
ESIC Medical College & Hospital, NH-3,
Faridabad, Haryana (GROUP "C")

...Applicant

(By Advocate: Mr. Mohit Tyagi with Mr. Prakhar Bhatnagar)

Versus

1. Employees' State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
2. The Insurance Commissioner,
Employees' State Insurance Corporation,
Headquarter Office, Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
3. The Additional Commissioner & Regional Director,
Employees' State Insurance Corporation,
Regional Office, Panchdeep Bhawan, Sector 16,
Near Laxmi Narayan Mandir,
Faridabad, Haryana – 121002.

...Respondents

(By Advocate: Ms. Jhum Jhum Sarkar)



O.A. No. 3395/2019

Ashok Kumar,
Aged about 59 years,
S/o Shri Mool Chand,
R/o: DB-1182, Dabua Colony,
Faridabad, Haryana-121001.
DOJ: 20.03.1997
Presently working as Assistant
ESIC. Medical College & Hospital, NH-3,
Faridabad, Haryana (GROUP "C").

...Applicant

(By Advocate: Mr. Mohit Tyagi with Mr. Prakhar Bhatnagar)

Versus

1. Employees' State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
2. The Insurance Commissioner,
Employees' State Insurance Corporation,
Headquarter Office, Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
3. The Additional Commissioner & Regional Director,
Employees' State Insurance Corporation,
Regional Office, Panchdeep Bhawan, Sector 16,
Near Laxmi Narayan Mandir,
Faridabad, Haryana – 121002.

...Respondents

(By Advocate: Ms. Jhum Jhum Sarkar)

O.A. No. 3397/2019

Deepak Kumar,
Aged about 38 years,
S/o Shri Sohan Pal,
R/o: House No. 27,
Gali No. 1, Old Kardam Puri,
Shahdara, Delhi-110094.
DOJ: -03.11.2010

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Presently working as Assistant
ESIC Hospital,
Gurugram, Haryana (GROUP "C")

...Applicant

(By Advocate: Mr. Mohit Tyagi with Mr. Prakhar Bhatnagar)

Versus

1. Employees' State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
2. The Insurance Commissioner,
Employees' State Insurance Corporation,
Headquarter Office, Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
3. The Additional Commissioner & Regional Director,
Employees' State Insurance Corporation,
Regional Office, Panchdeep Bhawan, Sector 16,
Near Laxmi Narayan Mandir,
Faridabad, Haryana – 121002.

...Respondents

(By Advocate: Ms. Jhum Jhum Sarkar)

O.A. No. 3398/2019

Mangal Singh,
Aged about 50 years,
S/o Shri Chhidda Mal,
R/o: House No. 79,
Near Sarkari School, Harijan Mohalla,
Khatela Sarai, Palwal, Haryana-
DOJ: 08.02.1996
Presently working as L.D.C
ESIC Hospital, Manesar, Haryana (GROUP "C").

...Applicant

(By Advocate: Mr. Mohit Tyagi with Mr. Prakhar Bhatnagar)

Versus

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1. Employees' State Insurance Corporation,
Through its Director General,
Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
2. The Insurance Commissioner,
Employees' State Insurance Corporation,
Headquarter Office, Panchdeep Bhawan,
CIG Road, New Delhi – 110002.
3. The Additional Commissioner & Regional Director,
Employees' State Insurance Corporation,
Regional Office, Panchdeep Bhawan, Sector 16,
Near Laxmi Narayan Mandir,
Faridabad, Haryana – 121002.

...Respondents

(By Advocate: Ms. Jhum Jhum Sarkar)

ORDER (ORAL)**Hon'ble Ms. Manjula Das, Chairman**

As the facts in all these OAs are identical, they are heard together and are being disposed of by way of this common order.

2. The applicants are working as Assistants in the Employees State Insurance Corporation (ESIC). Earlier, they were posted in Regional Office, Faridabad, but subsequently in terms of the impugned order of suspension, they have been posted in ESIC Medical College & Hospital, Faridabad, vide orders dated 20.05.2019. The applicants were placed under suspension by respondent No.3, vide individual orders dated 20.05.2019. It is submitted that the respondents issued Show Cause Notice to the applicants in August 2019 and in response thereto, they submitted

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various representations, but to no avail. It is further submitted that though the period of 90 days was completed on 18.08.2019, neither their suspension was revoked nor extended/continued vide a reasoned order. Feeling aggrieved, the applicants filed individual OAs seeking to quash and set aside the suspension orders dated 20.05.2019. The reliefs prayed for in O.A. No. 31/2020 read as under:

“(i) Quash the impugned suspension order dated 20.05.2019 (Annex.A/1) and consequently pass an order declaring that the Applicant’s Suspension has been revoked after 18.08.2019 on completion of 90 days from the date of suspension, and consequently pass an order directing the respondents to re-instate the Applicant in service immediately with all the consequential benefits including pay and allowances with arrears of difference of pay and allowances with interest w.e.f. 19.08.2019.

