

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ R.A/C.P No. 4/2006
E.P/M.A No. 104/2006 in

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SECTION OFFICER (Judl.)

14/11/12

FORM NO. 1
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:

1. Original Application No. _____

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____ 4/06 in O.A 247/06

Applicant(s) Employee State Insurance Corporation

Respondent(s) Dr. Pranjit Borman and 22 others.

Advocate for the Applicant(s) Ranjit Das.....

Advocate for the Respondent(s) J. L. Sankar, M. Chandra, S. S. S. S.

No. of the Registry	Date	Order of the Tribunal

I have gone through the
Review Petition. No ground
was made out for review.
Hence this review petition is
liable to be dismissed. I order
accordingly.

S. S. S. S.
2-3-2007

S. S. S. S.

[Signature]

28.3.2007

Return the
case

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CUMHATI BENCH:

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____ 4/06 in O.A 247/06

Applicant(S) Employee State Insurance Corporation
Respondant(S) Dr. Pramjit Borman and 22 others.

Advocate for the Applicant(S) Ranjit DAS.....

Advocate for the Respondent(S) J. L. Sankar, M. Chandra, S. N. Sankar

Notes of the Registry	Date	Order of the Tribunal
<p>This Review application has been filed by the Counsel for the Review Petitioner (Respondent in O.A 247/06) w/r 14 of the C.A.T (Procedure) Rules, 1987 for review the impugned order (oral) dated 3.1.06, passed in O.A 247/06.</p> <p>The matter may be placed first for circulation before placing the same before Hon'ble Bench.</p> <p>Laad before the Hon'ble V.C. for favour or orders.</p> <p><u>in</u> for Section Officer</p>		

23.10.06

The Review petition with
condonation of delay has
been filed by the applicant
for review petition NO. 4/06
with MP. 106/06 in CA 247/04
against Judgment and
Order dated 3-1-06 which was
passed by the Honorable Mr Justice
G. Sivarajan, Vice Chairman and
Honorable Mr N.D. Dayal, Member (A).

Submitted for perusal of kind
order for circulation.

Honorable V.C.

23.10.06

Forwarded to Sam to
Angela Burch
24/10/06

I have gone through the
Review Petition. No grounds
are made out for review.
Hence this review petition is
liable to be dismissed. I order
accordingly.

2-3-2007

I agree.

20.3.2007

Pl return the
case.

Received true copy
Ce.
2.4.07.

23.07.06

District : Kamrup (Metro) Assam.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH AT GUWAHATI-781005.

Review Petition No. 4 of 2006
(Arising out of O.A.No. 247/2004)

The Employees State Insurance Corporation

... REVIEW PETITIONER

- Versus -

Dr. Pranjit Barman and 22 others

... RESPONDENTS

OPPOSITE PARTIES

I N D E X

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15...

Filed by the
Review
Petitioner
F.S.I.C.
through
16-10-06
(RANJIT DAS)
A Advocate for
the Review Petitioner

- (ii) -

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FILED BY :-

[Signature]
16-10-06.

(RANJIT DAS)
Advocate for the
Review Petitioner.
DATE :- 16.10.2006.

District : Kamrup (Metro).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :
AT GUWAHATI - 781005.

Review Petition No. _____ of 2006
(Arising out of O.A.No.247/2004)

In the matter of :-

A Review Application under rule 14 of
the Central Administrative Tribunal
(Procedure) Rules, 1987 for review of
the impugned order (oral) dtd. 3.1.2006
passed in O.A.No. 247 of 2004 in Dr.
Pranjit Barman and 18 others ...Applicants
-Versus - The Union of India and others
... Respondents.

- And -

In the matter of :-

O.A.No. 247 of 2004 in
Dr.Pranjit Barman & 18 others

...Applicants

- Versus -

The Union of India and others

...Respondents

- And -

In the matter of :-

Order (oral) dated 3.1.2006 passed in
O.A.No. 247 of 2004 by this Hon'ble
Tribunal ...

Filed by
the Review
petitioner -

Pranjit Barman

चिकित्सा अधिकारी
Medical Superintendent
कॉन्वेलीन्स आदर्श अस्पताल
ESIC Model Hospital
बेलतला / Bultola,
गुवाहाटी / Guwahati-22

Through

16-10-06
(PRANJIT DAS)
Advocate for the
Review petitioner

6

- 2 -

Tribunal disposing the same and directing the Employees State Insurance Corporation to proceed with the matter of draft terms and conditions contained in Annexure - A to Misc. Petition No. 125 of 2005 which has been practically approved by the State Govt. of Assam and to implement the same as contained in the M.O.U. and the draft terms of absorption as agreed by the State Govt. in the written statement within a period of 6(six) months and further directed that if on such implementation the applicants are entitled to pay and allowances, it has to be given ~~for~~ to them from the date of their joining duty in the E.S.I.C. Model Hospital, Beltola, Guwahati-781022.

- And -

In the matter of :-

The Employees State Insurance Corporation,
being represented (and authorised) by -
Dr. Parimal Maji, the Medical Superintendent,
Employees State Insurance Corporation Model
Hospital, Beltola, P.O. Guwahati-781022,
District : Kamrup (Metro), Assam.

... REVIEW PETITIONER
(Respondent Nos. 1 to 5)

-Versus -

I. Dr. Pranjit Barman;

2.

2. Dr. Pranab Kumar Sarma
3. Dr. Pradip Kr. Bordoloi
4. Dr. Nalini Mohan Das.
5. Dr. Nava Kr. Gogoi.
6. Dr. Apurba Kr. Saikia.
7. Dr. Tarun Kr. Bhuyan.
8. Dr. Bhaben Rongson.
9. Dr. Kabin Tumung.
10. Dr. ~~M~~ Ganabhi Ram Sarma.
11. Dr. (Mrs) Sikha Sarma.
12. Dr. Karabi Kalita.
13. Dr. Chandan Choudhury.
14. Dr. Dipak Chancel Borbora.
15. Dr. (Mrs.) Mandira Sarma.
16. Dr. Ajit Kr. Sarma.
17. Dr. (Mrs) Kanan Bora.
18. Dr. (Mrs.) Mekan Sarma.
19. Dr. (Mrs.) Parinita Hazarika.

(Serial Nos. 1 to 19 above) are all -
working as Medical Officers (on deputation)
from the Government of Assam, Employees
State Insurance Corporation; Model Hospital,
Beltola, P.O. Guwahati-781022,
District : Kamrup (Metro), Assam.

...OPPOSITE PARTIES

(Applicant Nos. 1 to 19)

20. The Commissioner & Secretary to the
Government of Assam, Labour & Employment
Department...

Department, Assam Sachivalaya, Dispur,

P.O. Guwahati - 781006,

District : Kamrup (Metro), Assam.

21. The Secretary to the Govt. of Assam,
Labour & Employment Department,
Assam Sachivalaya, Dispur,
P.O. Guwahati-781006, District: Kamrup (Metro),
Assam.
22. The Administrative Medical Officer,
Employees State Insurance Scheme,
Government of Assam, Zoo Narangi Road,
P.O. Guwahati-781021, District: Kamrup (Metro),
Assam.

... PROFORMA OPPOSITE PARTIES

(Respondents No. 6 to 8)

The humble review petition of the
abovenamed review petitioner

Most Respectfully Sheweth :-

1. That this review petition is being filed on behalf of the respondents (nos. 1, 2, 3, 4 and 5) in O.A. No. 247 of 2004 for review of the order (oral) dated 3.1.06 passed by this Hon'ble Tribunal disposing the same and directing compliance by the instant review petitioner to proceed with the matter of drafts terms and conditions contained in Annexure - A to the Misc. Petition No. 125 of 2005 which has been practically approved by the State Government and to implement the same as contained in the M.O.U. dated 4.4.2003 and the draft terms of absorption as agreed by the State Govt. in the written statement within a period of 6(six) months. This Hon'ble Tribunal also directed ...

also directed that if on such implementation the applicant are entitled to pay and allowances it has to be given to them from the date of their joining duty in the Employees State Insurance Corporation Model Hospital, Beltola, Ghy-22.

A copy of the aforesaid impugned order (oral) dated 3.1.06 passed by this Hon'ble Tribunal (for alteration modification and/or specification as prayed for) is enclosed herewith and marked as Annexure - S.

2. That the review petitioner i.e. the Employees State Insurance Corporation has been initially constituted as per provisions of the Employees State Insurance Act, 1948 and the review petitioner is an undertaking under the Govt. of India. By a Govt. Notification dtd. 10.12.59 a Regulation has been enacted in the name and style of the Employees State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959 which came into force on 26.12.59 for the purpose of governing the conditions of its employees, which is in force at present.

3. That the opposite parties/applicants no. 1 to 19 had filed in October, 2004 the Original Appln. No. 247 of 2004 demanding cadre pay and allowances as per the E.S.I.C. norms with effect from 4.4.2003 i.e. the date of M.O.U. entered into between the E.S.I.C. Authorities and the Government of Assam. They also demanded absorption on their individual option and fixation of pay within a reasonable time. The said application is self explanatory. The Government and the other ~~and~~

Authorities...

Authorities of the instant review petitioner have been impleaded as Respondent nos. 1 to 5 in the aforesaid O.A.No. 247 of 2004 before this Hon'ble Tribunal.

4. That thereafter the opposite parties/applicants no. 1 to 19 filed an amendment petition in December, 2004, which was allowed by this Hon'ble Tribunal and consequently the O.P./applicants filed a consolidated application of O.A.No. 247/2004 in April, 2005, which is a part of the records.

The respondents (nos. 6 and 7) in O.A.No. 247/04 i.e. the Govt. of Assam and (the opposite parties nos. 20 and 21 herein) i.e. the Govt. of Assam in the Labour Department also filed their written statement on 24.6.05 on the face of the O.A.No. 247/04 having been admitted on 29.10.2004. The instant review petitioners and/or the (respondents nos. 1 to 5 of O.A.No. 247/04 also appeared and contested the case) and filed their written statement on 1.6.2005, which are also parts of records.

5. That sometime in March, 2005 the opposite parties/applicants nos. 1 to 19 filed a Misc. petition which has been numbered as M.P.No. 64/2005 for setting aside the order dated 11.2.2005 passed in M.P.No. 154/2004. Again in July, 2005 the opposite parties/applicants numbers 1 to 19 filed another Misc. Petition No. 125/2005 followed by the Additional Re-joinder filed in O.A.No. 247/2004 opposing draft terms of absorption of the applicants. This was again followed by another Re-joinder of the opposite parties/applicants no. 1 to 19 against the written statement of the instant review petitioner which are ...

which are also parts of records.

A copy of the M.P.No. 125/05 alongwith Annexure-A and B therein are also enclosed herewith and marked as Annexure-T.

6. That thereafter on hearing the parties and on perusal of the records this Hon'ble Tribunal passed the order(oral) dated 1.3.2006 (Annexure - S), a part of which i.e. 'non-specification of the date of joining' is being sought to be challenged and/or impugned herein for modification, alteration and/or specification of the date of joining of the applicants which is putting hindrance and/or impediments and/or obstructions to the instant review petitioner in implementing the aforesaid order(oral) dtd. 1.3.06 passed by this Hon'ble Tribunal as the instant review petitioner is satisfied with the aforesaid order except the 'non-specification of the date of joining of the opposite parties/applicants nos. 1 to 19 of the instant review petition.

7. That the review petitioner states that thereafter the instant review petitioner has filed a Misc. Petition on 6.7.2006 for grant of extension of time for implementation of the order(oral) dtd. 3.1.2006 (Annexure-S) of this review petition, which was registered as M.P.No.64/06(in O.A.No. 247/04) and the same is also a matter of records.

A copy of the aforesaid Misc.Petition No. 64/06(in O.A.247/04) dtd. 6.7.06 is enclosed herewith and marked as Annexure - T(1).

8. That the review petitioner states that in consideration of the same this Hon'ble Tribunal passed an order dtd. 17.7.06 allowing further time of 4(four) months to the instant review petitioner for implementing the order dated 3.1.2006 passed by this Hon'ble Tribunal on 3.1.2006, which becomes effective from 17.7.06 and will expire on 16.11.2006.

A copy of the aforesaid order dtd.
17.7.06 is enclosed herewith and
marked as Annexure - T(2).

9. That the review petitioner states that the material facts being considered by the instant review petitioner for giving effect to the Hon'ble Tribunals' order (oral) dated 1.3.2006 (Annexure-S) for the purpose of giving effect and/or for the implementation of the same are as follows :-

(A) That vide Govt. Notifications Nos. GLR.121/2003/8, dtd. 10.4.03 and No. GLR.121/2003/9, dtd. 17.4.03 the Doctors/staff were sent on deputation to E.S.I. Corporation Model Hospital, Beltola, Ghy-22 with effect from 4.4.03 i.e. the date of M.O.U. Again vide letter No. 432/A-13/11/1/2003-Estt/85, dtd. 7.5.03 a list of 26(twenty six) Medical Officers have been allowed to join the Hospital on deputation as per Govt. letter No. GLR.131/2001/pt/12, dtd. 17.2.2003.

Vide Govt. letter No. 153/2003/pt.1/158, dtd. 29.3.04, again the terms and conditions for deputation of Doctors and Staff of Model Hospital(ESI) Beltola, Ghy-22 have been spelt out by the Govt. of Assam for the first time.

Further vide Govt. Notification No. GLR.153/2003/pt.1/159, dtd. 29.3.04, the period of deputation
has been ...

has been extended for a period of another 1(one) year with effect from 4.4.2004. Again further vide Govt. letter No. GLR.131/2001/pt-111/70, dtd. 9.3.06 the terms and conditions of absorption of the State Govt. Employees working on deputation in the E.S.I.C. Model Hospital, Beltola, Ghy-22 were again spelt out deviating from the original stand appearing from letter dated 17.2.03.

Copies of these Govt. Notifications dtd. 10.4.03, 17.4.03, 29.3.04, the Medical Supdt., E.S.I.C. Model Hospital, Beltola's letter dtd. 7.5.03, and the Govt. letter dtd. 29.3.04 and 9.3.06 respectively are enclosed herewith and marked as Annexure- U, U(1), U(2), and V, V(1) and V(2) respectively.

(B) That the review petitioner states that this Hon'ble Tribunal has passed order dated 20.12.04, 11.2.05 in M.P.No. 154/04 (of O.A.No. 247/04); order dtd. 20.12.04 and 11.2.05 in M.P.155/04 (of O.A.No. 247/04) respectively prior to disposing of the instant O.A.No. 247/04 which are also matters of records.

Copies of the aforesaid order dtd. 20.12.04, 11.2.05, 20.12.04 and 11.2.05 passed in M.P.No. 154/04 and M.P.No. 155/04 are enclosed herewith and marked as Annexure - W, W(1), W(2) and W(3) respectively.

(C) That the review petitioner states that for a comprehensive review petition the following inter-departmental communications are having important bearing in which the merit of the case/are ~~also~~ as follows :-

(1) ...

- (i) A comparative statement dtd. 23.3.06 prepared by the E.S.I.C. Model Hospital Authorities at Beltola, Ghy-22 with reference to the E.S.I.C. Headquarter's letter's ~~and~~ No. A-37(18)/1/2005-DM(HQ), dtd. 16.3.06 showing the pay scales both as per Govt. of Assam and as per E.S.I.C., which is self explanatory so far the deputation posts are concerned ;
- (ii) E.S.I.C. Ghy-22's letter No. 432-A-27/19/1/2003-Estt/1706-1706, dtd. 22.6.04 in the matter of terms and conditions of deputation ;
- (iii) E.S.I.C. Headquarter at New Delhi's letter No. A-11/11/3/2003-DM(HQ)/ASSAM, dtd. 10.6.06 in the matter of terms and conditions of the deputation in question;
- (iv) E.S.I.C. HQ at New Delhi's letter No. A-11(11)-3/2003-DM(HQ) dtd. 30.11.04 in the matter of terms and conditions of deputation ;
- (v) E.S.I.C. HQ at New Delhi's letter No. A-37/(1871/2005-DM(HQ) dtd. 31.3.06 in the matter of terms and conditions showing in a tabular form the objections of the State Govt. of Assam ~~and~~ vis-a-vis views of the E.S.I. Corporation;
- (vi) E.S.I.C. HQ at New Delhi's speed post letter No. C-18/11/9/2004-Med IV dtd. 30.6.06 in the matter of extension of time for implementation of this Hon'ble Tribunal's order(oral) dtd. 3.1.06;
- (vii) M.O.U., dtd. 4.4.03 entered into between the Govt. of Assam and the E.S.I.C. ;
- (viii) E.S.I.C. HQ 's letter No. A-37(18)1/03-Med IV dtd. 3.6.05 sending draft terms of absorption ;
- (ix) ...

- (ix) E.S.I.C.HQ's letter No. A-37(18)1/2003-DM(HQ) dtd. 29.12.05 in the matter of State Govt. Employees working in various E.S.I.C.Model Hospitals;
- (x) E.S.I.C.Guwahati-22's letter No. ESI/ESIC-ABSORPTION/2006/1024, dtd. 21.3.06 in the matter of absorption;
- (xi) President, E.S.I.C.Doctors' Association representation dated 17.1.05 for 1(one) day pay deduction ;
- (xii) Govt. of Assam's letter No. GLR.131/2001/pt/1/12, dtd. 17.2.03 ~~px~~ issued by the Joint Secretary to the Govt. of Assam, in the Department of Labour and Employment in the matter of initial laying of terms and conditions of deputation etc ;

Copies of those inter-departmental communications dated 17.2.03, 4.4.03, 10.6.04, 22.6.04, 30.11.04, 17.1.05, 3.6.05, 29.12.05, 21.3.06, 23.3.06, 31.3.06 and 30.6.04 are enclosed hereto and marked as Annexure, X, X(1), X(2), X(3), X(4), X(5), X(6), X(7), X(8), X(9), X(10) and X(12) respectively.

10. That the review petitioner states that the M.O.U. entered into between the E.S.I.C. and the State Government of Assam have been entered into on 4.4.2003. As per the M.O.U., the officers and the staff of the E.S.I.C. Model Hospital, Beltola are placed in the disposal of the E.S.I.C. initially on deputation. The opposite parties nos. 1 to 19 are the employees of the Govt. of Assam and are on deputation to the E.S.I.C.Model Hospital Beltola...

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Beltola, GHY-22. The matter of absorption of the said officers and staff on deputation is under process and as provided in the M.O.U. options have been called for and received from the eligible candidates. The review petitioner is responsible for the smooth and efficient functioning of the E.S.I.C. Model Hospital Beltola and as such it is empowered to post its own Medical Officers for the purpose, keeping in view the sanctioned strength of the E.S.I.C. Model Hospital. As per Govt. of India's instruction, as and when a situation arises for premature reversion of the parent cadre of the deputationist, his services could be (under the law of deputation) so returned after giving advanced intimation to the lending Government Department and the employee concerned. Accordingly it follows that the respondents are well entitled within authority to repatriate the deputationist if required prior to their absorption in the E.S.I.C. Model Hospital at Beltola, Guwahati - 22.

11. That the review petitioner states that the deputationists will be absorbed according to their suitability and requirements of the E.S.I.C. Model Hospital. However, no repatriation has been ordered by the instant review petitioner till date.

12. That the review petitioner states that the E.S.I.C. i.e., the review petitioner is liable to pay the E.S.I.C. scale to the deputationist only from the date of their permanent absorption in the regular service of the E.S.I.C. Model Hospital, which will be proposed to be made effective from 1.1.06 by giving a retrospective effect, till...

effect, till such time they will for all purposes be governed by the rules and regulations of the State Government of Assam and there is no doubt in it by virtue of their orders of extension of deputations period made from time to time as stated hereinabove.

Further while taking into account the conditional letter submitted by the Commissioner and Secretary to the Govt. of Assam, in the Department of Labour and Employment at Dispur, Guwahati-6 vide communication No. G.R.131/2001/pt-111/70, dtd. 9.3.2006 a decision in the matter is being taken soon in this ~~matter~~ regard.

13. That the review petitioner states that it may not be out of place to mention that in the meantime, the E.S.I.C. Headquarter at New Delhi has informed its Guwahati Offices that issue of joining of newly recruited/transferred Doctors over and above the sanctioned strength have been resolved by showing their posting against post of G.D.M.O. vacant in the Directorate (Medical) Delhi.

Further the State Govt. Doctors on deputation to E.S.I. Model Hospital are entitled to state Govt. salaries plus deputation allowances as per terms and conditions contained in the M.O.U. The E.S.I.C. pay scales will be admissible to the State Govt. Doctors (on deputation) from their date of absorption in E.S.I. Corporation Model Hospital and as such the very day of M.O.U. and/or their joining on deputation on 4.4.03 cannot be their date of joining apparant on the face of records as per the Hon'ble Apex decision laying the law on deputation which ruled ...

which ruled that a Govt. servant cannot simultaneously hold 2(two) posts ~~of~~ in 2(two) different cadres and hence the date on which the deputationist would be absorbed in E.S.I.C. Model Hospital his or her appointment in the Govt. Department would automatically vanish and become void.

14. That the review petitioner states that vide Govt. of Assam's letter No. GLR.37/88/79, dtd. 31.7.06, No. GLR.591/84/355, dtd. 5.8.06, No. GLR.591/84/356, dtd. 5.8.06, Govt.-Notification No. GLR.153/2003/pt.1/178, dtd. 30.4.05 and the opposite party no. 22's letter No. SAN/Reten/BEL/86-07/3046 dtd. 22.8.06, it appears that the Govt. of Assam has conveyed the sanction for retention of the temporary post of the deputationists/ opposite parties nos. 1 to 19 and others for a further period of another 1(one) year from 1.3.06 to 28.2.07(07) and interestingly it transpires that all these posts are temporary in nature. Further opposite party no. 22 's letter dated 22.8.06 speaks for furnishing list of incumbents with pay scale for requirement of forwarding the same to Govt. of Assam, showing those temporary nature posts created on 29.7.1989.

