

FORM No. 4.
(S.A. Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 68/06

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) S. C. Deka

Respondants U. O. I. GOM

Advocate for the Applicant(s) M. Chanda, S. Nath, G.N. Chakraborty

Advocate for the Respondent(s) CASE

| Notes of the Registry | Order of the Tribunal |
|-----------------------|-----------------------|
|-----------------------|-----------------------|

17.03.2006 Present: Hon'ble Sri K.V.
Sachidanandan, Vice-Chairman.

Heard Mr. M. Chanda, learned counsel for the applicant and Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents.

The issue involved in this case is that the applicant alongwith others working in the grade of Insurance Inspector (in the pay scale of Rs. 5500 - 9000/-) were transferred to the grade of Assistant Director/Manager Gr. 1/Section Officer (in the pay scale of Rs. 6500-10500/- on ad hoc basis and posting orders were given vide annexure - 1 order. The applicant had earlier approached this Tribunal by way of filing O.A. No. 3/2006 and on

Contd/-

This application is in form
is filed/PC F. for Rs. 50.
deposited on 17.3.06
No. 2643/9565
Dated 28.2.06

He Dy. Registrar
17.3.06
[Signature]

Steps taken

seen
17/3

[Signature]

Contd/-

17.03.2006

05.01.2006, this Tribunal directed the respondents to consider the representation of the applicant alongwith additional representation, if any, within a time frame. The impugned order, annexure - 10 has been passed purportedly in implementation of the said order. The respondents reiterated that the grade in which the applicant is working is saddled with All India Transfer Liability and many of ad hoc appointee has not accepted the post due to such riders. It has been stated in the impugned order that the Select Panel from the UPSC is expected to be received within a month or two.

The question involved in this case is whether the refusal of ad hoc promotion with certain riders, such as there will be no benefits like seniority or period of ad hoc service rendered will not be counted toward eligibility when regular promotion is considered, in such a circumstance, should an employee be compelled to accept such an ad hoc promotion. Since larger legal issue is involved in this application, this Court is of the view that the O.A. has to be admitted. Admit. Issue notice to the respondents. Post after six weeks.

Contd/-

O.A. 68/2006

: 3 :

Contd/-
17.03.2006

In the interest of justice, this Court directs that the impugned order dated 19.10.2005 so far as the applicant is concerned will not be applicable till the next date. (Stayed)

Post on 02.05.2006.

Vice-Chairman

/mb/

02.05.2006

Mr. G. Baishya, learned Sr.

C.G.S.C. for the respondents wanted time to file reply statement.

Post on 07.06.2005. Interim order dated 17.03.2006 will continue till such date.

Vice-Chairman

mb

7.6.2006

Four weeks further time is sought on behalf of respondents to file reply statement. Let it be done. Post on 7.7.2006. Interim order will continue till the next date.

Vice-Chairman

bb

07.07.2006

Learned counsel for the applicant wanted time to file rejoinder.

Post on 28.07.2006. Interim order will continue till the next date.

Vice-Chairman

mb

27.11.06.

The counsel for the applicant has submitted that it is an identical in O.A. No. 32 of 06 which was posted on 10.11.06. Post the matter on 10.11.06. Liberty is given to the applicant to file rejoinder if any.

Arrived For resp-4.
G.B. 21/03/06

Notice & order
Sent to D/section
for issuing to
resp. nos. 1, 2, 3 & 5
by regd. A/D post.

28/3/06. D/No- 413 to 416
Dt= 4/4/06

Notice duly served
on resp. no. 4.

28/3/06

1-5-06

Notice duly served on
A. no. 4. Others service
awaited.

Pl. comply order dated
21/5/06.

NTS

21/5/06

Received
From G. Baishya
Sr. clke
9/6/06

order dt. 2/5/06
issuing to learned
advocate's for both
the parties.

leas
3/5/06.

6-6-06

① Notice duly served
on R.No-4, others
respondant Service
awaited.

nkm

17.08.2006

Post on 18.08.2006 alongwith O.A.

No. 32/2006.

② No. 10/3 has been
filed.

No. 10/3 has been
filed.

mb

18.8.2006

Four weeks time is allowed to the
applicant to file rejoinder, if any, to
the reply statement filed by the respon-
dents.

post on 20.9.2006. Interim order
will continue till such time.

Vice-Chairman

bb

20.9.2006

Counsel for the applicant wanted
to file rejoinder. Let it be done. post
on 27.10.2006.

Vice-Chairman

bb

W/s has been filed.

19.9.06.

order dt. 28/7/06
issuing to the
both the parties.

leas
11/8/06.

28-8-06.

no 2/3, 4/5
in

27.11.06

The counsel for the applicant has submitted that it is an identical matter in O.A.No.32 of 06 which was fixed on 18.11.06. Post the matter on 18.11.06. The applicant may file rejoinder if nay.

30.10.06

Rejoinder Submitted
by The Applicant.

lm

Vice-Chairman

10.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Post on 30.11.2006 for hearing.

Vice-Chairman

The case is ready
for hearing.

/mb/

30.11.2006

Division Bench matters. post
the matter on 18.12.2006.

Interim order will continue
till such date.

Vice-Chairman

order dt. 30/11/06
issuing to both
the parties.

11/12/06.

bb

The case is ready
for hearing.

18.12.007

Being Division Bench matter post the
same before the next available Division
Bench.

Interim order will continue till such
time.

Vice-Chairman

order dt. 18/11/07 issuing
learned advocates for
both the parties.

19/11/07.

/bb/

The case is ready
for hearing.

15.3.07.