(ii) Direct the Respondents to pay subsistence allowance to the Applicant since the month of May, 2019.

(iii) Direct the Respondents to decide the Applicant’s Representations dated 19.08.2019 & 21.08.2019 (Annexure A/4) and 16.09.2019 (Annexure A/6) as per rules and complete the Inquiry in the case of the Applicant in a time bound manner.

(iv) Any other order which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the Applicants and against the Respondent.”

Similar reliefs have been prayed in all the connected OAs.

3. In support of the applicants’ case, learned counsel for applicant has relied upon the judgement of Hon’ble Supreme Court in **Ajay Kumar Choudhary vs. Union of India**

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through its Secretary and another, (2015) 7 SCC 291,
wherein it has been held as under:

“Currency of suspension order should not extend beyond three months if within this period charge-sheet is not served on delinquent employee. If charge-sheet is served, a reasoned order must be passed for extension of suspension.”

4. The respondents opposed the OAs and filed certain documents in support thereof. It is pleaded that the applicants were placed under suspension vide orders dated 20.05.2019 with immediate effect, in exercise of powers conferred by Regulation 10(1)(2) of ESIC (Staff & Conditions of Services) Regulation, 1959. Thereafter, the suspension order was reviewed vide order dated 19.09.2019 and the Review Committee has decided to further extend the suspension of the applicant for 90 days w.e.f. 18.08.2019, with no change in their subsistence allowance. Their suspension was again reviewed on 15.11.2019 wherein it was decided to further extend the suspension for 90 days w.e.f. 16.11.2019 with increase in subsistence allowance from 50% to 75%, considering the hardships of their families. The Review Committee again, for the third time, met on 14.02.2020 and decided to further extend the suspension period for 90 days w.e.f. 14.02.2020 with no change in subsistence allowance. Finally, the Review Committee met on 17.08.2020 to review the suspension of the applicants and again decided to extend the suspension for 90

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days w.e.f. 12.08.2020 without any change in subsistence allowance.

5. From the above, it is clear that the suspension was reviewed from time to time under Rule 3 (1)(i) (ii) (iii) (vi) & (xviii) of CCS (Conduct) Rules, 1964 read with Regulation 23 of ESIC (Staff and Conditions of Service) Regulations 1959 (as amended). It is also submitted that every time, the Review Committee passed order of extension of suspension with reasons and remarks, which was well within the knowledge of the applicants.

6. We have heard Mr. Mohit Tyagi, learned counsel for the applicants and Mr. Krishna Kant Sharma & Ms. Jhum Jhum Sarkar, learned counsel for the respondents and perused the pleadings on record.

7. Learned counsel for applicants brought to our notice that vide order dated 19.09.2019, the suspension of the applicants was extended retrospectively w.e.f. 18.08.2019, which is not permissible under law. In reply thereof, learned counsel for respondents submitted that order of extension of suspension was passed by the competent authority, whereas the suspension was reviewed earlier to that by the Review Committee. The respondents have also placed on record minutes of the Suspension Review Committee held on 09.09.2019, wherein it was decided to

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further extend the suspension of the applicants for 90 days w.e.f. 18.08.2019, with no change in their subsistence allowance. Hence, the plea of the applicants in this behalf cannot be accepted, as the decision to extend the suspension of the applicants beyond 18.08.2019 was taken by the Committee well before the expiry of the period of suspension.

8. From the aforesaid, it is evident that the suspension can be extended, however, the same is required to be done after review, within a period of 90 days. In the present case, the competent authority eventually approved the recommendations of the Review Committee, and applicants' suspension was extended every time within the prescribed period of 90 days. We do not find any fault with the action of the respondents.

9. In view of the above facts and circumstances, we do not find any merit in the OAs and, accordingly, the same are dismissed. No order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

/dkm/jyoti/