Copies of those retention letter, dtd. 31.7.06, 5.8.06, 5.8.06, 30.4.05, and 22.8.06 are enclosed herewith and marked as Annexure - Y, Y(1), Y(2), Y(3) and Y(4) respectively.

14(a). That the review petitioner states that the F.R.S.Rs available under the Govt. of India for administering ...

administering service conditions and M.O.U. executed between Govt. of Assam and E.S.I. Corporation provide that individual option either to accept corporation pay scale or state Govt. scale plus deputation allowances will be called for from the deputationists;

That the review petitioner states that since the E.S.I. Model Hospital has been taken over ~~the~~ by the E.S.I. from Govt. of Assam and the exercise involved deputation of Doctors and staff at en-mass level, it was not feasible for the Corporation to call for individual option and pay varied pay scales to the deputationists;

That the review petitioner states that the Corporation under these circumstances decided that the option for choosing pay scales had to be made as a Hospital unit and not individually; and

That the review petitioner states that accordingly a reference was made to the State Govt. vide D.O. Letter No. U.11/11/Assam/1/03-DM(HQ) dtd. 10.1.2003 and State Govt. vide their letter No. R153/2003-pt.1/158, dtd. 29.3.2004 opted for State Govt. pay scales plus deputation allowance.

Copies of the aforesaid E.S.I. Corporation's D.O. letter dtd. 10.1.2003 and the Assam Govt. in the Labour & Employment Department's letter dtd. 29.3.04 are enclosed herewith and marked as Annexure - Y(5) and Y(6) respectively.

14(b). That the review petitioner most respectfully submits that ~~the~~ in view of what has been stated above the applicants have been drawing accordingly the

Assam Govt. ...

Assam Govt. scale of pay plus ~~Business~~ Allowance and their claim to Corporation pay scale is not sustainable in law in the facts and circumstances of the instant case.

15. That the review petitioner as such begs to prefer this review petition on amongst others the following -

G R O U N D S

(I) For that the review petitioner most respectfully submits that it is well established in law that a Govt. service is a matter of status and not a contract. It is also established in law that the ~~term~~ term 'absorption' has the effect of sucking and imbibing into what is originally existing. On absorption thus an employee becomes part and parcel of the department absorbing him/her and partakes the same colour and character of the existing employees of that Department, classified as promotees, direct appointees and transferees on the loss of his identity.

Further it is also established in law that no Govt. servant can hold lien simultaneously in two posts in two establishments i.e. in other words lien just connotes the right of a civil servant to hold the posts substantively to which he is appointed. Generally, when a person with a lien against a post is appointed substantively to another post he acquires a lien against the later post. Then the lien against his previous post automatically disappears. The principle being that no Govt. servant can have simultaneously 2(two) liens against 2(two) posts in 2(two) different cadres.

In these views of the matter the impugned order(oral) dtd. 3.1.06 is liable to be modified and/or for specifying clearly to the extent of the date of

joining as prayed ...

joining as prayed for in the facts and circumstances of the instant case by the instant review petitioner.

(II) For that it is well established in law as laid down by the Hon'ble Apex Court that in a case of deputation, the deputationist has no right to absorption and in this view of the matter the impugned order(oral) is liable to be modified and/or altered by specifying the date of joining in the instant case in the facts and circumstances of the case in the interest of justice.

(III) For that the joining date in this case may mean date of joining from the date of handover of the E.S.I. Model Hospital on 4.4.2003 to the E.S.I.C. Model Hospital and/or alternately it may also mean the date when actually the E.S.I.C. Model Hospital will absorb the deputationists i.e. w.e.f. 1.1.2006 by giving a retrospective effect on a subsequent date yet to come. Therefore the impugned order (oral) dtd. 3.1.2006 (Annexure - S of this review petition) is in equivocal and/or ambiguous terms and/or having a double meaning/interpretation which is confusing for the purpose of implementation of the Hon'ble Tribunal's order dtd. 3.1.06 impugned herein and hence needs clarification and/or modification to the extent of spelling out the date of joining and in this view of the matter the impugned order dtd. 3.1.06 is liable to be modified and/or altered in the interest of justice.

(IV) For that in case of a deputation, resignation from the post in the parent department is necessary

particularly ...

particularly for those holding initial temporary posts and continuing in that post under the Govt. of Assam prior to their absorption in the E.S.I.C. Model Hospital w.e.f. 1.1.2006 as proposed by the review petitioner which is being given effect soon.

(V) For that now only the process of absorption had started by obtaining options from the concerned deputationist. ~~and acceptance~~ Tendering of resignation of the concerned deputationist and acceptance of the same by the Govt. of Assam for the purpose of release of the deputationists (to be absorbed in the E.S.I.C.) by the Govt. of Assam is necessary as per the mandatory provisions of the law of deputation because all of those deputationists are holding temporary posts under the Govt. of Assam. Thereafter only on consideration of the suitability and/or performances of the deputationists the E.S.I.C. will be able to take a decision to absorb them and do although it has been declared that the date of joining will be w.e.f. 1.1.2006 with a retrospective effect. Therefore it follows that as per law of deputation (in absence of term/period of deputation) in the initial order dated 10.4.2003 and/or 17.2.2003, the temporary deputationists had to resign first to be considered for absorption while it is not necessary in case of the deputationists holding substantive post because of their carrying a lien in the parent department. And in this view of the matter the impugned order (oral) dtd. 3.1.06 is liable to be modified, altered and/or for specifying the clear date of joining in the facts and circumstances of the instant case.

(VI) ...

(VI) For that under no stretch of imagination the date of take over of the E.S.I. Model Hospital, Beltola by the E.S.I.C. i.e. on 4.4.2003 can be the date of joining for those deputationists sent by the Government of Assam on 10.4.2003 and 17.4.2003 (proposed on 17.2.03) respectively, which shows that there is no period and/or term stipulated for deputation in the initial orders of deputation which subsequently extended without any objection from any quarter not even from the side of the instant review petitioner and ~~in~~ in this view of the matter the impugned order dated 3.1.06 is liable to be modified in the interest of justice more particularly by specifying the date of joining of the instant deputationists by removing the ambiguity and confusion in unequivocal terms for the ends of justice paving the way for implementation of the absorption in question.

(VII) For that the review petitioner on receipt of the order(oral) dtd. 3.1.06 passed by this Hon'ble Tribunal gone through the same and found that the direction in paragraph 8 of the aforesaid order particularly to give effect of pay and allowances to the instant opposite parties/applicants "w.e.f. the date of joining" has created confusion for which the implementation of the same is being delayed.

In the instant case date of joining has 2(two) meaning as it appears. Firstly the date on which the deputationists will be absorbed by the review petitioner may be termed as "date of joining"; secondly the date of takeover of the E.S.I. Model Hospital as per M.O.U. may also be termed as "the date of joining". This has not been spelt out in the aforesaid order(oral) dtd. 3.1.06

giving rise ...

giving rise to confusion and the resultant delay in total implementation of the order dated 3.1.06 (Annexure- S) sought to be reviewed for alteration and/or modification to the limited extent that the " date of joining " only may be specified so as to clarify the ambiguity and/or confusion in unequivocal terms and in absence of the same this impugned order is liable to be modified and/or altered to the extent indicated hereinabove.

(VIII) For that as per the M.O.U. the date of take-over of the E.S.I. Model ~~Max~~ Hospital at Beltola, Ghy-22 is 4.4.2003 vide Annexure - X(1) i.e. the M.O.U. executed in a meeting held between the representative of the Govt. and the representatives of the instant review petitioner i.e. the E.S.I. Corporation held on 4.4.2003 and it was decided to take over the said E.S.I. Hospital by the instant review petitioner w.e.f. 4.4.2003 and the subsequent deputation of the Doctors and Staffs are all part of the same deal and hence the same is binding on both parties as per law of deputation which stipulates that the date of absorption will be the date of joining of the deputationists and in this view of the matter the impugned order is liable to be modified and/or altered as indicated above, more so when vide Govt. letter dated 17.2.03, 10.4.03, 17.4.03 and 29.3.04 (Annexures - X, U, U(1) and U(2) respectively) it appears clearly that the Govt. of Assam has deputed all the staff of the E.S.I. Model Hospital Beltola to serve under the instant review petitioner i.e. the E.S.I. Corporation. This implies that ...

implies that the deputationists i.e. the instant opposite parties/applicants are on deputation under the terms and conditions of their initial appointment in service under the Govt. of Assam and until their services were permanently absorbed by the instant review petitioner (even in absence of the specified period ~~xx~~ in the initial Govt. order of deputation but later on specified by Govt. and the E.S.I.C. raising no objection to it) for all purposes they remain employees of the Govt. of Assam till date since 4.4.2003 and for all purposes they are on deputation to the E.S.I.C. Model Hospital at Beltola, Guwahati-22 till date since 4.4.03. The moment they are absorbed (may be w.e.f. 1.1.2006 with a retrospective effect now) they will become regular employees of the E.S.I.C. Model Hospital ~~on~~ and from 1.1.2006 and in this view of the matter the impugned order dated 3.1.06 needs to be modified and/or altered to the extent of spelling out the date of joining, in the interest of justice.

(IX) For that it may so require that they might be required to tender resignation in their said service under the Govt. of Assam before absorption under the instant review petitioner i.e. in the E.S.I.C. Model Hospital, in case they are holding temporary posts. But the matter would have been different if they were holding the post in a substantive capacity vide Govt. letters dated 31.7.05, 5.8.06, 5.8.06, 30.4.06 and 22.8.06 (Annexures - Y, Y(1), Y(2), Y(3) and Y(4)) respectively, the Govt. of Assam has granted extension of the terms of deputation ...

of deputation for 3 years w.e.f. 4.4.03 which extends to 4.4.06 clearly indicating that their date of joining under no stretch of imagination can be reconed w.e.f. 4.4.2003 but from the date of their permanent absorption and/or w.e.f. 1.1.06 (with a retrospective effect from now) which date the E.S.I.C. and/or the instant review petitioner is trying to give effect retrospectively from now in the instant case. Moreover the law of deputation provides that if the initial date of appointment of a Govt. employee is a substantive/permanent one than he/she automatically carries a lien with himself/herself. But in case where the initial appointment is not substantive but temporary then the Govt. servant carries no lien with him/her for which resignation may be called for. However in the instant case their option will also govern the field and their date of absorption (proposed as 1.1.06) in the review petitioner's Model Hospital at Beltola, Guwahati-22 would only be reconed as the date of joining but 4.4.2003 i.e. the date of M.O.U. cannot be the joining date in the facts and circumstances of the instant case and in this view of the matter the impugned order dated 3.1.06 (oral) passed by this Hon'ble Tribunal is liable to be modified and/or altered to the extent indicated by specifying clearly the same in unambiguous terms i.e. the date of their joining for the deputationists opposite parties/applicants.

(X) For that the review petitioner states that vide letter No. A-37(1821/2005-DM/(HQ)), dated 31.3.06 (Annexure-X(10) issued by Medical Commissioner & Joint Director
(Medical), E.S.I.C....

(Medical) E.S.I.C., Panchdee Bhawan, C.I.G. Road, New Delhi addressed to the Secretary to the Govt. of Assam, Labour and Employment Department, Guwahati, the instant review petitioner has decided to give a retrospective effect from now to the date of absorption i.e. w.e.f. 1.1.2006 by relaxing the same, but the instant order (oral) dtd. 3.1.06 (Annexure-S) which is impugned herein passed by the Hon'ble Tribunal in O.A.No. 247/04 directing the instant review petitioner to give effect to the pay and allowances of the opposite parties/applicants with effect from the "date of joining" has hampered/impeaded speedy implementation of the processes of absorption, which needs clarification and/or review and hence this instant review petition for clarification of the "date of joining" in the instant case for the ends of justice.

(X) For that in any view of the matter the impugned order(oral) dtd. 3.1.06 passed by this Hon'ble Tribunal in O.A.No. 247/04 requires to be reviewed to the extent indicated i.e. of specifying the date of joining only by altering and/or modifying the same in clear and in unequivocal terms so as to pave the way of its immediate implementation in the interest of justice by the instant review petitioner.

Under the above facts and circumstances of the instant case it is most respectfully prayed that your Lordships' would be graciously pleased to admit this review petition, call for the records of the case and after ...

and after issuance of notices to the opposite parties/applicants and upon hearing the parties may further be pleased to review the impugned order(Oral) dated 3.1.06 (Annexure - S) passed in the instant O.A.No. 247/2004 by modifying, altering and/or specifying the date of joining of the deputationists and/or the opposite parties/applicants no. 1 to 19 with effect from 01.01.2006 i.e. (with retrospective effect from now which is being given effect to by the instant review petitioner and/or pass any other or further order/orders, as deem fit and proper by your Lordships' in the above-noted facts and circumstances of the case in the interest of justice.

And for this, the instant review petitioner, as in duty bound, shall ever pray.

Affidavit ...

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 247 of 2004

Date of Order: This, the 3rd day of January, 2006

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR N.D.DAYAL, ADMINISTRATIVE MEMBER.

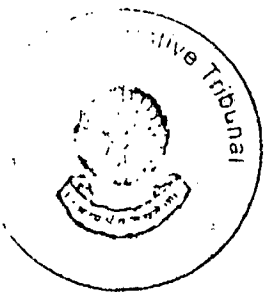
1. Dr. Pranjit Barman
2. Dr. Pranab Kr. Sarma
3. Dr. Pradip Kr. Bordoloi
4. Dr. Nalini Kr. Bordoloi
5. Dr. Nava Kr. Gogoi
6. Dr. Apurba Kr. Saikia
7. Dr. Tarun Kr. Bhuyan
8. Dr. Bhaben Rongson
9. Dr. Kabin Tumung
10. Dr. Gunabhi Ram Sarma
11. Dr. (Mrs) Sikha Sarma
12. Dr. Karabi Kalita
13. Dr. Chandan Choudhury
14. Dr. Dipak Chancel Borhara
15. Dr. (Mrs) Mandira Sarma
16. Dr. Ajit Kr. Sarma
17. Dr. (Mrs) Kanan Bora
18. Dr. (Mrs) Mekan Sarma
19. Dr. (Mrs) Parinita Hazarika

..... Applicants.

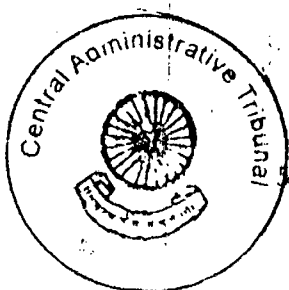
(All are working as Medical Officers in the ESI Model Hospital, Beltola, Guwahati 22, Assam under the Employee's State Insurance Corporation. They are on deputation from Govt. of Assam).

By Advocates Dr. I. L. Sarker, Mr. M. Chanda, Mr. S. Nath,
Mr. G. N. Chakraborty & Mr. S. Choudhury.

- Versus -



- 26 -
- 32
- 2
1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Labour and Employment
New Delhi.
 2. The Director General
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 3. The Medical Commissioner
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 4. The Regional Director
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 - The Superintendent
Model Hospital
Employee's State Insurance Corporation
Beltola, Guwahati-781 022
Assam.
 6. The Commissioner and Secretary
to the Government of Assam
Labour and Employment Department
Dispur, Guwahati-781 006.
 7. The Secretary
to the Government of Assam
Labour and Employment Department
Dispur, Guwahati-781 006
Assam.
 8. The Administrative Medical Officer
ESI Scheme, Government of Assam
Zoo Narangi Road
Guwahati - 781 021
Assam.



Respondents.

By Mr. B.C. Pathak, Advocate for the ESIC and Mrs. M. Das,
Govt. Advocate, State of Assam.

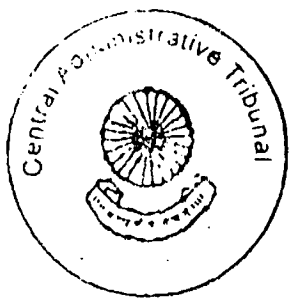
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O R D E R (ORAL)

SIVARAJAN, J. (V.C.) :

The applicants 19 in number are working as Medical Officers in the ESI Model Hospital, Beltola, Guwahati, Assam, (under the Employee State Insurance Corporation (for short ESIC) on deputation from the Government of Assam. They have filed this application seeking for the following reliefs:-



"8.1 That the Hon'ble Tribunal be pleased to direct the Respondents to give the cadre pay and allowances to the applicants at ESIC norms and at par with that of their counterparts in the ESIC w.e.f: 04.04.2003, with all consequential service benefits.

8.1A That the Hon'ble Tribunal be pleased to set aside and quash the order bearing letter No. A-11(11)-3/2003-DM(HQ) dated 30.11.04.

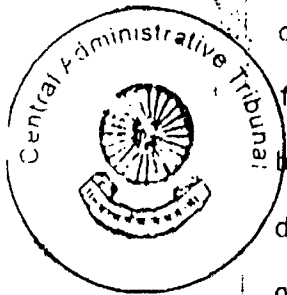
8.2 That the Hon'ble Tribunal be pleased to direct the respondents to refix the pay of the applicant with immediate effect.

8.3 That the Respondents be directed to formulate the detailed terms and conditions for permanent absorption of the applicants in accordance with law and without any prejudice to the interest/prospects of the applicants and to absorb them thereafter in the ESIC on their individual option within a reasonable time frame."

2. The case of the applicants is that the ESIC had entered into a Memorandum of Understanding (for short MOU) dated 26.12.2002 (Annexure-3) containing the terms and conditions under which the services of the applicants and other staff of the State Government deputed in the ESI Model Hospital have to be absorbed in the ESIC. It is

gpr ✓

stated that pursuant to the terms and conditions contained in the MOU the applicants and the other staff were asked to give their option to accept the scale of pay in respective cadre/categories of posts in the ESIC as per the existing norms/rules of the ESIC and that the applicants, pursuant to same, had given their option as early as in 2003. It is grievance of the applicants that they are not being paid pay and allowances of the ESIC opted for by them till date. It is also stated that the ESIC had prepared a draft terms of absorption (Annexure-A to the M.P.125/2005) and forwarded the same to the State Government which has not been finalised so far. It is stated that in Clause-3 of the draft terms of absorption it is provided that an employee opting for absorption has to resign from the State Government service and his absorption in Corporation service will take effect from the date of deputation in ESIC or from the date he joins the duty in the ESIC whichever is earlier. It is also stated that Clause 12 of the draft also provides that pay of an absorbed employee will be fixed as per Fundamental Rules of Govt. of India and Regulation 7(4) (a) of ESIC (Staff & Condition of Service) Regulations, 1959. The grievance of the applicants, as can be seen from the reliefs, is that the ESIC has not so far implemented the MOU and the draft scheme which prejudicially affects them. ESIC has filed its written statement. The applicants have filed rejoinder. Respondents 6 & 7 have also filed written statement.

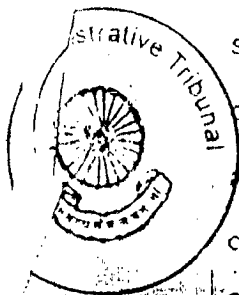


Spt

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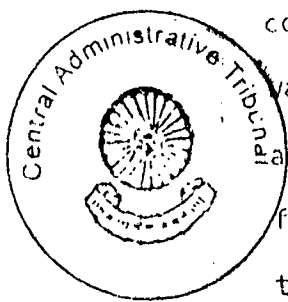
2. We have heard Dr. J. L. Sarkar assisted by Mr. M. Chanda, learned counsel appearing for the applicants, Mr. B. C. Pathak, learned counsel for the ESIC and Mrs. M. Das, learned Govt. Advocate for the State of Assam. Dr. Sarkar submits that according to the MOU and as per the draft terms of absorption which are undisputed documents, the applicants are entitled to pay and allowances applicable to ESIC once it is opted by the applicants and that they are being denied of such benefits in spite of their opting for the same. Dr. Sarkar also submits that the stand taken by the ESIC is that the draft terms and conditions sent to the State Government has not yet been approved by the State Government. Counsel took us to the communication dated 3.6.2005 issued by the ESIC to the Secretary to the State of Assam forwarding the draft terms and conditions for the approval of the State Government and submitted that in the said communication it is specifically stated by the ESIC that "Incase, we do not hear from you within three months we will presume that you are in agreement with the proposed terms" but the ESIC is not proceeding with the matter under one pretext or the other. Counsel further submits that the ESIC must be directed to expedite the implementation of the MOU and the draft terms of absorption. Counsel further submits that the Corporation must also be directed to disburse the pay and allowances applicable to their counterparts in the ESIC from 2003 onwards urgently and to implement the other terms and conditions also.

Gpt



4. Mr. B. C. Pathak, counsel appearing for the ESIC submits that the ESIC has brought out a scheme in the 122nd Meeting of the ESIC held on 20.2.2002 for setting up model ESI Hospitals in 15 places in different States and it is pursuant to the said scheme an MOU has been entered into between the Representatives of ESIC and the Government of Assam. Counsel further submits that the MOU did not contain all the terms and conditions for the absorption of the State Government staff deputed to the ESI Model Hospital and the Corporation has prepared a draft terms and conditions in the matter of absorption of such staff which was forwarded to the Government of Assam for their approval as early as on 3.6.2005 but the matter is delayed solely for the reason that the State Government did not respond to the same. Counsel also submits that the Corporation is concerned not only with the State of Assam but also with the Model Hospitals set up in 14 other States and that a uniform terms and conditions have to be approved. Counsel further submits that it is only thereafter the question of disbursement of pay and allowances to the applicants and to the other staff as per ESIC norms can be decided. Counsel also pointed out that having regard to the lengthy procedure involved in the matter of absorption of the deputationists including the approval from the Central Government some substantial time is required for its implementation.