8A 68/2006

16.3.2007

The O.A. is dismissed as withdrawn

as per order kept separately. No costs.

22.3.07

Copy of the
order has been
sent to the D/Sec.
for issuing the
summons to the applicant
as well as to the
D.C.G.S.C. for the
response.

/bb/


Member


Vice-Chairman

Received by
Admin. Secy
22.03.07

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.68 of 2006

DATE OF DECISION:16.03.2007

Shri S.C.Deka

.....Applicant/s

Mr. M.Chanda

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.G.Baishya, Sr.C.G.S.C.


.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN

THE HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER.

- | | | |
|----|---|--------|
| 1. | Whether reporters of local newspapers may be allowed to see the Judgment? | Yes/No |
| 2. | Whether to be referred to the Reporter or not? | Yes/No |
| 3. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? | Yes/No |
| 4. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes/No |


Vice-Chairman/Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application No.68 of 2006.

Date of Order: This, the 16th day of March, 2007.

HON'BLE MR. K.V.SACHIDANANDAN, VICE-CHAIRMAN

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Shri Swadhin Chandra Deka
Son of Late Kargeswar Deka
Branch Manager Grade-II
Branch Office
Employees State Insurance Corporation
Haibargaon, Khutikotia
A.R.B.Road, Nagaon
Assam.

..... Applicant.

By Advocates S/Shri Mr.M.Chanda, S.Nath & G.N.Chakraborty.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Labour & Employment
New Delhi - 110 001.
2. The Director General
Employees State Insurance Corporation
Panchadeep Bhawan
C.I.G. Road
New Delhi - 110 002.
3. The Joint Director, E.I.
Employees State Insurance Corporation
Panchadeep Bhawan
C.I.G. Road
New Delhi - 110 002.
4. The Regional Director
Employees State Insurance Corporation

Assam, Bamunimaidan,
Guwahati-21.

5. The Union Public Service Commission
Represented by it's Secretary
Dholpur House, Shahjahan Road
New Delhi - 110 011.

..... Respondents:

By Mr.G.Baishya, SR.C.G.S.C.

ORDER (ORAL)

SACHIDANANDAN, K.V. (V.C.) :

The Applicant is presently working as Branch Manager,
Grade-II at Branch Office, Employees State Insurance Corporation,
Nagaon. He has filed this O.A. seeking the following main reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office order No.614 of 2003, bearing No.1-22/13/1/2003-E.I(A) dated 26.09.2003 (Annexure-6) as well as office order No.500 pf 2005, bearing letter No.A33/12/1/97-E.I Col.II dated 19.10.2005 (Annexure-1) and the impugned order bearing No. A-20/11/552/97-E.I dated 02.03.2006 communicated through letter dated 07.03.2006 (Annexure-10) so far the applicant is concerned.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and to grant promotion benefit to the applicant at least from the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr.I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant

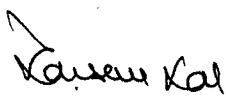


to continue in the present place of posting in the same capacity, till consideration of regular promotion of the applicant."

2. The Respondents have filed detailed reply statement denying and disputing the claim of the Applicant. Applicant has also filed rejoinder to the reply statement reiterating the contentions made in the O.A.

3. We have heard Mr.M.Chanda, learned counsel for the Applicant and Mr.G.Baishya, learned Sr.C.G.S.C. for the Respondents. When the matter came up for hearing, Mr. Chanda submitted that he does not want to pursue the case any further and Applicant may be permitted to withdraw the O.A. with the liberty to approach appropriate forum if he has got any further grievance.

4. Accordingly, the O.A. is dismissed on withdrawal. Liberty is granted to the Applicant to approach appropriate forum, if advised.


(TARSEM LAL)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

Before CAT Committee Bench

It is Prayed That the following
matter be allowed to move
as urgent undisturbed matter,
for admission.

① O. A. - /2006:

S. C. Deka.

- VS -

Union of India & Ors.

Allowed
by

① Chandra

Adv.

12/3/06

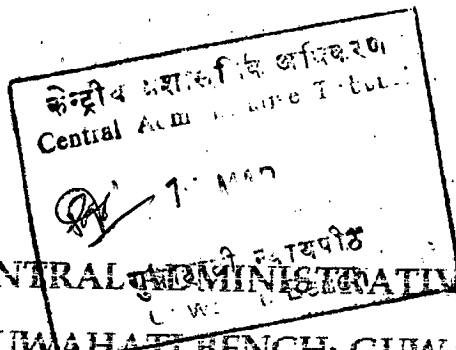
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No. 68/06

1. a) Name of the Applicant: S.C. Debra
b) Respondants: Union of India & Ors.
c) No. of Applicant(S): -
2. Is the application in the proper form: Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title: Yes / No.
4. Has the application been duly signed and verified: Yes / No.
5. Have the copies duly signed: Yes / No.
6. Have sufficient number of copies of the application been filed: Yes / No.
7. Whether all the annexure parties are impleaded: Yes / No.
8. Whether English translation of documents in the Language: Yes / No.
9. Has the application is in time: Yes / No.
10. Has the Vakalatnama/Memo of appearance / Authorisation is filed: Yes / No.
11. Is the application by IPO/BD/for Rs.50/- 264 3219565
12. Has the application is maintainable: Yes / No.
13. Has the Impugned order original duly attested been filed: Yes / No.
14. Has the legible copies of the annexure duly attested filed: Yes / No.
15. Has the Index of the documents been filed all available: Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed: Yes / No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sought for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for: Yes / No.
20. Is case of Condonation of delay is filed is it Supported: Yes / No.
21. Whether this Case can be heard by Single Bench/Division Bench:
22. Any other points: -
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order