5. Mrs. M. Das, Govt. Advocate for the State of Assam, submits that the State of Assam has filed a written



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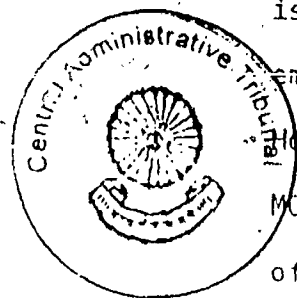
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statement wherein the State Government had practically approved the draft terms and conditions and therefore there is no difficulty for the ESIC to proceed with the matter. Mrs. Das further submits that the State Government has already instructed the Corporation to release pay and allowances to the deputationists as per the ESI norms and therefore there is no difficulty in making payment to the applicants and other staff.

6. We have considered the rival submissions. There is no dispute that the applicants the State Government employees who are sent on deputation in the ESI Model Hospital under the ESIC. There is also no dispute that an MOU was entered into in regard to the terms and conditions of absorption of the applicants and other staff in the ESIC. However, the stand taken by the ESIC is that it did not contain all the terms and conditions and a draft terms and conditions was prepared and sent to the State Government for their approval. True, the State Government did not sent any reply. However, the State Government in its written statement has practically agreed to the draft terms of absorption prepared and sent by the ESIC. In such circumstances, it is a matter for the ESIC to make the draft statement final taking into account the stand taken by the State Government in the written statement and to implement the same in respect of the doctors and all other State Government employees working on deputation in the ESI Model Hospital and being absorbed in the ESIC.

[Signature]



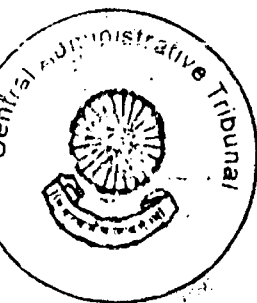
7. The applicants have got a case that they are entitled to get pay and allowances from 2003 onwards since they have submitted their option in terms of the MOU and the draft terms of absorption, particularly in view of the clauses contained in the MOU and in their draft terms of absorption to the effect that they will be absorbed from the date of deputation in ESIC or from the date they joining duty whichever is earlier. According to us, these are all matters which the ESIC has to consider and expeditious decision has to be taken.

8. Now, that the draft terms and conditions contained in Annexure-A to the M.P.125/2005 has been practically approved by the State Government we direct the ESIC to proceed with the matter and to implement the terms and conditions contained in the MOU and the draft terms of absorption, to the effect agreed to by the State Government in their written statement within a period of six months from the date of receipt of this order. If, on such implementation the applicants are entitled to pay and allowances, needless to say it has to be given to them from the date of their joining duty in the ESI Model Hospital.

The Original Application is disposed of as above.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



अनुभाग अधिकारी
Section Officer (Jr.)

Central Administrative Tribunal

प्रादेशिक न्यायाधीश

प्रादेशिक न्यायाधीश

प्रादेशिक न्यायाधीश

17/1/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Revised Copy
21/7/05

In the matter of: -

M.F. No. 125/2005

O.A. No 247 of 2004.

Dr. Pranab Kumar Sharma and ors.

..... Applicants.

-Vs-

Union of India and Others.

..... Respondents.

AND

In the matter of: -

An application praying for a direction upon the Respondents not to repatriate the applicants from their present posts of deputation till the process of their permanent absorption is completed.

AND

In the matter of:-

1. Dr. Prajit Barman.
2. Dr. Pranab Kr. Sarma.
3. Dr. Pradip Kr. Bordoloi.
4. Dr. Nalini Mohan Das.
5. Dr. Nava Kr. Gogoi.
6. Dr. Apurba Kr. Saikia.
7. Dr. Tarun Kr. Bhuyan.
8. Dr. Bhuben Rongson.
9. Dr. Kabita Tnumung.

10. Dr. Gunabhi Ram Sarma.
11. Dr. (Mrs.) Sikha Sarma.
12. Dr. Karabi Kalita.
13. Dr. Chindan Choudhury.
14. Dr. Dipak Chandra Borbora.
15. Dr. (Mrs.) Mandira Sarma.
16. Dr. Ajit K. Sarma.
17. Dr. (Mrs.) Kanan Bora.
18. Dr. (Mrs.) Mekan Sarma.
19. Dr. (Mrs.) Parinita Hazarika.

--- Applicants.

-Versus-

1. The Union of India.
Represented by the Secretary to the
Govt. of India,
Ministry of Labour and Employment,
The Director General,
Employee's State Insurance
Corporation, Panchadeep Bhawan
Kotla Road, New Delhi- 110002.
2. The Medical Commissioner,
Employee's State Insurance
Corporation, Panchadeep Bhawan,
Kotla Road, New Delhi- 110002.
3. The Regional Director,
Employee's State Insurance
Corporation, Assam,
Bamunimaidan, Guwahati- 781 021.
4. The Superintendent,
Model Hospital,
Employee's State Insurance Corporation
Bellota, Guwahati- 781006.
5. The Commissioner and Secretary to the
Government of Assam,
Labour and Employment Department,
Dispur, Guwahati- 781006, Assam.
6. The Secretary to the Government of
Assam, Labour and Employment
Department, Dispur, Guwahati- 781006.

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8. The Administrative Medical Officer,
ESI Scheme, Govt. of Assam,
Zoo- Narangi Road, Guwahati- 781021,
Assam.

--- Respondents.

The applicants abovenamed most humbly and respectfully beg to state as under:-

1. That the applicants have filed the O.A. No. 217/2004 against non-payment of pay and allowances/cadre pay as per the scale of the Employee's State Insurance Corporation (ESIC) to the applicants under deputation and their permanent absorption in the ESI Corporation since the taking over of the ESI Hospital at Bellola by the ESIC w.e.f. 04.04.2003 under their Model Hospital Scheme as per the Memorandum of Understanding dated 04.04.03, signed by the Authorities of the Respondent Corporation and the Government of Assam.
2. That the respondents have belatedly issued their letter No. A-37 (18) 1/03-Med. IV dated 03.06.2005 communicating therein the proposed Draft terms of absorption of the applicants in the ESIC to the Govt. of Assam. It is evident from para 3 of the said letter that the absorption of the applicants will take effect from the date of deputation in ESIC or from the date of deputation by ESIC or from the date they join the duty in the ESIC or from the date they join the duty in the ESIC whichever is earlier. As such it is clearly evident that the applicants will also be entitled to their cadre pay as per ESIC scale of pay with w.e.f. the date of their deputation in the ESIC Hospital, Bellola.
(Copy of letter dated 03.06.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-A).
3. That during the pendency of the Original Application, the respondents have now issued one letter No. A-12 (13)-4/2003-DM (HQ)-Col. III dated 27.05.05 stating that they have issued offers for appointment to some

Doctors as regular appointees and further stated that with the joining of those regular appointees, the State Govt. Doctors on deputation will have to be sent back to their parent department.

(A copy of the letter dated 27.05.05 is annexed herewith for perusal of Hon'ble Tribunal as Annexure-B).

4. That the applicants most respectfully beg to submit that the above stated action of the Respondents during the pendency of this O.A. before this Hon'ble Tribunal is utter violation of law and against the conditions laid down in the Memorandum of Understanding (MOU) dated 04.04.2003 which forms the basis of deputation in the instant case. The respondents have initiated action for permanent absorption of the applicants in one hand for which they have even communicated the terms of absorption to the Govt. of Assam and on the other hand they have initiated actions for repatriation of the applicants as stated above, which is contradictory and opposed to public policy and as such illegal and unfair.
5. That this application is made bonafide and for the cause of justice.

In the facts and circumstances stated above, the Hon'ble Tribunal be pleased to direct the respondents not to repatriate the applicants to their parent department till the process of their permanent absorption in ESIC is completed.

And for this act of kindness the applicants as in duty bound shall ever pray.

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VERIFICATION

I, Dr. Francis Kumar Sharma, S/o. Late Pratap Sharma, aged about 47 years, working in the office of the E.S.I corporation, one of the applicant in the instant Original Application, duly authorized by the others, do hereby verify that the statements made in paragraph 1 to 3 of this additional rejoinder are true to my knowledge and records and I have not suppressed any material fact.

And I sign this verification on this the _____ day of _____, 2005

EMPLOYEES STATE INSURANCE CORPORATION
PATCHHAUJI BHAVAR C.I.G. HOSPITAL NEW DELHI

No. A-1 (M) 170 C Med. IV

Dated June 3, 2005

To

The Secretary
To Govt. of

Chhattisgarh (A.S. 9001)

Sub: Terms and conditions of absorption of the State Govt.
employees working on deputation in the ESIC Model Hospital,
Patichauji Bhavar C.I.G. Hospital

Sir/Madam,

I am to enclose herewith draft terms of absorption of your
State Govt. employees who have been deputed to ESIC Model
Hospital, Patichauji Bhavar C.I.G. Hospital which was taken over by us
on 11.12.02. It is proposed to absorb such employees in the
Corporation service on their tendering resignation from State Govt.
service and acceptance of the same by the State Govt., and subject to
State Govt. and employees concerned accepting the terms of
absorption. The draft terms and conditions may please be gone
through and your views and acceptance of these terms may please be
communicated so that draft terms can be placed for approval of the
ESI Corporation. Once these terms are finalised, option for
absorption in ESIC services shall be entertained through the State
Govt. only and not directly from employees. ESIC will not entertain
any representation viz. grievance etc. directly from individual or the
Union.

The draft terms and conditions of absorption are prepared
keeping in view extant Govt. of India rules and instructions on the
subject wherever applicable and possible.

As the matter has already been pending for long and there are
litigations from some States, I request you to please offer your
views and comments, if any, taking in view the relevant service
rules, as early as possible, and in any case, within three months so
that the matter can be taken up to the ESI Corporation. In case, we
do not hear from you within three months we will presume that you
are in agreement with the proposed terms.

Yours faithfully,

Encl: As above

[DR. (MISS) KAMLESH KALRA]
MEDICAL COMMISSIONER

Copy to:-

The Medical Superintendent, ESIC Model Hospital,
Patichauji Bhavar C.I.G. Hospital - for information with the advice to
give wide publicity to the terms of absorption through notice
board etc. including in local language, but no notice should be
given to individuals or to any union. Further, the matter may
also be followed up with the respective State Govt. so that the
time limit as above is adhered to.

BY: DIRECTOR (M.D.)

(Proposed to be circulated vide no. A-12 (3) 1701 dated IV. 01.05.05)

DRAFT TERMS OF ABSORPTION

1.) Option may be exercised by each employee for absorption in Corporation service or for deputation to the State Govt. service. This option may be exercised by each employee who has a minimum of 7 years' service left in the lending Department as on 01.01.2006.

2) Mere exercising of option for absorption in Corporation service shall not confer any right on any employee to claim absorption and the decision of the Corporation in the matter would be final based on consideration of due screening.

3. An employee opting for absorption has to resign from State Govt. service and his absorption in Corporation service will take effect from the date of deputation in ESI Corporation or from the date he joins the duty in the ESI Corporation whichever is earlier.

4) Seniority of an employee absorbed in the Corporation will be determined either from the date from which one holds the post on deputation or from the date one holds the post in equivalent grade on regular basis in the State Govt. service, whichever is earlier. Seniority of two or more State Govt. employees absorbed in the Corporation service would however, be fixed as per the seniority existing in the State Govt. prior to their absorption. Before absorption an employee will be free to opt for separate institutional seniority i.e. seniority only for the particular hospital. In this case they will not be transferred outside the hospital even after absorption and the promotions will be based on the institutional seniority only subject to the vacancy in the hospital OR the individuals can also opt to be part of all India seniority, in which case they will be liable for all India transfer and all India promotional avenues. If opting for institutional seniority, the all India posts and cadres to which they will not be eligible for promotion will be the Medical Superintendent of the Hospital and all officers in the pay scale of Rs.14300-18300 (current NFSG scale).

5) Employees on absorption would continue to work at ESI Model Hospital _____ at the discretion of the Corporation, but they would be under all India transfer liability except for those who have opted for institutional seniority as stated in para 4 above.

6) All the Medical Officers recruited on posts of various designations by the State Govt. for General Duty Medical purposes, etc.

absorption in Corporation service shall be absorbed in the General Duty, Medical Officer (Insurance Medical Officers) Sub-cadre only. However, if the doctors were appointed as specialist, irrespective of the fact whether a separate specialist cadre existed in the State Govt. or not they will be absorbed in specialist sub cadre of ESIC.

7) An employee, on absorption in Corporation service, shall have the option to get his past State Govt. service counted for combined pension in ESIC, if the State Govt. pays the entire amount of proportionate pensionary liability as per Central Civil Services Pension rules. An undertaking from the State Govt. would be necessary in this regard that they would discharge their pensionary liability as per Central Civil Services Pension Rules within a reasonable period. Option by the employee in this regard shall be exercised within six months from the date of issue of absorption letter to the employee in the Corporation service. Option once exercised is final. The individual can also opt for carry forward of accumulated leave as per the rules, on the condition that the State Govt. pays the pro-rata pension contribution and leave salary contribution as per the Rule and in the event of any delay in getting this payment, the amount shall be deducted from the final "on account payment" at the end of the financial year in which the person(s) retired. The employee is free to opt to get their terminal payment like gratuity, pension and leave encashment etc. or can avail the accumulated leave before option and in this case for the purpose of pension rule they will come under the new contributory pension scheme of the Central Govt.

8) In case an employee opts in favour of counting of his past service, he will be eligible to draw pension in accordance with the Rules of the ESI Corporation for the combined service under the State Govt. and under ESI Corporation on the final retirement / commutation/ voluntary retirement from ESI Corporation. If he resigns from service of the ESI Corporation, his resignation will be treated as resignation from State Govt. Service entailing forfeiture of past services including that under the State Govt. and consequent loss of pensionary benefits for combined service.

9) For recoveries of the advances in respect of house building, advance motor car/ motor cycle / scooter advance obtained by an employee from his previous employer which are outstanding as on date of absorption in the Corporation service, an employee shall have to liquidate the advance to himself before absorption and if the State

absorption in Corporation service shall be absorbed in the General Duty Medical Officer (Insurance Medical Officers) Sub-cadre only. However, if the doctors were appointed as specialist, irrespective of the fact whether a separate specialist cadre existed in the State Govt. or not they will be absorbed in specialist sub cadre of ESIC.

7) An employee, on absorption in corporation service, shall have the option to get his past State Govt. service counted for combined pension in ESIC, if the State Govt. pays the entire amount of proportionate pensionary liability as per Central Civil Services Pension Rules. An undertaking from the State Govt. would be necessary in this regard that they would discharge their pensionary liability as per Central Civil Services Pension Rules within a reasonable period. Option by the employee in this regard shall be exercised within six months from the date of issue of absorption letter to the employee in the Corporation service. Option once exercised is final. The individual can also opt for carry forward of accumulated leave as per the rules, on the condition that the State Govt. pays the pro-rata pension contribution and home rent contribution as per the Rule and in the event of any delay in getting this payment, the amount shall be deducted from the final "on account payment" at the end of the financial year in which the amounts are returned. The employee is free to opt to get their terminal payment i.e. gratuity, pension and leave encashment etc. as per the rules of the accumulated leave before option and in this case for the purpose of pension rule they will come under the new contributory pension scheme of the Central Govt.

8) In case an employee opts in favour of counting of his past service, he will be eligible to draw pension in accordance with the Rules of the ESI Corporation for the combined service under the State Govt. and under ESI Corporation on the final retirement / termination/ voluntary retirement from ESI Corporation. If he resigns from service of the ESI Corporation, his resignation will be treated as resignation from State Govt. Service entailing forfeiture of past services including that under the State Govt. and consequent loss of pensionary benefits for combined service.

9) For recovery of the advances in respect of house building advance, motor car/ motor cycle/ motor vehicle advance obtained by an employee from his previous employer which are outstanding as on date of absorption in the Corporation service, an employee shall have to amortise the advance received before absorption and if the State

desired, the balance outstanding with the interest as certified by the State Govt. can be deducted by ESIC and paid to the concerned State Govt. periodically.

- 10) An official on absorption in ESI Corporation service will be governed by ESIC (Staff & Conditions of Service) Regulations, 1959 as amended from time to time.
- 11) No employee against whom any disciplinary proceeding is pending or who is undergoing the period of penalty, will be absorbed in the Corporation service.
- 12) Pay of an absorbed employee will be fixed as per Fundamental Rules of Govt. of India and Regulation 7(4) (a) of ESIC (Staff & Condition of Service) Regulations, 1959.
- 13) Leave accumulated in respect of the employee in the State Govt. service will not be carried forward to ESIC and the employee may either avail of their leave or get encashment of leave from the concerned State Govt. as per their Rule. The duly calculated and audited leave encashment amount will be paid to the employee by ESIC after absorption only in case the State Govt. agrees for recovering the entire amount from the on account payment due to the State Govt. during the same financial year.
- 14) The accumulated GPF balance plus the interest thereon in respect of a deputationist shall be transferred to ESIC in his new GPF account opened in ESIC, irrespective of the fact whether the absorbee has opted to count his past service or not.

(Proposed to be circulated vide no. A-37 (18) 1/01 Ad. IV dt. 03.06.05)

HEADQUARTERS OFFICE
EMPLOYEES' STATE INSURANCE CORPORATION
PACHAULI BHAWAN, C.I.D. ROAD, NEW DELHI 02

Phone 011-23234092-93
Tel 011-23234092-93

Phone 011-23234537
Fax 011-23234537

http://esic.nic.in

No. A-12(13) 4/2003-DPM(HQ) - Col III

Date: 27.05.2005

To

The Director (Medical) Delhi/Noida,

The Medical Superintendent,
ESI Hospital Okhla/Rohini/Jhilmil/
Chandigarh

The Director,
ESIC Hospital cum ODC
K.K. Nagar, Chennai-78

The Medical Superintendent,
ESI Hospital cum ODC,
Joka, Kolkata/Chinchwad, Pune/
Nagda, MP/ Basaidarapur, New Delhi
The Medical Superintendent,
ESI Model Hospital,
Ludhiana/Sahibabad/Jaipur/
Patna/Ranchi/Rourkela/ Bangalore /
Hyderabad/ Bellary/ Kerala

SUBJECT: Termination of temporary appointed officers and staff
against regular vacancy including SR, JR etc.

Sir/Madam,

As you are aware, offers for appointment have been issued for number of GDMOs and Specialists advising them to report to different hospitals, D(M)Ds etc. Many of them have already reported and in some cases, extension of time has been sought and granted or is under consideration.

Please note that as and when regular appointees join in any cadre, temporary/contract appointees including SRs/JRs appointed against regular vacancies should be terminated in such a way that the rule of "first come last go" is followed and under no circumstances, there is surplus over and above the sanctioned post taking into account the regular as well as temporary/contract/JR/SR etc. Any surplus appointment will lead to audit objection. Officials on leave including long leave, study leave, unauthorised absence etc. are also to be taken into account against the filled post. Similarly, State Govt. doctors on deputation will have to be sent back to their parent department, if the sanctioned strength is reached by joining of a regular appointee against each cadre. Jt. Director (Fin) / Dy. Director (Fin.) etc. may also kindly ensure this.

Please acknowledge.

Yours faithfully,

(MANJU SWAMINATHAN)
DY. DIRECTOR (MED.)

Copy to:

1. All SSMC/SMC
2. All Jt. Directors (Fin) / Dy. Directors (Fin.)

DY. DIRECTOR (MED.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

-11-

M.P. No. 64 of 2006

In O.A.No.247/2004

Union of India & others ... Petitioners/Respondents

-vs-

Dr. P. K. Sharma & others ... Opposite party/Applicants

In the matter of:

A petition praying for grant of extension of time to implement the order dated 3.1.2006 passed in O.A.No.247/2004.

The humble petition of the above-named petitioner:

Most Respectfully sheweth:

1. That the above named opposite party (O.P) as applicants filed the O.A No.247/2004 (referred to as the application) in this Hon'ble Tribunal. The Hon'ble Tribunal after hearing both the parties disposed of the said application vide order dated 3.1.2006. By the said order the Hon'ble Tribunal directed the petitioners/respondents to proceed with the matter and to implement the terms and conditions contained in the MOU and in the draft terms of absorption to the effect

agreed to by the State Government in their written statement within a period of six months from the date of receipt of this order. If, on such implementation the applicants are entitled to pay and allowances, needless to say it has to be given to them from the date of their joining duty in the ESI Model Hospital.

The copy of the said order dated 3.1.2006 passed in OA No.247/04 is annexed as the ANNEXURE- R1.

2. That the petitioners took steps and took up the matter with its higher authorities as there are different hierarchy of authorities for their perusal and necessary action with regard to implementation of the said order or for judicial review in the next higher court or before the Hon'ble Tribunal itself.
3. That the petitioners although made their all out effort to complete the entire process to implement the order passed in the case, but due to various reasons could not complete the exercise within the stipulated period of time. The reasons for delay is that it is not a single case to be taken for decision by the petitioners but cases of large number of employees involving several model hospitals taken over by the respondents in different States in the country as a whole. As all the cases are being taken together and being processed, it has taken a considerable time only in accumulating the various information and concurrence of the different State Government. Although the matter was pursued with utmost expedition, the progress has been slow for extraneous reasons as stated above. It has also taken

considerable time in obtaining the options taken from the employees and other information relating to financial/ loan, PF deposits/ leave accounts etc. By now, the competent authority has already approved absorption of all the Gr. 'C' and 'D' employees and the necessary administrative order to that effect is in the pipeline. But so far as the question of finalization of the process of absorption of the doctors are concerned the same has been delayed due to some objection raised by the Govt. of Assam relating to the terms and conditions circulated by the ESIC. The counter views of ESIC were communicated to the State Govt. vide No.A-37/18/1/2005 DM(HQ) dated 31.3.2006 seeking the consent thereupon. But no reply so far has been received from the Govt. of Assam which has again caused the delay as no decision could be taken. The petitioners are pursuing the matter with the Govt. of Assam to arrive at a final decision. These information has been reflected in the internal communication made in Letter No.C-18/11/9/2004-Med.IV dated 30.6.2006.

The copy of the said letter dated 31.3.2006 and 30.6.2006 are annexed as the Annexure-R2 and R3.

4. That as explicit from the above, there has not been any laches or delay on the part of the petitioners. Therefore it has become expedient and necessary to approach this Hon'ble Tribunal through this petition to pray for extension of time for further period of 6 months from 2.7.2006 so that all the differences could be resolved and a final decision is taken for the implementation of the order dated 3.1.2006 passed in the OA No.247/04.

5. That this is a fit case where this Hon'ble Tribunal would be pleased to extend the period by another 6 (six) month to complete the entire process of implementation out of which the petitioners/respondents have already implemented some parts of the said order. In case, the prayer made by the petitioners is not allowed and no further extension of time is granted, in that case the petitioners would suffer irreparable loss and injuries and they would face various administrative complications as the matter pertains to hospital and relating to the health of beneficiaries under the statutory scheme. Moreover, the case of one state cannot be singled out to give extra benefit to the discrimination of other similarly situated.

6. That this petition has been made bonafide and for the ends of justice.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties and peruse the records and after hearing the parties and perusing the records, may also be pleased to allow this petition by extending the period by 6 (six) months with effect from 3.7.2006 to enable the petitioners/respondents to implement the orders dated 3.1.2006 passed in O.A. No.247/04 and or pass such order that Your Lordships may deem fit and proper.

VERIFICATION

I, Shri P. Hussain, at present
working as the _____
in the office of the _____,
being competent and duly authorized to sign this
verification do hereby solemnly affirm and state
that the statements made in para 2, 4 and 5 are
true to my knowledge and belief, those made in
para 1 and 3 being matter of records are true to
my information derived therefrom and the rest are
my humble submission before this Hon'ble Tribunal.
I have not suppressed any material fact.

And I sign this verification on this 6th day
of July 2006 at Guwahati.

DEPONENT

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 247 of 2004

Date of Order: This, the 3rd day of January, 2006

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR N.D. DAYAL, ADMINISTRATIVE MEMBER.



1. Dr. Pranjit Barman
2. Dr. Pranab Kr. Sarma
3. Dr. Pradip Kr. Bordoloi
4. Dr. Nalini Kr. Bordoloi
5. Dr. Nava Kr. Gogoi
6. Dr. Apurba Kr. Saikia
7. Dr. Farun Kr. Bhuyan
8. Dr. Bhaben Rongson
9. Dr. Kabin Tumung
10. Dr. Gunabhi Ram Sarma
11. Dr. (Mrs) Sikha Sarma
12. Dr. Karahi Kalita
13. Dr. Chandan Choudhury
14. Dr. Dipak Chancel Borbora
15. Dr. (Mrs) Mandira Sarma
16. Dr. Ajit Kr. Sarma
17. Dr. (Mrs) Kanan Bora
18. Dr. (Mrs) Mekan Sarma
19. Dr. (Mrs) Parinita Hazarika

..... Applicants.

(All are working as Medical Officers in the ESI Model Hospital, Beltola, Guwahati-22, Assam under the Employee's State Insurance Corporation. They are on deputation from Govt. of Assam).

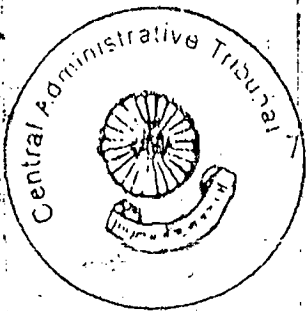
By Advocates Dr. J. L. Sarkar, Mr. H. Chanda, Mr. S. Nath,
Mr. G. N. Chakraborty & Mr. S. Choudhury.

- Versus -

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1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Labour and Employment
New Delhi.
 2. The Director General
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 3. The Medical Commissioner
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 4. The Regional Director
Employee's State Insurance Corporation
Panchadeep Bhawan
Kotla Road
New Delhi - 110 002.
 5. The Superintendent
Model Hospital
Employee's State Insurance Corporation
Beltola, Guwahati-781 022
Assam.
 6. The Commissioner and Secretary
to the Government of Assam
Labour and Employment Department
Dispur, Guwahati-781 006.
 - The Secretary
to the Government of Assam
Labour and Employment Department
Dispur, Guwahati-781 006
Assam.
 8. The Administrative Medical Officer
ESI Scheme, Government of Assam
Zoo, Narangi Road
Guwahati - 781 021
Assam.

.....Respondents.

By Mr. B. C. Pathak, Advocate for the ESIC and Mrs. H. Das,
Govt. Advocate, State of Assam.



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Q

O R D E R (ORAL.)

SIVARAJAN, S. (V.C.)

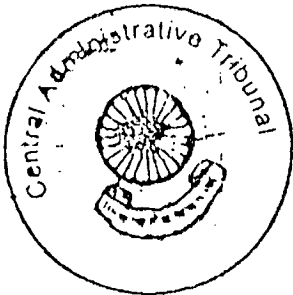
The applicants 19 in number are working as Medical Officers in the ESI Model Hospital, Bellota, Guwahati, Assam, (under the Employee State Insurance Corporation (for short ESIC) on deputation from the Government of Assam. They have filed this application seeking for the following reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to direct the Respondents to give the cadre pay and allowances to the applicants at ESIC norms and at par with that of their counterparts in the ESIC w.e.f. 04.04.2003, with all consequential service benefits.

8.1A That the Hon'ble Tribunal be pleased to set aside and quash the order bearing letter No. A-11(11)-3/2003-DH(HQ) dated 30.11.04.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to refix the pay of the applicant with immediate effect.

8.3 That the Respondents be directed to formulate the detailed terms and conditions for permanent absorption of the applicants in accordance with law and without any prejudice to the interest/prospects of the applicants and to absorb them thereafter in the ESIC on their individual option within a reasonable time frame."

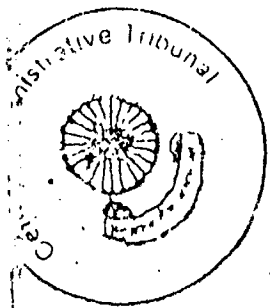


2. The case of the applicants is that the ESIC had entered into a Memorandum of Understanding (for short MOU) dated 26.12.2002 (Annexure-3) containing the terms and conditions under which the services of the applicants and other staff of the State Government deputed in the ESI Model Hospital have to be absorbed in the ESIC. It is

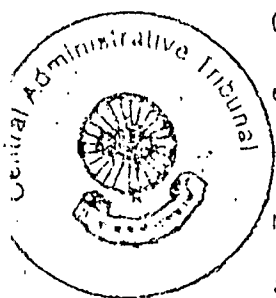
9/11

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stated that pursuant to the terms and conditions contained in the MOU the applicants and the other staff were asked to give their option to accept the scale of pay in respective cadre/categories of posts in the ESIC as per the existing norms/rules of the ESIC and that the applicants, pursuant to same, had given their option as early as in 2003. It is ^{by the} grievance of the applicants that they are not being paid pay and allowances of the ESIC opted for by them till date. It is also stated that the ESIC had prepared a draft terms of absorption (Annexure-A to the M.P.125/2005) and forwarded the same to the State Government which has not been finalised so far. It is stated that in Clause-3 of the draft terms of absorption it is provided that an employee opting for absorption has to resign from the State Government service and his absorption in Corporation service will take effect from the date of deputation in ESIC or from the date he joins the duty in the ESIC whichever is earlier. It is also stated that Clause-12 of the draft also provides that pay of an absorbed employee will be fixed as per Fundamental Rules of Govt. of India and Regulation 7(4) (a) of ESIC (Staff & Condition of Service) Regulations, 1959. The grievance of the applicants, as can be seen from the reliefs, is that the ESIC has not so far implemented the MOU and the draft scheme which prejudicially affects them. ESIC has filed its written statement. The applicants have filed rejoinder. Respondents 6 & 7 have also filed written statement.



3. We have heard Dr. J. L. Sarkar assisted by Mr. H. Chanda, learned counsel appearing for the applicants, Mr. B. C. Pathak, learned counsel for the ESIC and Mrs. M. Das, learned Govt. Advocate for the State of Assam. Dr. Sarkar submits that according to the MOU and as per the draft terms of absorption which are undisputed documents the applicants are entitled to pay and allowances applicable to ESIC once it is opted by the applicants and that they are being denied of such benefits in spite of their opting for the same. Dr. Sarkar also submits that the stand taken by the ESIC is that the draft terms and conditions sent to the State Government has not yet been approved by the State Government. Counsel took us to the communication dated 3.6.2005 issued by the ESIC to the Secretary to the State of Assam forwarding the draft terms and conditions for the approval of the State Government and submitted that in the said communication it is specifically stated by the ESIC that "Incase, we do not hear from you within three months we will presume that you are in agreement with the proposed terms" but the ESIC is not proceeding with the matter under one pretext or the other. Counsel further submits that the ESIC must be directed to expedite the implementation of the MOU and the draft terms of absorption. Counsel further submits that the Corporation must also be directed to disburse the pay and allowances applicable to their counterparts in the ESIC from 2004 onwards urgently and to implement the other terms and conditions also.

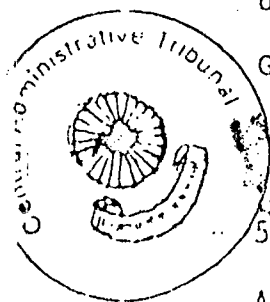


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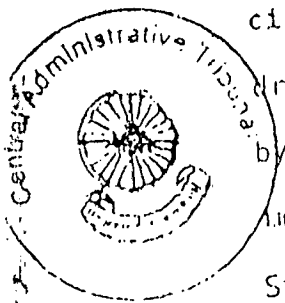
Mr. B. C. Pathak, counsel appearing for the ESIC submits that the ESIC has brought out a scheme in the 122nd Meeting of the ESIC held on 20.2.2002 for setting up model ESI Hospitals in 15 places in different States and it is pursuant to the said scheme an MOU has been entered into between the Representatives of ESIC and the Government of Assam. Counsel further submits that the MOU did not contain all the terms and conditions for the absorption of the State Government staff deputed to the ESI Model Hospital and the Corporation has prepared a draft terms and conditions in the matter of absorption of such staff which was forwarded to the Government of Assam for their approval as early as on 3.6.2005 but the matter is delayed solely for the reason that the State Government did not respond to the same. Counsel also submits that the Corporation is concerned not only with the State of Assam but also with the Model Hospitals set up in 14 other States and that a uniform terms and conditions have to be approved. Counsel further submits that it is only thereafter the question of disbursement of pay and allowances to the applicants and to the other staff as per ESIC norms can be decided. Counsel also pointed out that having regard to the lengthy procedure involved in the matter of absorption of the deputationists including the approval from the Central Government some substantial time is required for its implementation

Mrs. M. Das, Govt. Advocate for the State of Assam, submits that the State of Assam has filed a written



statement wherein the State Government had practically approved the draft terms and conditions and therefore there is no difficulty for the ESIC to proceed with the matter. Mrs. Das further submits that the State Government has already instructed the Corporation to release pay and allowances to the deputationists as per the ESI norms and therefore there is no difficulty in making payment to the applicants and other staff.

6. We have considered the rival submissions. There is no dispute that the applicants the State Government employees who are sent on deputation in the ESI Model Hospital under the ESIC. There is also no dispute that an MOU was entered into in regard to the terms and conditions of absorption of the applicants and other staff in the ESIC. However, the stand taken by the ESIC is that it did not contain all the terms and conditions and a draft terms and conditions was prepared and sent to the State Government for their approval. True, the State Government did not sent any reply. However, the State Government in its written statement has practically agreed to the draft terms of absorption prepared and sent by the ESIC. In such circumstances, it is a matter for the ESIC to make the draft statement final taking into account the stand taken by the State Government in the written statement and to implement the same in respect of the doctors and all other State Government employees working on deputation in the ESI Model Hospital and being absorbed in the ESIC.



[Handwritten signature]

7. The applicants have got a case that they are entitled to get pay and allowances from 2003 onwards since they have submitted their option in terms of the MOU and the draft terms of absorption, particularly in view of the clauses contained in the MOU and in the draft terms of absorption to the effect that they will be absorbed from the date of deputation in ESIC or from the date they joining duty whichever is earlier. According to us, these are all matters which the ESIC has to consider and expeditious decision has to be taken.

8. Now, that the draft terms and conditions contained in Annexure-A to the M.P.125/2005 has been practically approved by the State Government we direct the ESIC to proceed with the matter and to implement the terms and conditions contained in the MOU and the draft terms of absorption to the effect agreed to by the State Government in their written statement within a period of six months from the date of receipt of this order. If, on such implementation the applicants are entitled to pay and allowances, needless to say it has to be given to them from the date of their joining duty in the ESI Model Hospital.



The Original Application is disposed of as above.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Date of Application : 12/01/06.
Date on which copy is ready : 12/01/06.
Date on which copy is delivered : 12/01/06.
Certified to be true copy

N. Srinivas
Deputy Officer (Ind)
C. A. T. Guwahati Bench
(12/01/06)

14

57
63

EMPLOYEES' STATE INSURANCE CORPORATION
PANCHSHEEL BHAWAN, C.I.G. ROAD, NEW DELHI

No. A-17(1021/2005) DM (HQ)

Dated 31.03.06

The Secretary
Deptt. of Labour & Employment,
Govt. of Assam,
Gurdyhall

Sub:- Terms & conditions of absorption of State Govt. employees
working in ESIC Model Hospital, Beltola, Guwahati, Assam

1. Ref. This office letter of even no. 03.06.05
2. Your letter no. GLR 131/2001/pt-III/70 dated 9th March, 2006

Sir,

With reference to your letter cited at 2 above, I have to furnish
views the Corporation as under:-

Objections of the State Govt. of Assam.	Views of the Corporation.
<p>(1) All the Doctors, Para-Medical, Ministerial and Gr. IV Staff deputed in the Model Hospital, ESI Corporation, Beltola, Guwahati vide this Deptt's Notification No. GLR. 121/2003/8 dt. 10.04.2003 and GLR. 121/2003/9 dated 17.04.2003 should be absorbed since 04.04.2003 as per M.O.U. and option furnished by the deputationists individually.</p> <p>However, the State Govt. have no objection for absorption of all Doctors and Staff w.e.f. 04.04.2003 in ESI Hospital, Beltola, Assam.</p>	<p>The Corporation has already taken a decision to absorb the State Govt. employees w.e.f. 01.01.2006 only. The period between 04.04.2003 and 01.01.2006 will be treated as a period of deputation only. Hence, absorption of State Govt. employees w.e.f. 04.04.2003 is not viable.</p>

(2) All the Doctors working under the State Govt. as M&H-OI and under ESI Corporation as G.D.M.O. should be absorbed as IMO- I in stead of M&H-OI and G.D.M.O.

All the doctors opting for permanent absorption in ESIC would be absorbed in equivalent grade which they were holding on regular basis in the State Govt.

(3) Doctors who have completed 4 years of regular service in the State Govt. and who have opted for absorption may be posted as Senior Medical Officer (SMO) 3(a) Doctors who have completed 10 years of regular service in the State Govt. and who have opted for absorption may be posted as Chief Medical Officer (CMO).

-Do-

(4) All deputationists holding PG Degree/PG Diploma such as MD/MS/Diploma who are eligible for appointment as specialist as per norms of ESI Corporation should be appointed/absorbed as Specialist/Special Cadre against the existing vacancy.

As per the policy of the ESIC, the GDMOs holding Post-graduate qualification are entitled to P.G. allowance only. For appointments to a Specialist post, they have to compete in an advertisement whenever made for this purpose.

(5) Recovery of advance taken by the deputationists, the State Govt. is agreeable that recovery should be made by the ESI Corporation from their Salary Bill of the deputationists and the same may be deposited by the ESI Corporation to the State Govt. Fund.

No change and agreed to.

(6) The State Govt. has already certified that there is no Deptl. Proceeding against any of the employees under deputation.

Counting of past service will be guided as per provision of Rule - 98 of Assam Services (Pension) Rules-1969. The State Govt. is agreeable to credit/forward the Pensionary liabilities/Leave Encashment/Leave at Credit/Gratuity/GPF etc. to the fund of ESI Corporation from the date of absorption i.e. 04.04.03.

This will be governed by Central Govt. Rules made for this purpose from time to time unless amended. However, leave at credit cannot be carried forward. The State Govt. employees have to get it encashed from the State Govt.

The date of absorption shall be from 01.01.06 and not from 04.04.03 as envisaged by Govt. of Assam.

You are, therefore, once again requested to agree to the terms & conditions as envisaged vide this office letter referred to at (1) above so as to complete the formalities urgently.

Yours faithfully,

- Sel -

(Dr. (Miss) Kamlesh Kalra)
Medical Commissioner

Copy to

M.S. Basic Medical Hospital (Bellbela) Assam

for info

J. D. (Medical)

17

ADDITION : 3
- 60 - 66HEADQUARTERS OFFICE
EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN LOTI A ROAD NEW DELHI

THROUGH FAX

C-18/11/9/2004 Med.IV

Date : 30/6/06

To

The Medical Superintendent
ESI Model Hospital
Bellota, Guwahati - 22

Sub : Filing of Misc. application for extension of 6 months time for implementation of CAT order in OA 247/2004 filed by Dr. P.K. Sharma & Others.

Sir

Please refer to your letter No. 432 C-16/13/1-2003 CAT Case of 11/11/03 directed to inform you that the absorption of employees of state govt. is being taken up briskly at this office. The Director General has already approved absorption of 'C' & 'D' employees and administrative order to that effect is in process. In regards absorption of doctors working on deputation it is informed that Govt. of Assam has raised some objections to the terms & conditions of absorption suggested by ESIC. The counter views of ESIC were communicated to state govt. by letter No. A-27/18/1/2005 DM(HQ) dt. 31.3.2006 (copy enclosed) seeking their views thereupon.

Since, no reply to aforesaid letter has so far been received from the state govt., no decision on absorption of doctors could be taken. However, we are pursuing the matter with state govt. to arrive at a final decision.

As such, I am directed to request you to highlight the above development in our Misc. Application for seeking extension of 6 months time through our counsel under intimation to this office.

Encd. as above

Yours faithfully

(S.L. MEENA)
Section Officer

Copy to : The Legal Cell, ESIC Hqrs., N. Delhi for information please

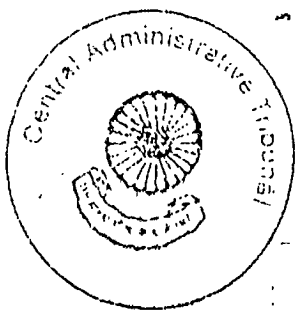
Sd/-
SECTION OFFICER

ORIGINAL APPLICATION NO. 1 90000

1. Original Application No. 1 90000
2. Miso Petition No. DA P K Sharma 9000
3. Contempt Petition No. B C Pathak for ESIC
4. Review Application No. M. M. Das Smt. Adv. Assam
Applicant(s) M. Chanda S. Nair
Respondent(s) M. Chanda S. Nair
Advocate for the Applicant(s) M. Chanda S. Nair

This Miso Petition
is filed by the Respondent(s)
under for the ESIC
Notes of the Registrar
dated 17.7.2006

Order of the Tribunal
dated 17.7.2006



This M.P. has been filed by the respondents praying for extension of time for a period of six months for implementation of the orders of this Tribunal. The reasons stated in the accompanying affidavit is that it is not a single case to be taken for decision by the petitioners but cases of large number of employees involving several model hospitals taken over by the respondents in different states in the country as a whole and also all India seniority has to be looked into. As far as the Gr. 'C' & 'D' employees are concerned it has already been complied with by the respondents, but as far as these employees are concerned it is in their pipeline. It has been delayed due to the objection raised by the Govt. of Assam relating to the terms and conditions circulated by the ESIC and further correspondence were made which has not been answered. Therefore, there

contd.

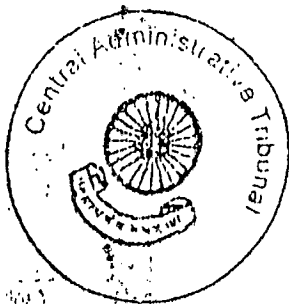
Contd.

17.7.2006 there is some administrative delay in implementing the order of this Tribunal

Heard Mr.B.C.Pathak, learned counsel for the petitioners/respondents and Mr.S.Nath, learned counsel for the opposite party/applicants.

Considering the submissions and pleadings taken in the M.P. I am of the view that further time is required for implementation of the orders of this Tribunal. Therefore, further four months time is granted to the petitioners/respondents to implement the orders of this Tribunal.

The M.P. is allowed.



Sd/VICE CHAIRMAN

Memo No. 748

270, 24-7-06

Copy for information and necessary action to:

- 1) Mr. B.C. Pathak, Advocate, Gauhati High Court, Gauhati
- 2) Dr. J.L. Sarkar, Advocate, Gauhati High Court, Gauhati

Section Officer (r).
19/7

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT.

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 10th April, 2003.

NO. GLR. 121/2003/8 : In pursuance of the decision of the Govt. vide letter NO. GLR. 131/2001/Pt/12, dt. 17-2-2003 and MOU signed on 4-4-03 in between the representatives of the ESIC & the Govt. of Assam & in the interest of Public Service, the service of the following Doctors (M & HOI) are hereby placed under the disposal of Model Hospital, Beltola, under ESI Corporation deputation w.e.f. 4-4-03.