SECTION OFFICER(J)

DEPUTY REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 68 /2006

Shri Swadhin Chandra Deka.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

26.09.2003- Impugned office order No. 614 of 2003 was issued by the respondent Corporation, whereby 220 posts in the cadre of Asstt. Director/Section Officer/Manager Gr- I has been filled up on ad hoc basis imposing an arbitrary condition that the ad hoc promotion shall not confer any right on the employee either to continue in the post or for regular promotion in future. In the said order it is also made clear that the period of ad hoc service will not count for seniority in the grade/cadre or for eligibility for promotion to the next higher cadre. (Annexure-6)

19.10.2005- Impugned order of adhoc promotion has been passed by the respondent Corporation, whereby applicant is promoted to the post of Manager Gr. I/Section Officer/Asstt. Director on adhoc basis with the specific condition that in the event of availing adhoc promotion seniority benefit in the promotional grade shall not be conferred. Name of the applicant is placed at Sl. No. 169 of the said impugned order. (Annexure-1)

It is stated that respondent Corporation inspite of availability of large numbers of vacant posts in the grade of Manager Gr. I/Section Officer/Asstt. Director did not hold the regular DPC for filling up those large numbers of vacant posts by promoting eligible incumbents like the present applicant and issued orders of ad hoc promotion imposing arbitrary conditions. Such action of the respondent Corporation is in violation of Govt. of India's instructions issued from time to time. (Annexure-11)

It is also stated that those incumbents who were promoted on ad hoc basis vide order dated 26.09.2003 are still continuing in the promotional posts on ad hoc basis for more than 2 year, such action of the respondent Corporation is in violation of provisions laid down in sub-sec (3) of Section 17 of the ESIC Act 1948.

- 14
2
- 26.10.2005- Impugned adhoc promotion order dated 19.10.2005 has been communicated to the applicant through Regional Director's letter dated 26.10.05. (Annexure-2)
- 27.10.2005- Applicant submitted representation surrendering his adhoc promotion on the ground that Son/daughter of the applicant are prosecuting their studies in Assamese medium School and Colleges as such transfer on adhoc promotion will cause irreparable loss and injury during the middle of academic session. (Annexure-3)
- 05.01.2006- Applicant approached this Hon'ble Tribunal through O.A. No. 3/2006, which was disposed of on 05.01.06 with a direction to the applicant to submit an additional representation. (Annexure-8)
- 12.01.2006- Applicant submitted representation as directed by the Hon'ble Tribunal, in his representation applicant stated that he is not willing to accept the conditional ad hoc promotion order as because the adhoc promotion order has been issued at the disadvantage of the applicant and also in violation of Govt. instructions and rules. (Annexure-9)
- 02.03.2006- Respondent No. 2 pursuant to the Hon'ble Tribunals order dated 05.12.2006 issued the impugned order bearing No. A-20/11/552/97-E.I dated 02.03.2006, which was communicated to the applicant through letter bearing No. 43-20/11/63/78-Estt. dated 07.03.2006, whereby representation of the applicant dated 27.10.2005 has been rejected and it is stated in the impugned order that his request to permit him to decline promotion on adhoc basis is not accepted but surprisingly the additional representation of the applicant dated 12.01.2006 has not been taken into consideration by the respondent No. 2 for the reasons best known to him and none of the grounds raised in the additional representation in fact replied in the impugned order dated 02.03.2006. (Annexure-10)

Hence this application.

PRAYERS

Relief (s) sought for

- 1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office order No. 614 of 2003, bearing No. A-22/13/1/2003-E.I (A) dated 26.09.2003 (Annexure-6) as well as office order No. 500 of 2005, bearing letter No. A33/12/1/97-E. I Col. II dated 19.10.2005 (Annexure-1) and the impugned order bearing letter No. A-20/11/552/97-E.I dated 02.03.2006

communicated through letter dated 07.03.2006 (Annexure-10) so far the applicant is concerned.

3.2 That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and to grant promotion benefit to the applicant at least from the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr. I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits.

3.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting in the same capacity, till consideration of regular promotion of the applicant.

3.4 Costs of the application.

3.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005 (Annexure- 1) and the impugned order bearing letter No. A-20/11/552/97-E.I dated 02.03.2006 communicated through letter dated 07.03.2006 (Annexure- 10) so far the applicant is concerned till disposal of this application.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 68/2006

Shri Swadhin Chandra Deka. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Date: - 17.03.06.

Filed By:

S. Naha
Advocate

Swadhin Ch. Deka

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 68 /2006

BETWEEN:

Shri Swadhin Chandra Deka,
S/o- Late Kargeshwar Deka,
Branch Manager Gr. II,
Branch Office,
Employees State Insurance Corporation,
Haibargaon, Khutikotia
A.R.B Road, Nagaon.
Assam.

5/06

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Labour and Employment,
New Delhi- 110001.
2. The Director General,
Employees State Insurance Corporation
Panchdeep Bhawan,
C.I.G. Road,
New Delhi- 110002.
3. The Joint Director, E. I.
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road,
New Delhi- 110002.
4. The Regional Director,
Employees State Insurance Corporation,
Assam, Bamunimaidan,
Guwahati- 781021.
5. The Union Public Service Commission,
Represented by it's Secretary,
Dholpur House,
Shahjahan Road,
New Delhi- 110011.

..... Respondents.