1. Dr. G.R. Samma MS (Surgery)
2. Dr. (Mrs.) K. Kora DCTT, MDC (Ped)
3. Dr. C. Choudhury MD (O & Gyne)
4. Dr. (Mrs.) S. Katak D.A. (Anesth)
5. Dr. (Mrs.) M. Hazarika DCP (Path)
6. Dr. (Mrs.) M. Sarma MD (O & Gyne)
7. Dr. D.C. Barbarah MD (GMed)
8. Dr. (Mrs.) M. Saishya MD (O & Gyne)
9. Dr. N.M. Das DGO (Gyne)
10. Dr. (Mrs.) M. Samay MS (ENT)
11. Dr. N.K. Gogoi DO (Opthal)
12. Dr. J.N. Goswami MD (Anesth)
13. Dr. (Mrs.) P. Hazarika D.A. (Anesth)
14. Dr. (Mrs.) Sikha Sarma MBBS (Ped)
15. Dr. Ajit Kumar Sarma MD (Gyne)
16. Dr. Pranjit Barman DCH (Ped)
17. Dr. T.K. Bhuyan MD (Gyne)
18. Dr. P.K. Bordoloi DCH (Medicine)
19. Dr. P.K. Sarma MS (Surg.)
20. A.K. Saikia BLO (Pat)
21. Dr. B. Danikya MS (Ophth)
22. Dr. K. Tunung MBBS
23. Dr. (Mrs.) Hiranmay Sarma MBBS
24. Dr. Kaberi Kalita MBBS
25. Dr. (Mrs.) Bina Patir MBBS
26. Dr. B. Rengsong MBBS
27. Dr. (Mrs.) Mausumi Barikotoki MBBS, PGDMCH (IGNOU)

Contd...2/-

(28) Dr. (Mrs.) Dipti Devi O

29. Dr. (Mrs.) S. Lahkar

MEMO NO. GLR.121/2003/8-A, Dated Dispur, the 10th April, 2003. In pursuance of the resolution of the Govt. of Assam, dated 10.4.2003, the following order is issued:-

1) The Deputy Medical Commissioner, ESI Corporation, Chanchdeep Bhawan, Kotla Road, (New) Dispur, should be the

2. The Regional Director, ESIC, Assam, Bamanimalden, Guwahati-21.
3. The Supdt. Model Hospital, ESIC, Balmukund, Guwahati-21.
4. The Administrative Medical Officer, I/C, ESIC Schemes, Assam, Zor-Naranga Road, Guwahati-21.
5. The Health & Family Welfare Deptt., Dispur.
6. The Accountant General (M&E), Assam, Bongaigaon, Guwahati-21.
7. The P.S. to Minister, Labour and Employment, Dispur.
8. The Deputy Director, Assam Government, Bamanimalden, Guwahati-21. He is requested to publish the Notification in the next issue of Assam Gazette.
9. All Doctors concerned.
10. Personal File.

Secretary to the Govt. of Assam
Labour and Employment Department
Dispur

12 (2)

Annexure-11(1)

-65-

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT

ORDERS BY THE GOVERNOR

N O T I F I C A T I O N
Dated Dibrugarh, the 17th April 2003

NO. GLR. 121/2003/9 : In pursuance of the decision of the Govt. vide letter No. GLR. 131/2003/Pt/12 dt. 17.2.2003 and NO. 44-2003 in between the representatives of the Govt. of Assam in the interest of public service, the services of the following medical staff, ministerial staff and G.S. IV staff are hereby placed under the disposal of model Hospital, Dibrugarh under the supervision of a delegation of Govt. 34-64-2003.

A. Nursing Staff

- | | | |
|-------------------------------|-------------|----|
| 1. Mrs. Mangali Kar Barbhuyan | Staff Nurse | 16 |
| 2. P.P. Shyam | Staff Nurse | 16 |
| 3. Bhogmai Das | Staff Nurse | 16 |
| 4. Nayantra Hatimuria | Staff Nurse | 16 |
| 5. Mine Dharati, Kundu | Staff Nurse | 16 |
| 6. Eather Murmu | Staff Nurse | 16 |
| 7. Mrs. Dinita Deka | Staff Nurse | 16 |
| 8. Mrs. Arati Bora | Staff Nurse | 16 |
| 9. Rokha Gogoi | Staff Nurse | 16 |
| 10. Uno Deka | Staff Nurse | 16 |
| 11. Miss. N.K. Khamshyam | Staff Nurse | 16 |
| 12. Mrs. Minalini Duarah | Staff Nurse | 16 |
| 13. S. Goldsmith | Staff Nurse | 16 |
| 14. S. Khimray | Staff Nurse | 16 |
| 15. Lily Sathonidhar | Staff Nurse | 16 |

B. Pharmacist.

- | | | |
|-----------------------------------|------------|----|
| 17. Shri. Nalini Kumar A. Khokory | Pharmacist | 16 |
| 18. Shri. Prabin Bora | Pharmacist | 16 |
| 19. Shri. Murgindra Bora | Pharmacist | 16 |
| 20. Bijay Kalita | Pharmacist | 16 |

C. Laboratory Technician Staff

- | | | |
|--------------------------|-----------------------|----|
| 21. Shri. Surajit Sarker | Laboratory Technician | 16 |
| 22. Shri. Robin Kalita | Laboratory Technician | 16 |
| 23. Shri. Subhash Das | Laboratory Technician | 16 |
| 24. Shri. Utpal Deka | Laboratory Technician | 16 |

D.O. J. Assistant.

- | | | |
|--------------------------|-------------------|----|
| 25. Mrs. Rukmini Daimary | D.O. J. Assistant | 16 |
|--------------------------|-------------------|----|

E. X-ray Staff.

- | | | |
|-------------------------------------|------------------|----|
| 26. Shri. Gopinath Dori Radzomphing | X-Ray Technician | 16 |
| 27. Murgindra Bora | X-Ray Technician | 16 |
| 28. Lakshmi Kanta Gogoi | X-Ray Technician | 16 |

F. Dresser Staff.

- | | | |
|---------------------------|--------------|----|
| 29. Mrs. Krishna Das Bora | Dresser | 16 |
| 30. Syed Intazul Haque | Dresser | 16 |
| G. Linen Keeper. | Linen Keeper | 16 |
| 31. Mrs. Manju Das | Linen Keeper | 16 |

H. Tailor.

- | | | |
|---------------------------|--------|----|
| 32. Mrs. Kampanari Barmah | Tailor | 16 |
|---------------------------|--------|----|

Cont...2/-

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT.

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 29th March, 2004.

NO.GLR. 153/2003/Pt.I/159, : The Governor of Assam is pleased to extend the period of deputation of the Incumbents deputed to Model Hospital, ESI Corporation, Beltola vide this Deptt's Notification NO.GLR.121/2003/8, dt. 10-4-2003 and NO.GLR.121/2003/9, dt. 17-4-2003 for a period of another one year w.e.f. 4-4-2004 under the same terms and conditions communicated vide this Department's letter NO.GLR.153/2003/Pt.I/158 dt. 29-3-2004.

Sd/- B.B. Hagjer,
Commr. & Secretary to the Govt. of Assam
Labour and Employment Department.

Memo NO.GLR.153/2003/Pt.I/159-A, Dated Dispur, the 29th March.04.

Copy to :-

- 1) The Deputy Medical Commissioner, ESI Corporation, Panchdeep Bhawan, Kotla Road, New Delhi.
- 2) The Regional Director, ESI Corporation, Assam, Banunimaidan, Guwahati-21.
- 3) The Medical Supdt. Model Hospital, ESI Corporation, Beltola.
- 4) The Administrative Medical Officer, ESI Schemes, Assam, Zoo-Flarengi Road, Guwahati-21.
- 5) The Health & F. W. Deptt., Dispur.
- 6) The Accountant General (ASE), Assam, Maidangaon, Beltola, Guwahati-29.
- 7) The P.S. to Minister, Labour & Employment Deptt., Assam, Dispur.
- 8) Person concerned.
- 9) Personal File.
- 10) The Deputy Director, Assam Govt. Press, Banunimaidan, Guwahati-21. He is requested to publish the Notification in the next issue of Assam Gazette.

By order etc.,

Under Secretary to the Govt. of Assam
Labour and Employment Department.

14 (1)

Annexure-V.

PH NO-2261082

OFFICE OF THE MEDICAL SUPERINTENDENT, ESI MODEL HOSPITAL,
BELTOLA, GUWAHATI-22.

NO. 432.A. 2/11/1/2003-Recd/

Dated 7th May '2003.

TO

The Medical Commissioner
ESI Corporation
" Panchadeep Bhawan"
New Delhi-110002.

Subj-

List of Medical Officer ESI Model Hospital
Boltola, Guwahati-22.

Respected Madam,

With reference to your Telephonic instruction dated 5.5.2003, I am now furnishing list of 26 (twenty six) Medical officer who have been allowed to join in this hospital on deputa-
tion as per Govt Letter No. GLR.131/2001/pt/12, dt. 17-2-2003.

SL. NO.	Name of the Doctors.	Qualification
1.	Dr. G.R. Saxena	MS (Surgery)
2.	Dr. (Mrs) K. Bera	DCTT, MD (ped)
3.	Dr. C. Choudhury	MD (O&Gyne)
4.	Dr. (Mrs) S. Katakai	DA (Anaes)
5.	Dr. (Mrs) M. Hazarika	DCP (Path)
6.	Dr. (Mrs) M. Sarma	MD (O & Gyne)
7.	Dr. B.C. Barbarah	MD (GMed)
8.	Dr. (Mrs) M. Moishya	MD (O & Gyne)
9.	Dr. N.M. Das.	DGO. (Gyne)*
10.	Dr. (Mrs) M. Sarma	MS (ENT)
11.	Dr. N.K. Gogoi,	DO (Opthal)
12.	Dr. J.N. Goswami	MD (Anaes)
13.	Dr. (Mrs) N P. Hazarika	DA
14.	Dr. (Mrs) Bikha Sarma	MBBS
15.	Dr. Ajit Kumar Sarma	DCM (Ped)
16.	Dr. Pranjit Barman	MD (Gyne)**
17.	Dr. T.K. Bhuyan	DM (OCG, Medicine)
18.	Dr. P.K. Bordoloi	MS (Surgery)
19.	Dr. P.K. Sarma	BLO (Ent)
20.	Dr. A.K. Saikia	MS (Opth)
21.	Dr. B. Banikya	MBBS
22.	Dr. K. Tumung	MBBS
23.	Dr. (Mrs) Hiranmay Sarma	MBBS
24.	Dr. Karabi Kalita	MBBS
25.	Dr. M. Rongrong	MBBS
26.	Dr. (Mrs) S. Lahkar	MBBS

1. The instrument is claiming
that he is M.D. (C&G) not
B.Sc. Already applied for
correction.
4.7. Corrected from B.Sc. to M.D.
in the proper initial in Govt.

Your's faithfully

DR. K. K. PAL
Medical Superintendent
ESI Model Hospital, Beltola
Guwahati-22

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT.

R.153/2003/Pt.1/150, Dated Dispur, the 29th March, 2004.

Shri B.N. Hajjer, IAS,
Commr. & Secretary to the Govt. of Assam.

The Medical Supdt., Model Hospital,
ESI Corporation, Beltola, Guwahati-22.

Terms and conditions for deputation of Doctors and
staff to Model Hospital, ESI Corporation, Beltola.

Your letter NO.432-A-23/11/1/2003 dt. 29-9-2003.

Sir,

With reference to the letter on the subject quoted above,
I am directed to communicate the following terms and conditions of
deputation for the incumbents deputed to the Model Hospital, ESI
Corporation, Beltola under Govt. of India vide this Deptt's
Notification NO.GLR.121/2003/8, dt. 10-4-2003 and NO.GLR.121/2003/9
dt. 17-4-2003.

1. (The deputationists will be entitled to retain their
grade pay plus 10% deputation allowance, subject to maximum of
Rs. 500/- p.m. when the transfer is within the same station and 20%
of the employee's basic pay subject to a maximum of Rs. 1000/- only p.m.)
In other cases on the condition that deputation allowance plus basic
pay shall not exceed Rs. 17,000/- only p.m. or the pay scale of the
deputation post as per their option subject to the conditions laid-
down in Govt. of Assam Finance Deptt's O.M. NO.FEG.102/61/132
dt. 10-5-65, NO.FEG.29/74/230 dt. 22-1-91, NO.FEG.13/92/Pt/13,
dt. 3-5-94 and NO.FEG.13-92/Pt/29, dt. 16.7.99. (Copy enclosed).

(2) Joining time pay of the incumbents while proceeding and
on returning from Foreign Service i.e. Model Hospital, ESI Corporation,
Beltola will be paid by the borrowing authority as admissible under
Rules.

(3) Leave salary and pension contribution etc. will have to
be borne by the Foreign Employer i.e. ESIC, Govt. of India.

(4) The Foreign Employer is to ensure recoveries of the sub-
scription towards G.I. Schemes from the deputationists and take necessary
action for crediting the amount as per Clause I.B. of State Govt.
Employee G.I. Schemes 1983 as Circulated vide Finance (M.F) Deptt's
O.M. NO.FM.50/81/24 dt. 25-2-83 (copy enclosed).

(5) The deputationists will be Governed by the State Govt.
Leave Rules.

(6) The Foreign Employer shall offer the medical facilities
not inferior to those which the employee would have enjoyed in the
Govt. services but for their deputation.

Contd...2/-

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-70-

(7) The Foreign Employer will be liable to pay the leave salary in respect of disability leave granted to the deputationists on account of any disability incurred in and through Foreign service under ESIC even if such liabilities manifest themselves after the termination of the Foreign service.

(8) The deputationists will not be allowed to join any pension or G.P.F. under the Foreign Employer.

(9) Deputationists will be paid by the Foreign Employer travelling allowances for their journey to take-up the assignment and to return therefrom (including family members) as admissible.

(10) The whole expenditure in respect of any compensatory allowances for the period of leave and or at the end of the Foreign services till the incumbents joins their parent Department under the State Govt. will be borne by the Foreign Employer.

(11) The deputationists will be entitled to travel concession from the Foreign Employer in the scale they are entitled to under the State Govt. and the cost of such concession will be borne by the Foreign Employer.

(12) The deputationist shall furnish returns of movable and immovable properties owned by them to the Government.

(13) The outstanding Govt. dues, if any, will be paid by the deputationists during their deputation and the Foreign Employer will have to take responsibility to credit the amount to the State Govt. Revenue regularly.

(14) The date of commencement and termination of their Foreign Service shall be regulated in accordance with the provisions of the Assam Fundamental Rules and Subsidiary Rules.

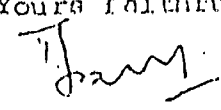
(15) All other terms and conditions will be Governed by the Rules and Regulations of the Govt. State of Assam.

You are, therefore, requested kindly to take necessary action for releasing the salaries to the deputationists from the date of their joining on deputation as per option already exercised by them individually.

The service history of 25 Nos. of Doctors are enclosed herewith for favour of your necessary action.

Encls :- As above.

Yours faithfully,


Commr. & Secretary to the Govt. of Assam
Labour and Employment Deptt.

Contd....3/-

GOVERNMENT OF ASSAM
LABOUR & EMPLOYMENT DEPARTMENT

No. G.O. 134/2001/PE-111/70

Dated Dispur, the 9th March, 2006.

From : Shri B.N. Hajjor, IAS,
Commissioner & Secretary to
the Govt. of Assam.

Annexure-V(2)

-71-

To : The Medical Commissioner,
ESI Corporation, Panchdeep Bhawan
Kotla Road, New Delhi-110002.

Sub : Terms & Conditions of absorption of the
State Govt. Employees Working on deputation
in the Model Hospital, ESI Corporation, Bellaria.

Ref : Your letter No. A-37(10)1/2003/Med-IV
Dated 03-06-2005.

Madam,

With reference to the letter on the subject
quoted above, I am directed to say that the State Govt.
have no objection for accepting the terms & Conditions
stipulated by the ESI Corporation for permanent absorption
of the deputationists in the Model Hospital, ESI Corporation,
Bellaria. However the following points should be taken into
consideration while the deputationists are permanently
absorbed in ESI Corporation.

1. All the Doctors, Para-Medical, Ministerial and
Nursing staff deputed in the Model Hospital, ESI Corporation,
Bellaria, Guwahati vide this Deptt's Notification No. GLR.121/
2001/A dtd. 10-04-2003 and GLR.121/2003/9 dtd. 17-04-2003
should be absorbed since 04-04-2003 as per M.O.U. and
options furnished by the deputationists individually.

However, the State Govt. have no objection for
absorption of all Doctors and Staff w.e.f. 04-04-2003
in the ESI Hospital, Bellaria, Assam.

2. All the Doctors working under the State Govt. as
M.D.O. and under ESI Corporation as G.D.M.O. should be
absorbed as M.D.O. in stead of M.D.O. and G.D.M.O.

3. Doctors who have completed 4 years of regular
service in the State Govt. and who have opted for absorp-
tion may be posted as Senior Medical Officer(SMO)

Contd.,..... 2/-

3(a) Doctors who have completed 10 years of regular service in the State Govt. and who have opted for absorption may be posted as Chief Medical Officer(CMO).

4. All deputationists holding PG Degree/PG Diploma such as MD/MS/Diploma who are eligible for appointment as Specialist as per norms of ESI Corporation should be appointed/absorbed as Specialist/Special Cadre against the existing vacancy.

5. Regarding recovery of advance taken by the deputationists, the State Govt. is agreeable that recovery should be made by the ESI Corporation from the deputationists per month from their salary bill and the same may be deposited by the ESI Corporation to the fund of the State Govt.

6. The State Govt. have already certified that there is no Departmental Proceedings against any of the employees under deputation.

7. Counting of past services (State Govt.) towards pensionary benefit etc., will be guided as per provision of Rule 98 of Assam Services (Pension) Rules, 1969. The State Govt. is agreeable to Credit/Forward the pensionary liabilities/Leave Encashment/Leave at Credit/Gratuity/GPF etc. to the fund of ESI Corporation from the date of absorption i.e. from 04-04-2003.

This is for favour of your necessary action.

Yours faithfully,

[Signature]

Commissioner & Secy. to the Govt. of Assam
Labour & Employment Department

Memo No. GLR 131/2001/Pt 111/70(A) Dated Dispur the 9th March/2006

Copy to:- The Medical Supdt, Model Hospital, ESI Corporation, Beitola, Guwahati-22.

By order etc.

[Signature]

Joint Secy. to the Govt. of Assam
Labour and Employment Dept.

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

-73-

ORDER SHEET APP 154/04
APPLICATION NO. COA 247/04 OF 199

Applicant(s) P. K. Sharma & ans.

Respondent(s) Govt. of Assam.

Advocate for Applicant(s) Mr. M. Chanda,

Advocate for Respondent(s) C. S. S.

Notes of the Registry

Date

Order of the Tribunal

20.12.2004

Heard Mr. M. Chanda, learned
counsel for the applicant.

Issue notice as to why amendment
shall not be granted.

List on 31.01.2005 for orders.

Sd/MEMBER(ADM)

TRUE COPY

[Signature]
23/12/04
Joint Secretary (Legal) /
Central Administrative Tribunal
Guwahati Bench, Guwahati

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

-74-

ORDER SHEET *MP 154/04*

APPLICATION NO. *CR 247/04* OF 199

Applicant(s)

P. K. Sharma & Co.

Respondent(s)

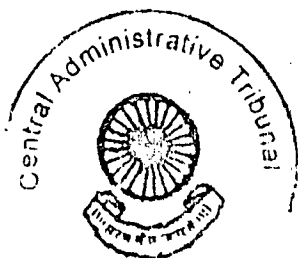
Govt. of Assam

Advocate for Applicant(s)

M. M. Chandra

Advocate for Respondent(s)

C. S. C.



mb
11.2.2005

present: The Hon'ble Mr. M.K. Gupta,
Member (J).

The Hon'ble Mr. K.V. Prahladan,
Member (A).

By the present M.P. the applicant seeks amendment of the O.A. as during pendency of the same, respondents issued order dated 30.11.2004 granting him 10% deputation allowance subject to the maximum of Rs.500/- per month with the concurrence of Financial Commissioner. Since

Contd.

Notes of the Registry

Date

Order of the Tribunal

Contd.

11.2.2005

no reply has been filed as well as there is no representation on behalf of the respondents, on perusal of the present M.P. we deem it fit to allow the present M.P. permitting the applicant to amend the O.A.
The M.P. is allowed accordingly. Such amendment will not cause any prejudice to the respondents.

Sd/MEMBER(J)

Sd/MEMBER(A)

TRUE COPY

C.A.T. GULSHAN BANCH
Gurgaon-122005

In The Central Administrative Tribunal
GUWAHATI BENCH - GUWAHATI

ORDER SHEET
APPLICATION NO. MP 155/04
247 OF 199 C/

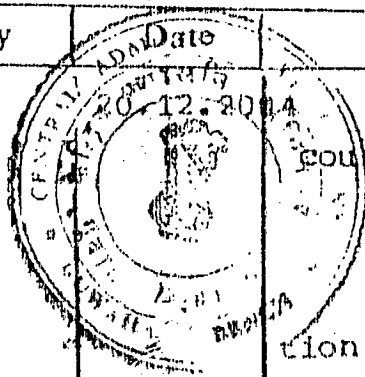
Applicant(s) P. K. Sharma & Co.

Respondent(s) Govt of Assam

Advocate for Applicant(s) Mr. M. Chanda

Advocate for Respondent(s) Cy Sec

Notes of the Registry



Order of the Tribunal

Heard Mr. M. Chanda, learned
counsel for the applicant.

Issue notice.

List on 31.01.2005 for considera-
tion of the interim prayer.

TRUE COPY

Sd/MEMBER(ADM)

[Signature]
23/12/04
Secretary, Guwahati Bench
Central Administrative Tribunal
Guwahati

The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

Annexure-V(3)

ORDER SHEET
APPLICATION NO.

MP 155/04

01/199 04

-7/

Applicant(s) P.K. Sharma et al.

Respondent(s) Govt. of Assam

Advocate for Applicant(s) Mr. M. Chandra

Advocate for Respondent(s) C. S. C.

11.2.2005

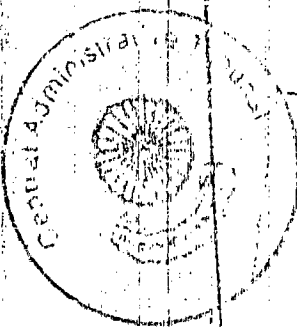
Present: The Hon'ble Mr. M.K. Gupta,
Member (J).

The Hon'ble Mr. K.V. Prahladan,
Member (A).

By the present M.P. applicants seek stay of the operation of order dated 30.11.2004 by which they were granted 10% deputation allowance. It is their contention that they are entitled to the pay scale applicable in the ESIC, instead of pay scale of their parent department i.e. State of Assam. It is further contended that the aforesaid Order dated 30.11.2004 has been passed without taking leave of the Tribunal and accordingly it is violative of Section 19(4) of the Administrative Tribunals Act, 1985.

On perusal of the aforesaid provision of the Act as well as upon hearing the learned counsel for the applicants, we are of the opinion that nothing bars under the said provision to grant a relief to the applicants. What is barred under the aforesaid provision is that the Respondents shall not take any action prejudicial against them. As such we are of the opinion that the contention of the applicants is not sustainable. We find no justification in staying the operation of the impugned order dated 30.11.2004 particularly when it only granted certain reliefs to the applicants.

Accordingly the present M.P. is rejected. It is made clear that the benefits accrued vide order dated 30.11.2004 would be without prejudice to the rights of the parties.



TRUE COPY

प्रतिलिपि

Section Officer (J)

C.A.T. GUWAHATI BENCH

Guwahati, 11.2.2005

Sd/MEMBER (J)

Sd/MEMBER (A)

Annexure - X.

-78-

GOVERNMENT OF ASSAM.
DEPARTMENT OF LABOUR & EMPLOYMENT
DISPUR :: GUWAHATI -6

Dt., Guwahati, the 17th Feb, 2003

No. GLR.131/2001/p/1/12

From :-

Shri G.C. Sarma, ACS,
Jt. Secretary to the Govt. of Assam.

To :-

The Dy. Medical Commissioner,
E.S.I.C., Panchdeep Bhawan,
Kotla Road, New Delhi-2

Sub :-

Setting up of Model Hospital.

Ref :-

Letter No. V-13/14/3/2002-Med I.M.H. of 5-2-03

Sir,

I am inviting your kind attention to the letter referred to above, I am directed to inform you that it has been decided to handover the ESI Hospital, Beltola at Guwahati to ESI Corporation for its up gradation to a Model Hospital on or before 31st March, 2003 as per terms and conditions of ESI Corporation.

You are, therefore, requested to communicate a convenient date for taking over the ESI Hospital Beltola within the period as decided by the State Govt.

Yours faithfully,

(G. C. Sarma)
Jt. Secretary to the Govt. of Assam,
Labour & Employment Deptt.

Memo No. GLR.131/2001/p/1/12-A dtd. Guwahati, the 17th Feb, 2003
Copy to :-

1. The Regional Director, ESIC, Bamunimaidan, Guwahati-21 for information and necessary action.

Received
12.2.2003
Jt. Secretary to the Govt. of Assam,
Labour & Employment Deptt.

MEMORANDUM OF UNDERSTANDING

ON THE OUTCOME OF DISCUSSION IN BETWEEN REPRESENTATIVE OF THE ESIC NEW DELHI AND GOVT. OF ASSAM HELD ON 26th DECEMBER IN GUWAHATI REGARDING HANDING OVER OF ESI HOSPITAL BELTOLA TO ESIC FOR UPGRADATION TO A MODEL HOSPITAL.

In pursuance of the decisions arrived at in the meeting of the ESIC held on 16th Feb/2001 regarding upgradation of the ESI hospital, Beltola to a MODEL HOSPITAL and the decisions communicated to the Govt. of Assam vide DO No. V-13/14/2002-Med dated 17/5/2001 and taking into consideration all the parameters for better facilities to be extended to the beneficiaries under the ESI Act, 1948, the Labour and Employment department, Govt. of Assam have decided to give consent on the proposal of ESIC and to handover the ESI Hospital, Beltola to ESIC for its upgradation to a MODEL HOSPITAL and communicated the State Govt.'s decision to ESIC and Govt. of India vide letter No. G.R. 131/2001/123 dated 22/11/2002 and No. G.R. 131/2001/125 dated 12/12/2002 respectively.

And whereas, in response to the RD's letter 3-V, 21/23/99-BFT dated 2/12/2002 and in consideration of the terms and considerations communicated vide letter no V-13/14/2001/Med (call-II) dated 7/12/02 the Labour and Employment Department and Govt. of Assam have decided to handover the ESI Hospital Beltola to ESIC on 31/12/2002 for its upgradation to a "MODEL HOSPITAL" by the ESIC on terms and consideration communicated to secretary, Ministry of Labour vide letter No. G.R. 131/2001/169 dated 16/12/2002.

And now, it is, therefore, in pursuance of the RD's letter No. 13-V-21/23/99-BFT dated 23/12/2002 and taking into consideration of the decision of the joint meeting held on 26/12/2002 at Guwahati, the Govt. of Assam is pleased to handover the ESI Hospital Beltola with all the existing infrastructure of the ESI Hospital, Beltola to ESIC for its upgradation on 04/03/2003 on the terms and consideration that the existing staff (Gazetted and Nongazetted) working in the ESI Hospital, Beltola and ESI dispensaries (where necessary) indicated in the enclosed Annexure as well as in the other existing staff under ESI scheme in Assam will be placed at the hospital of ESIC on deputation under the existing rules of the Govt. /ESIC as per requirement of the ESIC norms.

And whereas, the officers and staff of the ESI Hospital, Beltola & officers and staff of ESI dispensaries are placed at the disposal of ESIC initially on deputation, they are asked to give their option to accept the scale of pay in respective of cadre/categories of posts in the ESIC as per existing norms/rules of the ESIC.

And now, it is also further indicated that the officers and staff deputed to ESIC are absolutely free to give their option for permanent absorption in the ESIC as per existing rules of the Govt. of Assam. The deputation of Gazetted and Nongazetted Officers and Staff of Govt. of Assam will be on deputation initially for (one) year.

And whereas, the complete setup of the FSI Hospital, Beltola under the FSI scheme in Assam is provided in the FSI Act, 1948 is handed over to ESIC on mutually agreed terms and conditions and in consideration of the socio-economic conditions of the people in the areas, the ESIC will extend their all facilities to the beneficiaries under the FSI Act, 1948 as well as to the people of Assam in general

And whereas, the matter of further employment in the cadre of doctors, specialists and other medical Officers, paramedical staff will be on contractual basis. The other staff against the posts in Hospital Management Information system including computers, Public Relations, Training and CME Programmes etc. in all the functional areas of MODEL HOSPITAL has been agreed by the ESIC to be considered for employment on priority basis as sponsored by Labour and Employment Department, Govt of Assam for appointment by the ESIC. The ESIC will take further action on these agreed terms and conditions as per rules of ESIC. The Officers and Staff deputed and on contractual basis will have to give their option for their absorption in ESIC after the period of deputation

It is also decided to constitute a Hospital Advisory Committee for MODEL HOSPITAL Beltola for taking steps for upgradation of the hospital suited to the condition of Assam with representative of the Govt of Assam. The committee will monitor the development activities and purchase of materials and equipments for upgradation of the Hospital

The FSI Hospital Beltola is formally handed over to ESIC on today for its upgradation to a MODEL HOSPITAL in the interest of social security of the industrial workers in particular as well as the people of Assam in general

Further A.P. are not acceptable by the ESIC. These proposals will be sent to H.R. ESIC for consideration.

Signature of the representative
of ESIC
(Taking over)

Pratibha
emp/09
(ROMIEN SAIKIA)
REGIONAL DIRECTOR, ESIC

04/11/03
(CHANDRA K. PAL)

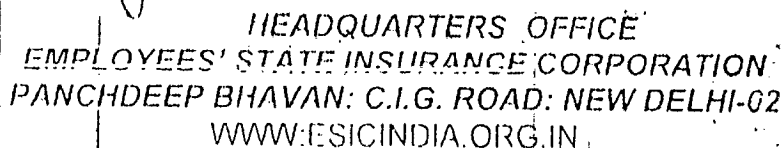
Med. Supdt. B.S.I Model
Hospital, Beltola, Guwahati

Signature of the State Govt.
representative,
(Handing over)

04-11-2003
(Dr. L. Sanjay)
Joint Secy, Labour & Employment
Govt. of Assam, Guwahati

Dr. (H) L. H. Zaiton

Signature
(P. B. B. B.)
(8)
Dr. (H) L. H. Zaiton



TEL. NO. 23234097 - 93
FAX NO. 011-23234537

-81-

NO. A-11/11/3/2003-DM(HQ)/Assam

Date: 10 /06/04

To

The Secretary,
Labour and Employment Deptt.,
Govt. of Assam,
Dispur, Assam.

<p>प्राप्त</p> <p>प्राप्त मध्याह्न</p> <p>दिनांक 12/2/64</p> <p>संख्या 21-6-04</p> <p>प्राप्त आदेश संख्या 49</p> <p>दिनांक, गवाहाटी 22</p>	<p>RECEIVED</p> <p>SI Model Hospital</p> <p>Bellola, Guwahati-22</p>
--	--

SUBJECT: Terms and conditions of deputation of Govt. of Assam employees working in ESI Model Hospital, Bellola, Assam.

Sir,

This has a reference to your letter No. GLR/53/2003/PLI/133 dated 17/09/03 on the above subject.

The terms and conditions governing the deputation of State Govt. employees working in Model Hospital, Bellola have not been furnished by the Govt. of Assam despite the letter No. 432-A-23/11/1/2003-Estt. dated 27/09/03 of Dy. Director, ESIC Model Hospital, Assam calling for the same.

As the hospital has been taken over by the Corporation on 04/04/03 and the State Govt. Employees are working on deputation since then, it is absolutely necessary to finalise the deputation terms of the State govt. employees without further delay.-

You are, therefore, requested to furnish the terms and conditions governing deputation of State Govt. employees working in ESI Model Hospital, Beltola, Assam latest by 30/06/04. The Corporation may consider finalising the terms of deputation unilaterally, if no response in the matter is received from your end by that time.

Yours faithfully,

32.

(D. LAHIRI)
Jt. DIRECTOR (MED.)

Copy to:

1. Director, ESIS, Govt. of Assam, Dispur, Assam with the request to expedite furnishing terms of deputation of State Govt. employees.
2. SSMC, ESIC, Kolkata for information. He is requested to take up the matter with the State Govt. on priority and arrange to get the reply sent before 30/06/04.
3. Medical Superintendent, ESI Model Hospital, Bellola, Assam, for information.

JT. DIRECTOR (MED.)

ESIC MODEL HOSPITAL
BELTOLA, GUWAHATI-22

Handwritten

No. 432-A-27/19/1/2003-Estt.

1706-1707

Dt. 22-6-2004

To, Mr. R.K. Naik
The Joint Director (Medical)
ESI Corporation
Panchdeep Bhawan
CIG Road
New Delhi-2

Subj:- Terms & Condition of deputationist of Govt.
of Assam in respect of Officers & staff on depu-
tation working in ESIC Model Hospital, Beltola,
Guwahati.

Sir,

Kindly refer to your letter No. A-11/11/3/2003/DH(HQ)/Assam
dt. 10-6-2004 addressed to the Secretary, to the Govt. of Assam, Labour
& Employment department, copy of which is endorsed to this Hospital,
on the abovementioned subject.

In this regard, I am directed to inform you that Govt. of Assam
has already forwarded the Terms of deputation vide letter No. GLR.
153/2003/Pt-I/150 dt. 29-3-04. The copy of the letter & other related
papers received from the Govt. of Assam have been forwarded to Hqs.
office vide this office letter of even No. dt. 22-4-2004.

However, a copy of the letter & other related instructions
regarding Terms of deputation of Govt. of Assam are again enclosed
herewith for ready reference & necessary action at your end.

Kindly convey the Hqs. office decision/orders at an early
date.

Encl:- As above.

Yours faithfully,

(P. Baruah)
22/6/07

Dy. Director (Admin)

For Medical Superintendent.

Copy to:- 1) Dr. A.K. Khokhar, Director (Medical) HQ, ESIC, Panchdeep
Bhawan, CIG Road, New Delhi-2, for kind information &
necessary action.

(Mam)
22/6/07
Dy. Director (Admin)

Annexure - X (4)

TEL:

P.102

Ranjit madam/pnb 57

SPEED POST

फ़ोन नं: 011-23234092-93
TEL: 011-23234092-93

फ़ैक्स नं: 011-23234537
Fax: 011-23234537

WWW.ESICINDIA.ORG.IN

मुख्यालय
HEADQUARTERS OFFICE
कर्मचारी राज्य बीमा निगम
EMPLOYEES' STATE INSURANCE CORPORATION
पंचदीप भवन, सी.आई.जी. रोड, नई दिल्ली-02
PANCHDEEP BHAWAN, C.I.G. ROAD, NEW DELHI-02

Date: 30/11/04

No A-11(11)-3/2003-DM(HQ)

To

The Medical Superintendent,
ESI Model Hospital,
Beltola, ASSAM.

SUBJECT: Terms and condition of deputation.

Sir,

I am to refer to your office letter No. 432-A-27/19/1/2003-Estt. 1707 dated 22/06/04 on the above subject and to convey the Director General's approval for payment of State Govt. of Assam's pay scales plus 10% deputation allowance subject to the maximum of Rs. 500/- per month in respect of staff on deputation to ESI Model Hospital, Assam.

This issues with the concurrence of FC vide notes at page 51/N of the file.

Yours faithfully,

Sd/-
(DR. S.K. JAIN)

DY. MED. COMMISSIONER

✓ Copy to: The Commissioner and Secretary to the State Govt. of Assam, Labour and Employment Deptt. Dispur, Guwahati w.r.t. their letter number GLR 153/2003/Pl.1/158 dated 29/03/04 addressed to Medical Superintendent, ESI Model Hospital, Assam.

DY. MED. COMMISSIONER

RECEIVED	2018
19-1-2018	
ESIC Model Hospital	
Baltola, Guwahati	

To

The Medical Superintendent,
ESIC Model Hospital
Baltola Guwahati.

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Subj:- Deduction of One day's Gross Salary.

Ref:- No.432.Z.11/16/1/03-Misc Cir. 3580 Dt.13-1-05.


Sir,

With reference to subject cited above, We the deputationists would like to inform you that we are neither the members of the All India ESIC officers Association nor the All India ESIC Employee's Federation till date.

As we are on deputation from the state Govt. so necessary orders/permission for deduction of one day's Gross salary may be obtained from the Govt. of Assam.

Yours faithfully,

Dated 17-1-2005


President, ESI Doctors' Association
Amam
(for all deputed Doctors, ESI
Model Hospital, Baltola)

EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN, C.I.G. ROAD, NEW DELHI

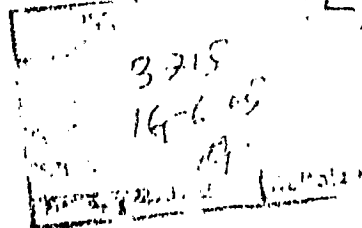
No. A-31(18) 1/03-Mod. IV

Dated June 3, 2005

To

The Secretary
To Govt. of

Assam



Sub: Terms and conditions of absorption of the State Govt. employees working on deputation in the ESIC Model Hospital, Dibrugarh, Assam.

For Information.

I am to enclose herewith draft terms of absorption of your State Govt. employees who have been deputed to ESI Model Hospital, Dibrugarh, Assam which was taken over by us on 11.11.02. It is proposed to absorb such employees in the Corporation service on their tendering resignation from State Govt. service and acceptance of the same by the State Govt., and subject to State Govt's and employee concerned accepting the terms of absorption. The draft terms and conditions may please be gone through and your views and acceptance of these terms may please be communicated so that draft terms can be placed for approval of the ESI Corporation. Once these terms are finalised, option for absorption in ESIC service will be entertained through the State Govt. only and not directly from employees. ESIC will not entertain any representation viz. gries etc. directly from individual or the Union.

The draft terms and conditions of absorption are prepared keeping in view extant Govt. of India rules and instructions on the subject wherever applicable and possible.

As the matter has been pending for long and there are indications from some States, I request you to please offer your views and comments, if any, taking in view the relevant service rules as early as possible, not in any case, within three months so that the matter can be taken up to the ESI Corporation. In case, we do not hear from you within three months, we will presume that you are in agreement with the proposed terms.

Yours faithfully,

Encl: As above

[DR. (MISS) KAMLESH KALRA]
MEDICAL COMMISSIONER

Copy to

The Medical Superintendent, ESIC Model Hospital, Dibrugarh, Assam - for information with the advice to give wide publicity to these terms of absorption through notice board etc. including in local language, but no notice should be given to individuals or to any union. Further, the matter may also be followed up by the respective State Govt. so that the time limit as above is adhered to.

BY: DIRECTOR (MED.)

ANNEXURE - A

(Proposed to be circulated vide no. 37 (18) 1/03-Med. IV dt. 03.06.05)

DRAFT TERMS OF ABSORPTION

- 1) Option may be exercised by each employee for absorption in Corporation service or for reversion to the State Govt. service. The option may be exercised by each employee who has a minimum of 2 years' service left in the lending department as on 01.01.2006.
- 2) Mere exercising of option for absorption in Corporation service shall not confer any right on any employee to claim absorption and the decision of the Corporation in the matter would be final based on consideration of due screening.
- 3) An employee opting for absorption has to resign from State Govt. service and his absorption in Corporation service will take effect from the date of deputation in ESI Corporation or from the date he joins the duty in the ESI Corporation whichever is earlier.
- 4) Seniority of an employee absorbed in the Corporation will be determined either from the date from which one holds the post on deputation or from the date one holds the post in equivalent grade on regular basis in the State Govt. service, whichever is earlier. Seniority of two or more State Govt. employees absorbed in the Corporation service would however, be fixed as per the seniority existing in the State Govt. prior to their absorption. Before absorption an employee will be free to opt for separate institutional seniority i.e. seniority only for the particular hospital. In this case they will not be transferred outside the hospital even after absorption and the promotions will be based on the institutional seniority, only subject to the vacancy in the hospital OR the individuals can also opt to be part of all India seniority, in which case they will be liable for all India transfer and all India promotional avenues. If opting for institutional seniority, the all India posts and centres to which they will not be eligible for promotion will be the Medical Superintendent of the Hospital and all officers in the pay scale of Rs 14700-18300 (current ESI SG scale).
- 5) Employees on absorption would continue to work at ESIIC Model Hospital _____ at the discretion of the Corporation, but they would be under all India transfer liability except for those who have opted for institutional seniority as stated in para 4 above.
- 6) All the Medical Officers recruited on posts of various designations by the State Govt. for General Duty Medical purposes, on

absorption in Corporation service shall be absorbed in the General Duty Medical Officer (Insurance Medical Officers) Sub-cadre only. If, however, if the doctors were appointed as specialist, irrespective of the fact whether a separate specialist cadre existed in the state Govt. or not they will be absorbed in specialist sub cadre of ESIC.

A) An employee, on absorption in corporation service, shall have the option to get his past State Govt. service counted for combined pension in ESIC, if the State Govt. pays the entire amount of proportionate pensionary liability as per Central Civil Services Pension rules. An undertaking from the State Govt. would be necessary in this regard that they would discharge their pensionary liability as per Central Civil Services Pension Rules within a reasonable period. Option by the employee in this regard shall be exercised within six months from the date of issue of absorption letter to the employee in the Corporation service. Option once exercised is final. The individual can also opt for carry forward of accumulated leave as per the rules, on the condition that the State Govt. pays the pro-rata pension contribution and leave salary contribution as per the Rule and in the event of any delay in getting this payment, the amount shall be deducted from the final "on account payment" at the end of the financial year in which the person(s) retired. The employee is free to opt to get their terminal payment like gratuity, pension and leave encashment etc. or can avail the accumulated leave before option and in this case for the purpose of pension rule they will come under the new contributory pension scheme of the Central Govt.

B) In case an employee opts in favour of counting of his past service, he will be eligible to draw pension in accordance with the Rules of the ESI Corporation for the combined service under the State Govt. and under ESI Corporation on the final retirement / superannuation/ voluntary retirement from ESI Corporation. If he resigns from service of the ESI Corporation, his resignation will be treated as resignation from State Govt. Service entailing forfeiture of past services including that under the State Govt. and consequent loss of pensionary benefits for combined service.

For recoveries of the advances in respect of house building advance, motor car/ motor cycle / scooter advance obtained by an employee from his previous employer which are outstanding as on date of absorption in the Corporation service, an employee shall have to liquidate the advances himself before absorption and if the State

93
--87--

Govt. demand, the balance outstanding with the interest as certified by the State Govt. can be deducted by ESIC and paid to the concerned State Govt. periodically.

10) An official on absorption in ESI Corporation service will be governed by ESIC (Staff & Conditions of Service) Regulations, 1959 as amended from time to time.

11) No employee against whom any disciplinary proceeding is pending or who is undergoing the period of penalty, will be absorbed in the Corporation service.

12) Pay of an absorbed employee will be fixed as per Fundamental Rules of Govt. of India and Regulation 7(4) (c) of ESIC (Staff & Condition of Service) Regulation, 1959.

13) Leave accumulated in respect of the employee in the State Govt. service will not be carried forward to ESIC and the employee may either avail of their leave or get encashment of leave from the concerned State Govt. as per their Rule. The duly calculated and audited leave encashment amount will be paid to the employee by ESIC after absorption only in case the State Govt. agrees for recovering the entire amount from the on account payment due to the State Govt. during the same financial year.