Filed by the applicant -
Through: Subrata Nath
Advocate
17.03.2006

Swadhin Ch. Deka

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned order dated 02.03.2006, whereby the representation of the applicant dated 27.10.2005 requesting to permit him to forego the ad-hoc promotion issued under office order dated 19.10.2005 has been rejected mechanically without advancing any valid ground on the real issue involved in the case and further praying for a direction to delete the name of the applicant from the arbitrary ad hoc promotion order dated 19.10.2005 and also praying for further direction to consider promotion of the applicant on regular basis.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant is now working as Branch Manager, Grade- II at Branch Office, Nagaon in the department of Employees State Insurance Corporation.
- 4.3 That the respondent No. 3 issued the impugned office Order No. 500 of 2005 bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005, whereby officers working in the grade of Insurance Inspector/Manager Gr. II/

Swartha Ch. Deka

Superintendent have been promoted to the grade of Assistant Director/ Manager Gr. I/Section Officer on adhoc basis. In the said office order dated 19.10.2005 the applicant has been placed at Sl. No. 169 and he has been ordered for posting on adhoc promotion in the state of West Bengal from the state of Assam. The order of adhoc promotion is conditional.

Copy of the impugned order dated 19.10.2005 is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 1.

- 4.4 That it is stated that in the impugned promotion order dated 19.10.2005 the applicant along with others is promoted on adhoc basis to the post of Manager Gr. I and most surprisingly some conditions have been imposed in the impugned promotion order dated 19.10.2005, which are as follows:

"The promotion of all the above mentioned officers is ordered purely on temporary and adhoc basis. They may be reverted to their lower post without any notice or assigning any reason therefore. The adhoc promotion shall not confer on them any right to continue in the post or for regular promotion in future. The period of service rendered by them on adhoc basis in the grade/cadre will count neither for seniority in the grade/ cadre nor for eligibility for promotion to the next higher grade/cadre."

From the conditions imposed above it is quite clear that in the impugned order dated 19.10.2005 the promotion of the applicant to the cadre of Manager Gr. I is purely on temporary and adhoc basis and the applicant may be reverted to lower post without any notice or assigning any reason thereof, further applicant is not entitled to benefit of seniority even.

It is relevant to mention here that on a mere reading of the conditional adhoc promotion order it appears that large numbers of posts are available in the department to the cadre of Manager Gr. I/Section

4 20

Officer/ Asstt. Director in the scale of Rs. 6,500-10,500/- but even then the respondents Union of India resorted to adhoc promotion policy against the large scale vacancies with the clear terms that no seniority benefit will be conferred to the adhoc promotees and on the other hand they are being order for transfer from one state to another state in a most arbitrary manner. The practise of adhoc promotion is being always discouraged by the Govt. of India by issuing necessary instructions from time to time. Moreover, while issuing the adhoc promotion order no option was invited from the applicant.

- 4.5 That your applicant after receipt of the impugned office order dated 19.10.2005 communicated through Regional Director's letter bearing No. 43-A 22/15/2004-Estt. dated 26.10.2005, wherein name of the applicant is placed at Sl. No. 169 of the conditional adhoc promotion order dated 19.10.2005, after receipt of the promotion order, the applicant submitted a representation on 27.10.2005 addressed to the Director General, ESIC, New Delhi (Respondent No. 2) and in the said representation the applicant has surrendered his adhoc promotion due to domestic problems as well as on the ground that 3 of his son/daughters are prosecuting their studies in Schools and Colleges in the state of Assam and their final examination are scheduled to be held in the month March 2006, therefore, it would be difficult on his part to avail the adhoc promotion at this critical juncture.

It is relevant to mention here that son of the applicant Shri Bhaskar Jyoti Deka is reading in Class X and appearing in the final examination scheduled to be held in the month of March 2006 and his daughter Smti. Papari Deka is studying in T.C Higher Secondary Schools in Assamese medium in Class XII, she is also appearing in the final examination scheduled to be held on March 2006 under the State Board of Assam and his elder son Shri Rupam Deka, reading in B.SC 2nd year in Arva Vidyapith College under Gauhati University as such it will be difficult on his part to accept the adhoc promotion during the middle of the academic session.

Swadhin Ch. Deka

More particularly when his wife is suffering from gynecological problems and it will be difficult on her part to manage the affairs of the family alone.

In such compelling circumstances stated above the applicant has decided to surrender his conditional adhoc promotion and accordingly submitted his representation on 27.10.2005.

Copy of the communication letter dated 26.10.2005 and representation dated 27.10.2005 are enclosed herewith for perusal of Hon'ble Court as Annexure- 2 and 3 respectively.

4.6 That your applicant begs to say that he has every right to refuse a conditional arbitrary adhoc promotion order and accordingly he has submitted his representation assigning valid reasons for surrendering his promotion as such the authority cannot compel the applicant to accept a conditional promotion order. It is learnt from a reliable source that the Regional Director, ESIC following the instruction of the Headquarter Office, New Delhi and also without considering the representation submitted by the applicant going to release him shortly without providing any further opportunity to represent his case before the higher authority. In such compelling circumstances apprehending his unilateral release approaching this Hon'ble Court to protect his right and interest by passing an appropriate order/interim order or direction upon the respondents to allow the applicant to continue in the present place of posting and not to insist the applicant to join in the adhoc promotional post in the state of West Bengal for the reasons indicated above.