14) The accumulated GPF balance plus the interest thereon in respect of a deputationist shall be transferred to ESIC in his new GPF account opened in ESIC, irrespective of the fact whether the absorber has opted to count his past service or not

(Proposed to be circulated vide no. A-37 (18) 1/03-Med. IV dt. 03.06.05)

EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN, C.I.G MARG, NEW DELHI

No. : A-37(18)1/2003-DM(Hq)

Dated : 29th December, 2005

To

The Secretary,
 Ministry of Labour
 Govt of A.S. Govt

Sub : Absorption of State Govt. Employees working in various ESIC
Model Hospitals - req.

Sir,

In the 134th Meeting of the ESI Corporation held on 21/12/05, it has been decided to give option to the employees/staff of the State Govts working on deputation in the following hospitals to get absorbed in ESIC service subject to the terms and conditions circulated vide this office letter of even no dt. 03/06/2005 :-

Sl No	Name of the hospital	State	Date of absorption
1	Nacharam Hyderabad	A.P.	01/01/2006
2	Ludhiana	Punjab	01/01/2006
3	Sehlabad	U.P.	01/01/2006
4	Phulwarisharif	Bihar	01/01/2006
5	Ranchi	Jharkhand	01/01/2006
6	Gawahati	Assam	01/01/2006 ✓
7	Asramam	Kerala	01/01/2003
8	Rourkela	Orissa	01/01/2006
9	Jammu	J&K	01/01/2006

Accordingly, the Medical Superintendents of these various hospitals have been directed to obtain options from individual employees for absorption.

Yours faithfully

(DR. (MISS) KAMLESH KALRA)
 MEDICAL COMMISSIONER

Copy to

1 The Medical Superintendent, ESIC Model Hospital, BELTOLA along with a copy of terms and conditions for absorption. Detailed instructions will follow

—
 MEDICAL COMMISSIONER

TERMS OF ABSORPTION

1. Option may be exercised by each employee for absorption in Corporation service or for repatriation to the State Govt. service. This option may be exercised by each employee who has a minimum of 2 years' service left in the lending Department as on 01/01/2006.
2. Mere exercising of option for absorption in Corporation service shall not confer any right on any employee to claim absorption and the decision of the Corporation in the matter would be final based on consideration of due screening.
3. An employee opting for absorption has to resign from State Govt. service and his absorption in Corporation service will take effect from the date of deputation in ESI Corporation or from the date he joins the duty in the ESI Corporation whichever is earlier.
4. Seniority of an employee absorbed in the Corporation will be determined either from the date from which one holds the post on deputation or from the date one holds the post in equivalent grade on regular basis in the State Govt. service, whichever is earlier. Seniority of two or more State Govt. employees absorbed in the Corporation service would however, be fixed as per the seniority existing in the State Govt. prior to their absorption. Before absorption an employee will be free to opt for separate institutional seniority i.e. seniority only for the particular hospital. In this case, they will not be transferred outside the hospital even after absorption and the promotions will be based on the institutional seniority only subject to the vacancy in the hospital OR the individuals

can also opt to be part of all India seniority, in which case they will be liable for all India transfer and all India promotional avenues. If opting for institutional seniority, the all India posts and cadres to which they will not be eligible for promotion will be the Medical Superintendent of the Hospital and all officers in the pay scale of Rs. 14,300-18,300 (current NFSG scale).

5. Employees on absorption would continue to work at ESIC Model Hospital Baltola at the discretion of the Corporation, but they would be under all India transfer liability except for those who have opted for institutional seniority as stated in para 4 above.
6. All the Medical Officers recruited on posts of various designations by the State Govt. for General Duty Medical purposes, on absorption in Corporation service shall be absorbed in the General Duty Medical Officer (Insurance Medical Officers) Sub-cadre only. However, if the doctors were appointed as specialist, irrespective of the fact whether a separate specialist cadre existed in the State Govt. or not they will be absorbed in specialist sub cadre of ESIC.
7. An employee, on absorption in Corporation service, shall have the option to get his past State Govt. service counted for combined pension in ESIC, if the State Govt. pays the entire amount of proportionate pensionary liability as per Central Civil Services Pension Rules. An undertaking from the State Govt. would be necessary in this regard that they would discharge their pensionary liability as per Central Civil Services Pension Rules within a reasonable period. Option by the employee in this regard shall be exercised within six months from the date of issue of absorption letter to the employee in the Corporation Service. Option once exercised is final. The

individual can also opt for carry forward of accumulated leave as per the rules on the condition that the State Govt. pays the pro-rata pension contribution and leave salary contribution as per the Rule and in the event of any delay in getting this payment, the amount shall be deducted from the final "on account payment" at the end of the financial year in which the person(s) retired. The employees free to opt to get their terminal payment like gratuity, pension and leave encashment etc. or can avail the accumulated leave before option and in this case for the purpose of pension rule they will come under the new contributory pension scheme of the Central Govt.

8. In case, an employee opts in favour of counting of this past service, he will be eligible to draw pension in accordance with the Rules of the ESI Corporation for the combined service under the State Govt. and under ESI Corporation on the final retirement / superannuation / voluntary retirement from ESI Corporation. If he resigns from the service of the ESI Corporation, his resignation will be treated as resignation from the State Govt. Service entailing forfeiture of past services including that under the State Govt. and consequent loss of pensionary benefits for combined service.
9. For recoveries of the advances in respect of house building advance, motor car / motor cycle / scooter advance obtained by an employee from his previous employer which are outstanding as on date of absorption in the Corporation service, an employee shall have to liquidate the advance by himself before absorption and if the State Govt. desires, the balance outstanding with the interest as certified by the State Govt. can be deducted by ESIC and paid to the concerned State Govt. periodically.

10. An official on absorption in ESI Corporation service will be governed by ESIC (Staff & Conditions of Service) Regulations, 1959 as amended from time to time. -93-

11. No employee against whom any disciplinary proceeding is pending or who is undergoing the period of penalty, will be absorbed in the Corporation service.

12. Pay of an absorbed employee will be fixed as per Fundamental Rules of Govt. of India and Regulation 7(4) (a) of ESIC (Staff & Condition of service) Regulations, 1959.

13. Leave accumulated in respect of the employee in the State Govt service will not be carried forward to ESIC and the employee may either avail of their leave or get encashment of leave from the concerned State Govt. as per their Rule. The duly calculated and audited leave encashment amount will be paid to the employee by ESIC after absorption only in case the State Govt. agrees for recovering the entire amount from the on account payment due to the State Govt. during the same financial years.

14. The accumulated GPF balance plus the interest thereon in respect of a deputationist shall be transferred to ESIC in his new GPF account opened in ESIC, irrespective of the fact whether the absorbee has opted to count his past service or not.

OF THE ADMINISTRATIVE MEDICAL OFFICER, ESI SCHEME, ASSAM
200 - NARANGI ROAD: : GUWAHATI-21.

ESIC-ABSORPTION/2006/ 10217 Dated Guwahati the 21-3/06

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21.

The Commissioner & Secretary to the Govt. of Assam,
Labour & Employment Department, Dispur
Guwahati-6.

Absorption of State Govt. employees to ESIC Model
Hospital, Beltola, Guwahati under ESI Corporation.,

In enclosing herewith the letter No. 482-A-23/11/1/2003-Eatt,
dated 21-03-2006 received from Deputy Director(Adm), ESIC Model
Hospital, Beltola, Guwahati-22. I have the honour to state that ESI
Corporation is considering the absorption of Doctors and other staff
of State Govt. now on deputation to ESIC Model Hospital, Beltola,
Guwahati-22 and for this the Corporation needs confirmation/certification
whether any disciplinary proceedings is pending or being contemplated
against any deputationist doctors/staff.

In this connection it may be stated that this office has
no records of any disciplinary action pending against any
deputationist doctors/staff.

This is for favour of your information and necessary
action.

As stated above in original.

Yours faithfully,

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21.

No. ESI/ESIC-ABSORPTION/2006/ 10217 Dated 21-3/2006.

to the Deputy Director(Adm), ESIC Model Hospital, Beltola,
Guwahati-22 for information.

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21.

(Ref: ESIC Hqs's letter No. A-37(18V)/2005-DM(HO) dated 16-03-2006)

SL No	Name of Post	No.	Pay Scale of Govt.	ACP granted (If any)	Name of Post (at ESIC)	Corresponding Pay Scale at ESIC Corporation
1	G.D.M.O.	20	4300/- to 11425/-	Nil	G.D.M.O.	8000-275-13500
2	Pharmacist	4	3490/- to 8100/-	-do-	Pharmacist	4500-125-7000
3	Asst. Matron	1	4300/- to 9075/-	-do-	Nursing Sister	5500-175-9000
4	Staff Nurse	14	3370/- to 7100/-	-do-	Staff Nurse	5000-150-8000
5	Lab. Technician	3	3590/- to 5725/-	-do-	Lab Tech.	4000-100-6000
5	O.T. Asst.	1	3130/- to 6600/-	-do-	O.T. Asst.	3050-75-3950-80-4590
7	Radiographer	2	3010/- to 6075/-	-do-	Radiographer	4500-125-7000
8	Ministerial Staff UDC	2	3850/- to 7350/-	-do-	UDC	4000-100-6000
9	--do-- LDC	5	3890/- to 5725/-	-do-	LDC	3050-75-3950-80-4590
10	Dresser	2	2610/- to 4800/-	-do-	Dresser	2650-65-3300-70-4000
11	Driver	3	2610/- to 4840/-	-do-	Driver	3050-75-3950-80-4590
12	Tailor	1	2650/- to 5200/-	-do-	Tailor	2650-65-3300-70-4000
13	Peon	3	2450/- to 3670/-	-do-	Peon	2550-55-2660-60-3200
14	Group-D Staff	20	2450/- to 3670/-	-do-	Gr-D	2550-55-2660-60-3200
15	Cook mat Gr IV	3	2450/- to 3670/-	-do-	Gr-D	2550-55-2660-60-3200
16	Dhobi Gr IV	1	2450/- to 3670/-	-do-	Gr-D	2650-65-3360-70-4000
17	Gardener	1	2450/- to 3670/-	-do-	Gr-D	2550-55-2660-60-3200
18	Sweeper	6	2450/- to 3670/-	-do-	Gr-D	2550-55-2660-60-3200

** There is no post of Asstt. Matron as per Hqs. Office's sanction letter. However, the scale of Nursing Sister of ESIC has been proposed.

Verified / Voted by

Joint Director (Finance)

ESIC Model Hospital, Bettola, Guwahati-22

Dr. Director (Admin)

ESIC Model Hospital, Bettola, Guwahati-22

Medical Superintendent

ESIC Model Hospital, Bettola, Guwahati-22

Annexure - X (10) 102

EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEE BHAWAN, C.I.G. ROAD, NEW DELHI

- 96 -

No:-A-37(1821/2005-DM (HQ))

Dated 31.03.06

The Secretary
Deptt. of Labour & Employment,
Govt. of Assam,
Guwahati

Sub:- Terms & conditions of absorption of State Govt. employees
working in ESIC Model Hospital, Beltola, Guwahati, Assam

1. Ref. This office letter of even no. 03.06.05
2. Your letter no. GLR 131/2001/pt-III/70 dated 9th March, 2006

Sir,

With reference to your letter cited at 2 above, I have to furnish
views the Corporation as under:

Objections of the State Govt. of Assam.	Views of the Corporation.
<p>1) All the Doctors, Para-Medical, Ministerial and Gr. IV Staff deputed in the Model Hospital, ESI Corporation, Beltola, Guwahati vide this Deptt's Notification No. GLR. 121/2003/8 dt. 10.04.2003 and GLR. 121/2003/9 dated 17.04.2003 should be absorbed since 04.04.2003 as per M.O.U. and deputation furnished by the deputationists individually.</p> <p>However, the State Govt. have no objection for absorption of all Doctors and Staff w.e.f. 04.04.2003 in ESI Hospital, Beltola, Assam.</p>	<p>The Corporation has already taken a decision to absorb the State Govt. employees w.e.f. 01.01.2006 only. The period between 04.04.2003 and 01.01.2006 will be treated as a period of deputation only. Hence, absorption of State Govt. employees w.e.f. 04.04.2003 is not viable.</p>

(2) All the Doctors working under the State Govt. as M&HOI and under ESI Corporation as G.D.M.O. should be absorbed as IMO- I in stead of M&HOI and G.D.M.O.

All the doctors opting for permanent absorption in ESIC would be absorbed in equivalent grade which they were holding on regular basis in the State Govt.

(3) Doctors who have completed 4 years of regular service in the State Govt. and who have opted for absorption may be posted as Senior Medical Officer (SMO) 3(a) Doctors who have completed 10 years of regular service in the State Govt. and who have opted for absorption may be posted as Chief Medical Officer (CMO).

-Do-

(4) All deputationists holding PG Degree/PG Diploma such as MD/MS/Diploma who are eligible for appointment as specialist as per norms of ESI Corporation should be appointed/absorbed as Specialist/Special Cadre against the existing vacancy.

As per the policy of the ESIC, the GDMOs holding Post-graduate qualification are entitled to P.G. allowance only. For appointments to a Specialist post, they have to compete in an advertisement whenever made for this purpose.

(5) Recovery of advance taken by the deputationists, the State Govt. is agreeable that recovery should be made by the ESI Corporation from their Salary Bill of the deputationists and the same may be deposited by the ESI Corporation to the State Govt. Fund.

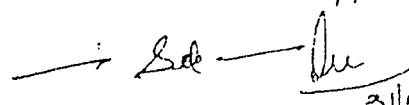
No change and agreed to.

(6) The State Govt. has already certified that there is no Deptl. Proceeding against any of the employees under deputation.

Counting of past service will be as per provision of Rule - 98 Assam Services (Pension) Rules-9. The State Govt. is agreeable credit/forward the Pensionary facilities/Leave Encashment/Leave Credit/Gratuity/GPF etc. to the credit of ESI Corporation from the date of absorption i.e. 04.04.03.	<p>This will be governed by Central Govt. Rules made for this purpose from time to time unless amended. However, leave at credit cannot be carried forward. The State Govt. employees have to get it encashed from the State Govt.</p> <p><u>The date of absorption shall be from 01.01.06 and not from 04.04.03 as envisaged by Govt. of Assam.</u></p>
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You are, therefore, once again requested to agree to the terms & conditions as envisaged vide this office letter referred to at (1) above so as to complete the formalities urgently.

Yours faithfully,

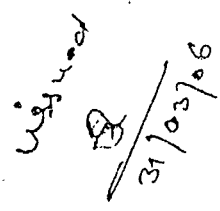


(Dr. (Miss) Kamlesh Kalra)^{31/3/06}
Medical Commissioner

to:- Medical Superintendent, ESIC Model Hospital, Beltola, Guwahati
for information.



JT. DIRECTOR (MEDICAL)



Annexure - 8.

100
105

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT DISPUR

NO. GLR. 37/88/79

Dated Dispur the 31st July'06

From

Shri. M. Ali,
Under Secretary to the Govt. of Assam
Labour & Employment Department, Dispur.

The Accountant General (A&E) Assam
Maidamgaon, Beltola, Ghy-29.

Retention of temporary posts of 9(nine) Medical
and Health Officer (CDMO) of ESI Hospital,
Beltola.

I am directed to convey the sanction of the Governor

of Assam to the retention of the temporary 9(Nine) posts of Medical
Health Officer (GDMO) under ESI Scheme, Assam in the Scale of Pay Rs.
4350-11,425/- P.M. for a period of one year w.e.f 1-3-06 to 28-2-2007.
These posts were originally created vide letter No. GLR. 37/88/77, dtd.
15.1.04.

The expenditure is debitabale to the Head of Account
"221 Medical & Public Health II Other State Plan and Non Plan - 102
EST General (B) - IT Disbursements etc. General Normal" in the Budget for
the year 2006-2007.

This issues under DEP Rules, 1992 as amended.

Yours faithfully,
Sd/-

Under Secretary to the Government of Assam,
Labour & Employment Department
Dispur.

Dated Dispur the the 31st July'2006

MEMO. NO. GLR. 37/88/79 A

Copy to :

1. The Administrative Medical Officer, ESI Scheme, Zoo Barangi Road
Ghy-21 with reference to his letter No. SAN/Reten/BELH/GDMO/2006/000
dtd. 21.2.06.
2. The Regional Director, ESIC, Bamunimaidan, Ghy-21
3. Superintendent, ESI Hospital, Beltola, Guwahati-28
4. The Finance (EC-III) Department, Dispur.
5. The Treasury Officer, Dispur.

By order etc.
Sd/- 31-7-06

Under Secretary to the Government
of Assam, Labour & Employment Dispur.

MEMO. NO. GLR. 37/88/79-B

Dated Dispur, the 31st July, '06

- Copy to :
1. The Accountant General (A&E) Assam, Maidamgaon, Beltola
Ghy-29.
 2. The Treasury Officer, Dispur.

Financial Adviser,

Labour & Employment Department Dispur

MEMO. NO. SAN/Reten/BELH/GDMO/2006/ 3031-32 / Dated 27/8/06

- Copy to :
1. The Superintendent, ESI Model Hospital Beltola Guwahati 28
for information.
 2. Establishment Section of this Office for information
and necessary action.

3 Accs Br.

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21

Annexure-Y(1).

GOVERNMENT OF ASSAM

LABOUR AND EMPLOYMENT DEPARTMENT DISPUR

NO.GLR.591/84/355

Dated Dispur the 5th August '06

Shri.B.C.Das,ACS

Joint Secretary to the Govt. of Assam,
Labour & Employment Department, Dispur

The Accountant General(A&E)Assam, Maidamgaon
Beltola, Guwahati-29.

Retention of temporary post of Dhubi of ESI
Hospital, Beltola.

I am directed to convey the sanction of the
Governor of Assam to the retention of the temporary post of Dhubi
of ESI Hospital, Beltola in the Scale of pay of Rs.2450/- to Rs.3670/-
P.M. for the period upto 28-2-07 w.e.f.1-3-2006. The post was
originally created vide letter NO.GLR.591/84/148 dtd.24.10.90 and last
retained vide letter NO.GLR.591/84/348 dtd.2-7-05.

The expenditure is debitable to the Head of
Account "210-Medical & Public Health-II-Other State Plan and Non-Plan
-102-ESI Scheme(b) ESI Dispensaries etc. General Normal" in the
budget for the year 2006-07.

This issues under D.F.P. Rules,1999 as amended.

Yours faithfully,

Sd/-

Joint Secy. to the Government of Assam,
Labour & Employment Department, Dispur.

MEMO.NO.GLR.591/84/355-A

Dated Dispur the 5th August '06

- Copy to :-1. The Administrative Medical Officer, ESI Scheme, Assam
Zoo-Narengi Road, Guwahati-21 with reference to his
letter No.SAN/reten/DHOB/BELH/2006/700 dtd.21-2-06.
2. The Regional Director, ESIC, Bamunimaidan, Guwahati-21
3. The Superintendent, ESI Hospital,Beltola.
4. The Treasury Officer, Dispur.

By order etc.,

Sd/- Illegible Dt.5.8.06

Joint Secy. to the Government of Assam,
Labour & Employment Department, Dispur.

Memo.No.GLR.591/84/355-B

Dated Dispur the 5th August '06

- Copy to :-1. The Accountant General(A&E)Assam, Maidamgaon, Beltola
Guwahati-29.
2. The Treasury Officer, Dispur.

Sd/-

Financial Advisor

Labour & Employment Department Dispur

MEMO.NO.SAN/Reten/DHOB/BELH/2006/3028-30 / Dated 22/8/06

- Copy to :-1.The Superintendent, ESI Model Hospital,Beltola for
information.
2.Establishment Section of this Office for information.
3.Accounts Branch of this Office for information.

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21

Annexure-Y(2)

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT

Receipt No. 1203
Date 25/8/06
Sign
ESI Medical Officer
Dated 25/8/06

NO.GLR.591/84/356

Dated Dispur, the 5th August 06

From : Shri.B.C.Das, ACS
Joint Secretary to the Govt. of Assam,
Labour & Employment Department, Dispur.

- 102 -

To : The Accountant General (A&E) Assam, Maidamgaon
Beltola, Guwahati-78.
Sub : Retention of temporary posts of Medical, Para
Medical and other Staff of ESI Hospital, Beltola.

Sir,
I am directed to convey the sanction of the
Governor of Assam to the retention of the following temporary
posts under ESI Scheme, Assam in the scale of pay as shown against
each for a period of one year upto 28-2-2007 w.e.f 1-3-2006. These
posts were originally created vide letter No.GLR.591/84/50 dtd.
11-6-85 for ESI Hospital, Beltola and last retained vide letter
No.GLR.591/84/347 dtd.2-1-05.

Sl.No.	Name of Post	No. of post	Scale of Pay
1.	Superintendent (SDM&HO)	1(One)	Rs.6600/-to 12,625/-p
2.	Medical Officer(M&HO)	5(five)	Rs.4300/-to 11,425/-p
3.	Assistant Matron	1(One)	Rs.4300/-to 9,075/-p
4.	Staff Nurse(Side Care)	4(four)	Rs.3370/-to 7,100/-p
5.	Staff Nurse(for Resusci- tation)	1(One)	Rs.3370/-to 7,100/-p
6.	Ward Sister	1(One)	Rs.3580/-to 8750/-pm
7.	Pharmacist	1(One)	Rs.3490/-to 8100/-pm
8.	Laboratory Technician	1(One)	Rs.3010/-to 6075/-pm
9.	Dark Room Assistant	1(One)	Rs.2610/-to 4840/-pm
10.	Linen keeper	1(One)	Rs.2690/-to 5725/-pm
11.	U.D.Assistant	1(One)	Rs.2690/-to 5725/-pm 3850/-to 7350/-pm
12.	L.D.Asstt(for Registration)	1(One)	Rs.2690/-to 5725/-pm
13.	L.D.Asstt.	3(three)	Rs.2690/-to 5725/-pm
14.	Telephone Attendant	3(three)	Rs.2450/-to 3670/-pm
15.	Ward Assistant	9(nine)	Rs.2450/-to 3670/-pm
16.	Ward Attendent	5(five)	Rs.2450/-to 3670/-pm
17.	Sweeper	3(Eight)	Rs.2450/-to 3670/-pm
18.	Peon	3(three)	Rs.2450/-to 3670/-pm
19.	Cleaner Cum Sttatcher Bearer	2(two)	Rs.2450/-to 3670/-m
20.	Ward Attendent (for resus- itation)	1(One)	Rs.2450/-to 3670/-pm
21.	Chowkidar cum Mali	1(One)	Rs.2450/-to 3670/-pm
22.	Cook mate	2(two)	Rs.2450/-to 3670/-pm
23.	Cook	1(One)	Rs.2450/-to 3670/-pm
24.	Tailor	1(One)	Rs.2650/-to 5200/-pm

Contd, 2

108
The expenditure is debitab.e to the Head of Account "2210 Medical & Public Hea. Un. 11 Other State Plan and Non Plan 102 ESI Scheme (b) ESI Dispensaries etc. General Normal " in the budget for the year 2006-2007.

-103-

This issues under D.F.P. Rules, 1999 as amended.

Yours faithfully,

Sd/..

Joint Secy. to the Govt. of Assam
Labour and Employment Deptt. Dispur

MEMO.NO.GLR.591/84/356 A

Dated Dispur the 5th August, 2006

Copy to : 1. The Administrative Medical Officer, ESI Scheme, Assam,
Zoo Narengi Road, Ghy-21 with reference to his letter
No. SAN/Reten/BEL/06-07/798 dtd 21-2-06.

2. The R.D.ESIC, Bamunimaidan, Guwahati-21
3. The Superintendent, ESI Hospital, Beltola
4. The Treasury Officer, Dispur.

By order etc.,

Sd/-Illegible Dt.5.8.06

Joint Secy. to Govt of Assam,
Labour & Employment Deptt. Dispur

MEMO.NO.GLR.591/84/356-B

Dated Dispur the 5th August 2006

Copy to : 1. The Accountant General (AGE), Assam, Mailamgaon,
Beltola Guwahati-29

2. The Treasury Officer, Dispur.

Financial Adviser

Labour & Employment Deptt. Dispur, Ghy-3

MEMO.NO.SAN/Reten/BEL/06-07/XXXXXX. 306567 Dated 23/8/06

Copy to : The Superintendent ESI Hospital, Beltola

2. Account Branch.
3. Estt. Branch.

Administrative Medical Officer
ESI Scheme, Assam, Guwahati-21

PD

Annexure-4 (63).

-104-

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT

ORDERS BY THE GOVERNOR

N O T I F I C A T I O N

Dated Dispur, the 30th April '05.

NO.GLR. 153/2003/Pt.I/178 : The Governor of Assam is pleased to extend the period of deputation in respect of incumbents deputed to Model Hospital ESI Corporation, Beltola vide this Deptt's Notification NO.GLR. 121/2003/8 dated 10-4-2003, NO.GLR. 121/2003/9 dt. 17-4-2003 and NO.GLR. 153/2003/Pt.I/159 dt. 29-3-2004 for a period of another one year w.e.f. 4-4-2005 under the same terms and conditions communicated vide this Deptt's letter NO.GLR. 153/2003/Pt.I/158 dt. 29-3-2003.

Sd/- C.R. Thakuria,
Joint Secy. to the Govt. of Assam,
Labour and Employment Deptt.

Memo NO.GLR. 153/2003/Pt.I/178-A, Dated Dispur, the 30th April '05

Copy to :-

1. The Deputy Medical Commissioner, ESI Corporation, Panchdcep Bhawan, Kolla Road, New Delhi.
2. The Regional Director, ESI Corporation, Assam, Baramaidan, Guwahati-21.
3. The A.M.O., ESI Schemes, Assam, Zoo Barangi Road, Guwahati-21.
4. The Medical Supdt., Model Hospital, ESI Corporation, Beltola, Guwahati-22.
5. The Accountant General (ASE) Assam, Maidamgaon. Beltola, Guwahati-29.
6. The Health & Family Welfare Deptt., Dispur, Guwahati-6.
7. The P.S. to Minister, Labour Employment Assam, Dispur.
8. The Persons concerned.
9. Personal file.
10. The Deputy Director, Assam Govt. Press, Baramaidan, Guwahati-21 for publication in the next issue of Assam Gazette.

By order etc.

Joint Secy. to the Govt. of Assam,
Labour and Employment Deptt.

OFFICE OF THE ADMINISTRATIVE MEDICAL OFFICER::ESI SCHEME::ASSAM
400 NARENGI ROAD::GUWAHATI 21

-105-

RECEIVED BEL/86-91/ 3045 / Dated 22/8/86

From RECEIVED	Received No.
Date	22/8/86
Signature	
ESI Scheme	
Assam	

Administrative Medical Officer
ESI Scheme, Assam, Guwahati 21

The Superintendent
ESIC Model Hospital, Bongaigaon

Retention of temporary posts of Medical
and Para-Medical Staff of ESI Hospital
Bongaigaon, Guwahati.

Ref : Govt letter No. CLR.34/88/Pt/57 Dt. 12-8-86.

Sir,

With reference to the letter and subject
quoted above, I am to request you to furnish the list of
incumbents alongwith scale of Pay holding the following posts
as to enable the undersigned to forward the same to the Govt.

Please treat this as MOST URGENT.

Sl.No.	Name of Post	No. of post	Scale of Pay
1.	Anaesthetist	1 (One)	-
2.	Radiographer	1 (One)	-

(The above post were originally created vide Govt. letter
No. CLR.37/88/Pt/8, Dt.29-7-89).

Yours faithfully,

Administrative Medical Officer
ESI Scheme, Assam, Guwahati 21

RECEIVED BEL/86-91/ 3046 / Dated 22/8/86

Copy to : 1. The Joint Secretary, to the Govt. of Assam,
Labour and Employment Deptt. Dispur Guwahati 6
For favour of Information.

Administrative Medical Officer
ESI Scheme, Assam, Guwahati 21

S No 2 (71)

Annexure-V(5)

MOU/HOSPITAL/19/2003 32

कर्मचारी राज्य बीमा निगम
EMPLOYEES' STATE INSURANCE CORPORATION

पंचदीप भवन, कोटला मार्ग, नई दिल्ली-110002
PANCHDEEP BHAVAN, KOTLA ROAD, NEW DELHI-110002

Dr. Ajay Dua,
Director General

- 106 -

D.O. No. U.11/11/Assam/1/03-DM(HQ)
Dated the 10th January, 2003.

Dear Sh. Basumatary,

Kindly refer to the discussions held in the meeting between the representatives of ESI Corporation and State Government on 30.12.02 in your chamber regarding the terms and conditions in connection with handing over the ESI Hospital, Belatola to ESI Corporation by the State Government. In this connection, the draft Memorandum of understanding received by this office has been examined and our views on various issues thereon, are as under: -

1. As regards handling over of infrastructure of the hospital excepting the land to ESI Corporation is concerned, it is clarified that, as a matter of policy, Corporation constructs hospitals out of its own corpus and hands over the same to State Governments for running the ESI Scheme. Since the title of the land is vested in the name of the Corporation, it is not possible to hand over the infrastructure while retaining the land thereof.

2. The MOU also specifies that individual option either to accept Corporation pay scale or State Government pay scale plus deputation allowance from the Officer/ Staff will be called for. The terms and conditions regarding deputation forwarded to the State Govt. by ESI Corporation mention about the option either to get pay of the deputationist fixed under normal rules or to draw pay of the post in parent department plus deputation allowance as per Govt. of India Rules. This option for choosing pay scales has to be made as a hospital unit and not individually.

112 12 34

-107-

It has also been proposed that the administrative officer of the hospital will be on deputation from State Govt. with the Corporation. This is again not in conformity with policy of the Corporation relating to model hospitals.

4. It has also been laid down in the MOU that Corporation will consider local educated unemployed youth of the State against the future need of manpower of the hospital. Such a restriction on Corporation has not been found to be acceptable as staff/ Officers are recruited as per Recruitment Regulations for the post in the Corporation and posts are advertised centrally by the Corporation.

With regards,

Yours sincerely,

[Signature]

(Dr. AJAY DUA)

97C

[Signature]
14/11/28

Sh. Basumatary,
Secretary to the Govt. of Assam,
Assam Sachivalya,
Dispur,
Guwahati.

Govt. services but for their deputation.

Contd...2/-

3.3 Permanent appointments made by transfer will also not be treated as deputation/foreign service.

3.4 Temporary appointment made on the basis of personal requests of employees will also not be treated as deputation/foreign service.

3.5 In case of appointments on deputation/foreign service from Central Government to Central Government and in those cases where the scale of pay and dearness allowance in the parent cadre post and ex-cadre post are similar, a person in a higher scale of pay shall not be appointed on deputation to a post in a lower scale of pay.

3.6 In case of appointment on deputation/foreign service from Central Government to Public Sector Undertaking and in those cases where the pay scale and DA in the parent cadre post and ex-cadre post are dissimilar, no appointment on deputation/foreign service shall be made if by raising the grade pay by one increment *plus* dearness allowance(s) including interim relief, if any, admissible to a person in parent cadre post exceeds the emoluments comprising pay *plus* dearness allowance(s) including interim relief, if any, at the maximum of the ex-cadre post.

4. Exercise of option

4.1 An employee appointed on deputation/foreign service may elect to draw either the pay in the scale of pay of deputation/foreign service post or his basic pay in the parent cadre *plus* deputation (duty) allowance thereon *plus* personal pay, if any.

4.2 The borrowing authority should obtain the option of the employee *within one month* from the date of joining the ex-cadre post unless the employee has himself furnished the option.

4.3 The option once exercised shall be final. However, the employees may revise the option under the following circumstances which will be effective from the date of occurrence of the same:—

- when he receives pro forma promotion or is appointed to non-functional Selection Grade in his parent cadre;
- when he is reverted to a lower grade in his parent cadre;
- when the scale of pay of the parent post on the basis of which his emoluments are regulated during deputation/foreign service or of the ex-cadre post held by the employee on deputation/foreign service is revised either prospectively or from a retrospective date;
- based on the revised same option of the employees, in the event of pro forma promotion/appointment to non-functional Selection Grade and revision of scales of pay in the parent cadre, the pay of deputationists will be refixed with reference to the revised entitlement of pay in the parent cadre. However, if the initial option was for the pay scale of the deputation post and no change in option

1. already exercised is envisaged, the pay already drawn in deputation post will be protected if the pay refixed is less.

NOTE.— Revision in the rates of DA, HRA or other allowances either in the parent or borrowing organization shall not be an occasion for revision of the earlier option.

4.4 If the pay of an employee in his cadre post undergoes downward revision, the pay in the ex-cadre post is also liable to be refixed on the basis of revised pay and in accordance with the revised option or existing option if the employee does not revise his option.

5. Pay fixation

5.1 When an employee on deputation/foreign service elects to draw pay in the scale of pay attached to the ex-cadre post, his pay may be fixed as under

(i) *Deputation from Central Government to Central Government:*

Pay may be fixed under normal rules.

(ii) *In Foreign Service/Reverse Foreign Service*

(a) When the pay scale of the post in the parent cadre and that attached to ex-cadre post are based on same index level and the DA pattern is also same, the pay may be fixed under the normal Fundamental Rules.

(b) If the appointment is made to a post whose pay structure and/or DA pattern is dissimilar to that in the parent organization, the pay may be fixed by adding to his grade pay one increment in the scale of his regular parent post (and if he was drawing pay at the maximum of the scale, by the increment last drawn) and equating the pay so raised *plus* dearness allowance (and additional or *ad hoc* dearness allowance, interim relief, etc., if any) with emoluments comprising of pay *plus* DA, ADA, Interim Relief, etc., if any, admissible in the borrowing organization and the pay may be fixed at the stage in the pay scale of the ex-cadre post at which total emoluments admissible in ex-cadre post as above equal the emoluments drawn in the cadre and if there is no such stage, the pay may be fixed at the next higher stage;

(iii) Pay fixed under (i) and (ii) shall neither be less than the minimum of the scale of the ex-cadre post nor shall it exceed the maximum of that scale.

5.2 In cases of appointment from one ex-cadre post to another ex-cadre post where the employee opts to draw pay in the scale of the ex-cadre post, the pay in the second or subsequent ex-cadre posts, should be fixed under the normal rules with reference to pay in the cadre post only. In respect of appointments to ex-cadre posts on time-scale of pay identical with the time-scale

be borne by the Foreign Employer i.e. ESIC, Govt. of India.

(4) The Foreign Employer is to contribute towards the deputation allowance.

GOVERNMENT OF ASSAM
LABOUR AND EMPLOYMENT DEPARTMENT.

Annexure-Y(6)

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-109-

R.153/2003/Pt.I/150, Dated Dispur, the 29th March, 2004.

: Shri B.B. Hagjer, IAS,
Commr. & Secretary to the Govt. of Assam.

: The Medical Supdt., Model Hospital,
ESI Corporation, Beltola, Guwahati-22.

ab : Terms and conditions for deputation of Doctors and
staff to Model Hospital, ESI Corporation, Beltola.

Ref : Your letter NO.432-A-23/11/1/2003 dt. 29-9-2003.

Sir,

With reference to the letter on the subject quoted above,
I am directed to communicate the following terms and conditions of
deputation for the incumbents deputed to the Model Hospital, ESI
Corporation, Beltola under Govt. of India vide this Deptt's
Notification NO.GLR.121/2003/8, dt. 10-4-2003 and NO.GLR.121/2003/9
dt. 17-4-2003.

1. The deputationists will be entitled to retain their
grade pay plus 10% deputation allowances subject to maximum of
Rs. 500/- P.m. when the transfer is within the same station and 20%
of the employees basic pay subject to a maximum of Rs. 1000/- only p.m.
in other cases on the condition that deputation allowance plus basic
pay shall not exceed Rs. 17,000/- only p.m. on the pay scale of the
deputation post as per their option subject to the conditions laid-
down in Govt. of Assam Finance Deptt's O.M. NO.FEG.102/61/132
dt. 10-5-65, NO.FEG.29/74/230 dt. 22-1-91, NO.FEG.13/92/Pt/13,
dt. 3-5-94 and NO.FEG.13-92/Pt/29, dt. 16.7.99. (Copy enclosed).

(2) Joining time pay of the incumbents while proceeding and
on returning from Foreign Service i.e. Model Hospital, ESI Corporation,
Beltola will be paid by the borrowing authority as admissible under
Rules.

(3) Leave salary and pension contribution etc. will have to
be borne by the Foreign Employer i.e. ESIC, Govt. of India.

(4) The Foreign Employer is to ensure recoveries of the sub-
scription towards G.I. Schemes from the deputationists and take necessary
action for crediting the amount as per Clause I.B. of State Govt.
Employee G.I. Schemes 1983 as Circulated vide Finance (A&F) Deptt's
O.MNO.FM.58/81/24 dt. 25-2-83 (copy enclosed).

(5) The deputationists will be Governed by the State Govt.
Leave Rules.

(6) The Foreign Employer shall offer the medical facilities
not inferior to those which the employee would have enjoyed in the
Govt. services but for their deputation.

Contd...2/-

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- 110 -

(7) The Foreign Employer will be liable to pay the leave salary in respect of disability leave granted to the deputationist on account of any disability incurred in and through Foreign service under ESIC even if such liabilities manifest themselves after the termination of the Foreign service.

(8) The deputationists will not be allowed to receive any pension or G.P.F. under the Foreign Employer.

(9) Deputationists will be paid by the Foreign Employer travelling allowances for their journey to take up the assignment and to return therefrom (including family members) as admissible.

(10) The whole expenditure in respect of any compensatory allowances for the period of leave and or at the end of the Foreign services till the incumbents joins their parent Department under the State Govt. will be borne by the Foreign Employer.

(11) The deputationists will be entitled to travel concession from the Foreign Employer in the scale they are entitled to under the State Govt. and the cost of such concession will be borne by the Foreign Employer.

(12) The deputationist shall furnish returns of movable and immovable properties owned by them to the Government.

(13) The outstanding Govt. dues, if any, will be paid by the deputationists during their deputation and the Foreign Employer will have to take responsibility to credit the amount to the State Govt. Revenue regularly.

(14) The date of commencement and termination of their Foreign Service shall be regulated in accordance with the provisions of the Assam Fundamental Rules and Subsidiary Rules.

(15) All other terms and conditions will be Governed by the Rules and Regulations of the Govt. State of Assam.

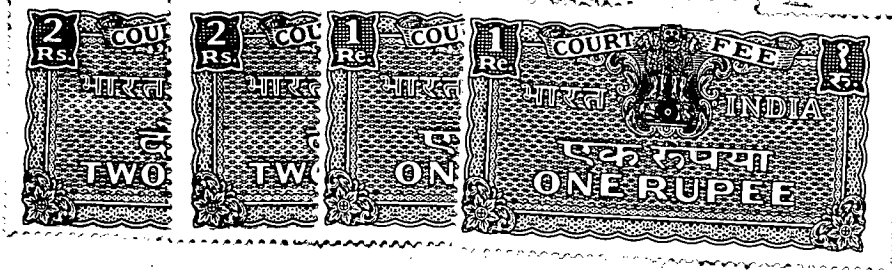
You are, therefore, requested kindly to take necessary action for releasing the salaries to the deputationists from the date of their joining on deputation as per option already exercised by them individually.

The service history of 25 Nos. of Doctors are enclosed herewith for favour of your necessary action.

Enclosure as above. Yours faithfully,

Commr. & Secretary to the Govt. of Assam
Labour and Employment Deptt.

Contd....3/-



- 111 -

Pranjit Das

Medical Superintendent / 16
ESIC Model Hospital
Guwahati / Beltole,
Guwahati / Guwahati-22

DISTRICT: KAMRUP (METRO), ASSAM.

VAKALATNAMA IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

In the Court of The Central Administrative Tribunal at Guwahati.

Guwahati Bench
REVIEW PETITION NO. OF 2006.

(Arising out of O.A. No. 247/04)

The Employees State Insurance Corpn.

PLAINTIFF
APPELLANT
- REVIEW - PETITIONER

- VERSUS -

Dr. Pranjit Barman & 22 ors -

DEFENDANT
RESPONDENT
OPP. PARTY

Know all men by these presents that the abovenamed Review Petitioner (The Employees State Insurance Corporation) do hereby nominate, constitute, and appoint Sri R. DAS and S. Dev Roy,

Advocates and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money filing in or taking out papers, deeds of composition etc. for me/us and on my /our behalf and I/we agree ratify and confirm all acts to be done by the said Advocates as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In witnesses whereof I/we hereunto set my/our hand on this 30th day of August 2006 at Guwahati.

J.M. Choudhury
S.R. Bhattacharjee
C.K. Sarmah Baruah
Girish Mishra
A. Sherif
Hamidur Rahman
✓ Kamal Kr. Nandi
Ranjit Das

Subrata Nath
✓ S.P. Das Choudhury
S.D. Deb Roy
Sumoti Chakraborty
Ranjit Kr. Baruah
Nabasmita Gogoi
Lalit Kr. Minda
Rakhee Bhattacharjee
Ms. Manushree Das

Received from the
Executant, satisfied
And accepted

Mr. Sr. Advocate
will lead me/us in this case

Accepted.

Advocate (RANJIT DAS)
30/8/2006

Advocate

Advocate

for the Review Petitioner

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Conf. 19(R)

F. No. S-38016/1/2005-SS-I
Government of India
Ministry of Labour & Employment

New Delhi, dated 17.01.2005.

✓ To,
The Director General,
ESI Corporation,
New Delhi

Subject: Forwarding of Court Cases – regarding.

Sir,

I am directed to forward herewith a notice under Rule 29 of the Central Administrative Tribunal Rules of Practice, 1993 received from CAT, Guwahati Bench, Guwahati for necessary action and defend the case on behalf of UOI under intimation to this Ministry.

to request that
to

Yours faithfully,

(Arun Kumar)
Section Officer.

Encl.: As above.

MS may also
be requested to defend
in the off. of Govt of India
in 20.

14.1.2005

MC

cr

m

19/1

19/1/2005
18/1/05

1. kalsas

NOTICE

Date :- 16-10-06.

From :- Mr. Ranjit Das,
Advocate for the Review Petitioner,
Gauhati High Court, Ghy-1.
(Phone : 99540-73272(M))

To

1. Mr. Manick Chanda,
Advocate,
For the Opposite Parties/Applicants
No. 1 to 19)
Central Administrative Tribunal, Gauhati Bench,
Guwahati-781005.
2. Mrs. M. Das,
Advocate for the Govt. of Assam,
(Opp. parties nos. 20 to 22)
Central Admtv. Tribunal, Gauhati Bench,
Guwahati-781005.

SUB :- Review Petition No. of 2006 with (Misc. Case /06)
(Arising out of O.A. No. 247/2004) in
The Employees State Insurance Corporation
... Review Petitioner
- Versus -

Dr. Pranjit Barman and 22 others
... Opposite Parties

Dear Sir/s,

Please take notice that on behalf of the abovenamed
Review Petitioner the abovenoted review petition is being
filed by me before the Hon'ble Central Administrative Tribunal
Gauhati Bench at Guwahati - 5.

A copy (separately for each) of the same is
being enclosed herewith for your use, alongwith the Misc. Case
petition.

Kindly acknowledge receipt of the same.

Thanking you,

RECEIVED COPY.

For *LDutta*
23/10/06
1. (Mr. M. Chanda)
Advocate for the
OPP. Parties nos.
1 to 19.

Yours Sincerely,
A 16-10-06
(RANJIT DAS)
Advocate for the
Review Petitioner.

RECEIVED COPY.

(Mrs. M. Das),
Advocate for the
Govt. of Assam, i.e.
Opp. Party nos. 20 to 22.