4.7 That it is stated that a large numbers of vacancies in as much as 220 regular vacancies in the cadre of Assistant Director/Section Officer/Manager Grade-I fall vacant since 2001-2002, but no effort is made on the part of the respondent corporation to hold the regular DPC for considering promotion of the applicant as well as other similarly situated employees, and denied regular promotion to the applicant since 2002 when large numbers of

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vacancies are available in the promotional cadre as such same is a deliberate act and willful omission on the part of the respondents. As a result of non holding of DPC, the applicant and other similarly situated employees has been suffering in the matter of promotion as well as in the matter of further promotional prospects, which in fact is causing irreparable loss and injury to the service prospects of the applicant.

- 4.8 That it is stated that vide impugned office order No. 614 of 2003 issued under letter No. A-222/13/1/2003-E.1 (A) dated 26.09.2003, whereby in as much as 220 posts in the cadre of Assistant Director/Section officer/Manager Grade-I has been filled up on ad-hoc basis in the scale of Rs. 6,500-10,500/- imposing similar arbitrary condition that the ad-hoc promotion shall not confer any right on the employees either to continue in the post or for regular promotion in future. It is also made clear in the impugned promotion order that the period of adhoc service likely to be rendered by the employees on ad hoc basis in the grade/cadre will not count for seniority in the grade/cadre or for eligibility for promotion to the next higher grade/cadre and ad hoc promotees may be reverted to their lower post without any notice or assigning any reason thereof, and as a result of such ad hoc promotion firstly the possibility of holding DPC for regular promotion is blocked. On the other hand for implementation of the impugned order of ad-hoc promotion a large scale transfer and posting has been ordered by the competent authority through out the country, which cost huge Govt. expenditure from the Government exchequer, on the other hand, the arbitrary conditions has been imposed in the order of ad-hoc promotion such as threat of reversion to the lower post without any notice, and also arbitrary denial of seniority benefit for the period of ad-hoc service likely to be rendered by the ad-hoc appointee/promotee. When ad-hoc promotions are effected against the substantive vacancies the order of large scale ad-hoc promotion is opposed to public policy/Govt. policy. By the impugned order dated 26/09/2003, 220 posts of Assistant

Director/Section Officer/manager Grade-I has been promoted in the month of September 2003 and those offices who have availed such ad-hoc promotion are still continuing on ad-hoc basis without any break. As for example Sri Pradip Sutradhar, is placed at Sl. No 126 in the ad hoc promotion order dated 26.09.2003, who is still continuing on promotion on ad hoc basis pursuant to the order dated 26.09.2003. In this connection it may be stated that said Sri Pradip Sutradhar initially posted in the State of West Bengal pursuant to the ad-hoc promotion order dated 26.09.2003. However, vide office order No. 80 of 2005, issued under letter No. 41. A.20/11/14/2003 Estt I dated 14.10.2005, he was transferred and posted at Guwahati following the Head quarter office order No. 296 of 2005 issued under communication No. A-22913) 1/2004 E-1, dated 27.06.2005 in the same capacity as ad-hoc Manager Grade-I. Therefore it appears that the respondents Corporation are interested to utilize the services of their employees by way of granting ad-hoc promotion for years together in a most arbitrary manner without conferring the benefit of seniority as well as without holding DPC for effecting regular promotion.

Moreover, such ad-hoc promotion involves transfer and posting from one State to another State during the middle of the academic session. However, the order of ad-hoc promotion dated 26.09.2003 has been issued imposing arbitrary conditions denying benefit of seniority as well as the same is issued with the threat of termination of ad hoc promotion at any time without assigning any reason and also issued in violation of local arrangement policy which is normally made in the event of effecting ad hoc promotion for a temporary period. It appears from the arbitrary action of the respondents that they have resorted to ad hoc promotion policy with the sole intention to spoil the service prospect of the employees including the applicant serving in the corporation. There is no effort on the part of the respondent to hold the regular DPC for filling up of large scale vacancies on regular basis and pursuant to the impugned promotion order dated 26.09.2003, those ad-hoc appointees/promotes are still continuing in the

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promotional post even after a lapse of more than 2 (two) years. In violation of sub-section 3 of Section 17 of the Employees State Insurance Act, 1948, wherein it has been stated that any officiating or temporary appointment shall not exceed 1 year, the relevant portion of section 17 of the E.S.I.C Act, 1948 is quoted below for perusal of the Hon'ble Court.

"17. Staff.- (1) The Corporation may employ such other staff of officers and servants as may be necessary for the efficient transaction of its business provided that the sanction of the Central Government shall be obtained for the creation of any post [the maximum monthly salary of which [exceeds such salary as may be prescribed by the Central Government].

(2) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of the members of the staff under clause (a). The Corporation shall have regard to the education qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the corporation shall refer the matter to the Central Government whose decision thereon shall be final.]

(3) Every appointment to [posts [(other than medical posts)] corresponding to [group A and Group B] posts under the Central

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Government]. Shall be made in consultation with the [Union] Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for [a period] not exceeding one year.

[Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade].

- (4) If any question arises whether a post corresponds to a [Group A and Group B] post under the Central Government, the question shall be referred to that Government whose decision thereon shall be final.]”

Be it stated that the posts of Assistant Director/Section Officer/Manager Grade-I fall within Group 'B' category. It is also relevant to mention here that the post of assistant Regional Director subsequently re-designated as assistant Director. It is ought to be mention here that the post of Insurance Inspector/Manager Grade-II/ Superintendent having equivalent rank and status with same scale of pay and the promotional avenue from the aforesaid post are same and interchangeable i.e. in the cadre of Assistant Director/Manager Grade-I/Section Officer/Deputy Accounts officer. The promotion of the applicant in the next higher grade is governed by the Employees State Insurance Corporation (Assistant Regional Director/Manager Grade-I/Section Officer/Deputy accounts officer recruitment regulation 1996), wherein 3 years regular service has been prescribed for promotion from the cadre of Insurance Inspector/Manager Grade-II/Superintendent to the cadre of Assistant

Regional Director/Manager Grade-I/Section officer/Deputy Accounts Officer.

Copy of the recruitment regulation 1996 and extract of section 17 of the E.S.I.C Act 1948 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 respectively.

- 4.9 That it is stated that many of the officers working in the Corporation did not avail ad-hoc promotion offered vide office order dated 26.09.2003, in view of the fact that the promotion order is conditional and arbitrary since there is a specific declaration that the ad hoc appointee/promotee shall not be entitled to seniority benefit and the ad hoc promotion may be terminated at any point of time without assigning any reason, so under such a threat normally senior employees like the applicant may not be inclined to avail the ad-hoc promotion and more so on the ground that when such ad-hoc promotion is involved transfer and positing from one State to another State.

Copy of the impugned order dated 26.09.2003 is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 6.

- 4.10 That it is stated that impugned order dated 26.09.2003, whereby large numbers of vacancies nearly 220 promotional posts which fall vacant since 2001/2002 have been filled up on ad-hoc basis denying regular promotion benefits to the eligible employees of Corporation including the present applicant. The present applicant is highly aggrieved for non-conducting of regular DPC for consideration of promotion of the applicant to the grade of Assistant Director/Section Officer/Manager Grade-I inspite of availability of large number of vacancies since 2001-2002. The applicant is further aggrieved due to continuation of the ad-hoc promotion of employees/promotees, who have availed promotion vide office order dated 26.09.2003 since continuation of the ad-hoc promotion beyond 1 year without approval of the UPSC is contrary to the provision laid down in Sub- Sec (3).

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of Sec 17 of the ESIC Act 1948 and on that score alone the impugned office order dated 26.09.2003 is liable to be set aside and quashed.

- 4.11 That it is stated that while the ad-hoc appointees/promotes are working on ad-hoc basis beyond 2 years in violation of Sub Sec (3) of Sec 17, where permissible limit for ad-hoc promotion is 1 year but those ad-hoc appointees are still continuing and surprisingly in the meanwhile another impugned ad-hoc promotion order has been issued vide office order No. 500 of 2005 bearing letter No. A 33/12/1/97-E.I col II dated 19.10.2005, whereby as many as 170 officers including the applicant have been promoted again on ad-hoc basis with similar arbitrary terms and conditions with the similar terms and condition and the ad-hoc service shall not be counted towards future promotion and also with the condition that the ad-hoc promotion may be terminated at any point of time without assigning any reason or show cause and the said ad-hoc promotion also involves transfer and posting from one State to another State with the aforesaid arbitrary condition. Whereas Govt. of India time to time issued instructions to all Govt. Departments, Corporations, Public Sector undertakings and Public Enterprises not to resort to ad-hoc appointment/promotion except in a exceptional or in an emergent situation in public interest but in the instant case there is deliberate violation of such instructions issued by the Govt. of India, wherein it has been stated that ad-hoc promotion must be limited to only 1 year and the same if necessary to be continued beyond 1 year when UPSC permission must be obtained and approval of the appointment committee of the Cabinet must be obtained prior to the promotion being actually made. The relevant provisions for granting ad-hoc promotion laid down by the Govt. of India would be evident from Chapter 21 of the ad-hoc appointments/promotion from Swamy's Complete Manual on Establishment and Administration (9th Edition). However, in the instant case none of the instructions followed by the Corporation, which is

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functioning under Ministry of Labour, Govt. of India and on that score alone the impugned office order dated 26.09.2003 as well as impugned order dated 19.10.2005 are liable to be set aside and quashed.

Copy of Govt. of India's instruction on ad-hoc appointments/promotions (Page 222-225) is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 7.

4.12 That it is stated that as per Govt. of India's instruction the DPC should be convened at regular intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. A vacancy shall be filled in accordance with recruitment rule in force on the date of vacancy. The requirement of convening annual meeting of DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled up by promotion or no officers are due for promotion during the year in question. But surprisingly none of the instructions has been followed in the instant case of the applicant by the respondent Corporation and there is a deliberate and willful violation of the Govt. Rules or instructions by a Corporation like ESIC and on that ground alone the order of adhoc promotions issued under the impugned order dated 26.09.2003 as well as vide order dated 19.10.2005 are liable to be set aside and quashed.

4.13 That it is relevant to mention here that since another recent order of ad hoc promotion has been issued, therefore, the respondent Corporation will not take any further initiative for holding regular DPC for promotion of the applicant to the cadre of Asstt. Director/Manager Gr. I/Section Officer in the pay scale of Rs. 6,500-10,500/-. It is ought to be mentioned here that due to denial of regular promotion the present applicant is incurring huge financial loss in each and every month and further promotion and service prospect and as such it is a continuous wrong and on that score alone the

impugned order dated 26.09.2003 as well as order dated 19.10.2005 are liable to be set aside and quashed.

4.14 That it would be evident from the Chapter 54 of the Swamy's Complete Manual on Establishment and Administration for Central Government Offices (9th Edition) where necessary instructions have been given by the Govt. of India from time to time regarding holding of DPC with regular interval, in order to provide regular promotion to the eligible employees in time.

4.15 That it is stated that applicant has attained eligibility for promotion to the grade of Asstt. Director/Manager Gr. I/Section Officer long back but till date the case of the applicant has not been considered for promotion on regular basis inspite of availability of large numbers of vacancies due to non-holding of DPC as such prospect of promotion of the applicant in the next higher grade is also adversely effected. In such a compelling circumstances the applicant submitted a representation on 27.10.2005 and additional representation dated 12.01.2006 addressed to the Director General, ESIC, New Delhi with the request to consider his case for regular promotion since large number of vacancies are available in the promotional grade of Asstt. Director/Manager Gr. I/Section Officer and also with the request to delete his name from arbitrary adhoc promotion order of promotion dated 19.10.2005.

The applicant apprehending his release, pursuant to adhoc promotion order dated 19.10.2005, approached this learned Tribunal through Original Application No. 03/2006, wherein the applicant prayed for setting aside and quashing of the impugned order dated 19.10.2005 so far the applicant is concerned and also prayed for a direction upon the respondents to allow him to continued in the present place of posting in the same capacity. The O.A No. 3/2006 was disposed of in the admission stage with the direction to the second respondent to pass a reasoned order in the

pending representation dated 27.10.2005 (i.e. Annexure-3), however, the applicant is also granted liberty to make any additional representation within a period of 7 (seven) days from the date of order of the learned Tribunal. The applicant accordingly submitted one additional representation on 12.01.2006 addressed to respondent No. 2, in the said representation the applicant specifically stated that the adhoc promotion order is conditional order, where a specific pre-condition has been laid down to the disadvantage of the applicant as because there is a threat of reversion, and the order of promotion is purely temporary and adhoc, moreover, there is a specific clause that the period of adhoc service likely to be rendered by the applicant shall not be counted for eligibility for consideration of regular promotion to the higher Grade and stated that those conditions of the promotion order dated 19.10.2005 is highly arbitrary and the same is prejudicial to the interest of the applicant. It is further stated by the applicant in his representation dated 12.01.2006 that the adhoc promotion has been made without following the instructions issued by the Govt. of India from time to time rather adhoc promotion is made in violation of Govt. rules and instructions. Besides the aforesaid grounds, the applicant also stated that his son and daughter are reading under the State Board of Assam and as such it will be difficult on his part to comply with the arbitrary order of adhoc promotion dated 19.10.2005.

Copy of the Hon'ble Tribunals order dated 05.01.2006 and representation dated 12.01.06 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 8 and 9 respectively.

- 4.16 That the respondent No. 2 pursuant to the Hon'ble Tribunals order dated 05.12.2006 issued the impugned order bearing letter No. A-20/11/552/97-E.I dated 02.03.2006, which was communicated to the applicant through letter bearing No. 43-20/11/63/78-Estt. dated 07.03.2006, whereby representation of the applicant dated 27.10.2005 has been rejected and it is stated in the impugned order that his request to permit him to decline

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promotion on adhoc basis is not accepted but surprisingly the additional representation of the applicant dated 12.01.2006 has not been taken into consideration by the respondent No. 2 for the reasons best known to him and none of the grounds raised in the additional representation infact replied in the impugned order dated 02.03.2006. On a mere reading of the impugned order dated 02.03.2006 it appears that the respondent No. 2 failed to furnish any satisfactory or convincing reply in his order dated 02.03.2006 except some bald statement which are not sustainable in the eye of law.

The basic question involved in the instant case of the applicant as to whether Government could force the employees to comply with an arbitrary order of adhoc promotion which is passed in deliberate violation of Govt. rules and instructions on the matter. Moreover, in the instant case of the applicant a further question is involved as to whether Corporation could pass large scale adhoc promotion orders for filling up regular promotional post on adhoc basis that too in year after year without holding regular DPC in deliberate violation of the relevant provision of the ESIC Act and other Govt. instructions on the issue.

It is relevant to mention here that in the adhoc promotion order dated 19.10.2005 an arbitrary clause has been incorporated to the disadvantage of the applicant, where it has been stated that seniority benefit will not be given for the adhoc period of promotion and employees concerned may be reverted from the promotional post at any time without assigning any reason or without notice, such terms and conditions in the adhoc promotion order is highly arbitrary and unfair, when such large scale adhoc promotion order involves transfer from one State to another State as indicated above. In the year 2003 altogether 220 regular posts have been filled up in adhoc basis and those adhoc promotees are still continuing on adhoc basis without any effort to fill up those posts on regular basis by the Corporation. It is a settled position of law that every year panel is required to be prepared taking into consideration even the

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anticipated vacancies including the existing vacancies. In this connection DOPT guideline may be referred to herein from Chapter 54 of Swaney's Complete Manual on Establishment and Administration for Central Govt. offices, the relevant portion of the DOPT instructions are quoted below:

"Frequency at which D.P.C should meet

3.1 The D.P.Cs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List etc., for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meeting need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force.

1[Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every

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year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.]

3.2 The requirement of convening annual meetings of the DPC should be dispensed only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question."

But none of the aforesaid instructions has been followed by the department in the instant case of the applicant rather an attempt is made in the impugned order to justify the case of the respondent Corporation only on the ground that "applicants have no right to refuse promotion", quoting the reference of certain judgments, absolutely there is no dispute on the ratio laid down by the Calcutta Tribunal in the facts and circumstances of that case but in the instant case the order passed in favour of the applicant is an adhoc promotion order imposing arbitrary and unfair terms and conditions in the promotion order to the disadvantage of the employees and it is categorically stated that the impugned order dated 19.10.2005 only an adhoc promotion order and not a regular promotion order which involves transfer from one State to another State at the cost of the Govt. exchequer and the principle of local arrangement on adhoc promotion is also not followed in the instant case of the applicant. Moreover, it appears from the page 2 of the impugned order dated 02.03.2006 that only proposal for promotion of 261 officers have been sent to UPSC on 29.01.2005 and the same is still pending with the UPSC. It is surprised to note that the proposal of promotion as per their own admission have been sent in the month of January 2005, whereas 220 officers have been promoted on adhoc basis in the month of September 2003 vide Office order dated 26.09.2003, therefore, delay in promotion is very much deliberate and intentional from the part of respondent

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Corporation and UPSC cannot be blamed for such delay in holding DPC. It further appears that in 2001 and 2002 no effort is made for holding DPC while 220 officers have been promoted on adhoc basis and continuing beyond more than 2 years in violation of the Section 17 of the ESIC Act 1948. The respondent Corporation is silent on the point as to why they did not take any initiative in 2001 and 2002 for filling up the posts on regular basis by holding regular DPC and now alleging administrative exigency for filling up those vacancies on adhoc basis by imposing arbitrary terms and conditions in the impugned adhoc promotion order dated 19.10.2005. Therefore, it appears that the respondents deliberately and willfully delaying regular promotion of the applicant inspite of existence of large numbers of vacancies and now forcing the employees to accept the arbitrary order of adhoc promotion where benefit of seniority is denied in clear terms as such the respondent Corporation cannot find fault with the applicant for declining adhoc promotion with such highly arbitrary terms and conditions and on that score alone the impugned order of adhoc promotion dated 19.10.2005 as well as impugned order dated 02.03.2006 are liable to be set aside and quashed. There is no scope of delaying the regular promotion on the part of the Respondent Corporation if they would have followed the Govt. instructions holding the field in the matter of promotion but due to the inaction, inefficient handling of the administration affairs. Moreover, willful and deliberate violation of the rules has resulted in issuing the adhoc promotion orders for filling up the existing vacancies and the administration is solely responsible if the works of the department is suffered and they cannot blame employees for non-accepting such arbitrary order of adhoc promotion. The Hon'ble Court be pleased to direct the respondents to produce all relevant records, files, where and when they have initiated the proposal of filling up the existing vacancies by way of regular promotion in the promotional cadre of the applicant to ascertain the correctness of the statements made in the impugned order dated 02.03.2006 and also to ascertain as to whether there is willful delay in initiating the

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proposal for promotion. Government never asked or instructed the Corporation to issue such large scale adhoc promotion order for filling up the vacancies, imposing arbitrary conditions, the situation rather created by the respondent No. 2 himself by not following the rules and instructions of the Government as such applicant cannot be made responsible for the fault of the administration. Rules and regulations have been framed by the Government for smooth functioning of the administration and it's work but in the instant case respondents did not enforce the rules and instructions issued by the Govt. of India and created the situation to fill up large scale vacancies on adhoc basis and on that score alone the impugned order dated 19.10.2005 as well as order dated 02.03.2006 are liable to be set aside and quashed.

Copy of the impugned order dated 02.03.2006 communicated through letter dated 07.03.2006 and extract of instructions issued by the Govt. of India regarding promotion of employees (Page 834 from Swamy's Manual on Establishment and Administration) is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 10 (Series) and 11 respectively.

- 4.17 That it is alleged in the impugned order dated 02.03.2006 that no Govt. servant is entitled to decline promotion but adhoc promotion is no promotion at all, moreover, the impugned order of adhoc promotion dated 19.10.2005 is a conditional one and Government never suggested and authorized the Director General not to fill up the regular vacancies, year after year, rather there is a positive instruction from the Government to fill up the vacancy on the date of vacancy but the Respondent No. 2 deliberately violated such instructions of the Government. Government never suggested to the Respondent No. 2 to pass conditional adhoc promotion order with arbitrary conditions as such the grounds raised in the impugned order dated 02.03.2006 and the judgment of the Apex Court referred therein cannot be applied in the facts and circumstances of the

instant case and on that score alone the impugned order dated 02.03.2006 is liable to be set aside and quashed.

4.18 That it is stated that in the event of issuing of a regular promotion order with benefit of seniority and higher scale, definitely, the applicant could have availed the promotional benefit but the applicant is not willing to join in the higher post on adhoc basis pursuant to the impugned order dated 19.10.2005 and as such the Hon'ble Court be pleased to set aside the impugned order dated 19.10.2005 and the impugned order dated 02.03.2006 so far the applicant is concerned. Be it stated that till filing of this application the applicant is continuing at Nagaon and he has not yet been released as such the Hon'ble Tribunal be pleased to pass an interim order staying the operation of the impugned order dated 19.10.2005 so far the applicant is concerned till disposal of the Original Application to protect the valuable legal right and interest of the applicant.

4.19 That it is stated that a similarly situated employee Shri Jugal Baruah also filed two Original Applications challenging the validity of the impugned order dated 19.10.2005 and the two Original Applications i.e. O.A. No. 5/2006 and 32/2006 are still pending with the Hon'ble Tribunal for further consideration. Be it stated that this Hon'ble Tribunal vide its order dated 30.12.2005 passed an order of status quo in favour of said Shri Jugal Baruah and by virtue of said interim order Shri Baruah is still working in the office of the Regional Director, ESIC, Guwahati, the applicant being similarly situated entitled to a similar interim order to protect his right and interest.

4.20 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that, the applicant has a legal right to refuse a conditional arbitrary adhoc promotion order which has been passed to the disadvantage of the applicant.

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- 5.2 For that, there is no justification on the part of the respondent Corporation to resort to large scale adhoc promotion with arbitrary terms and conditions when vacancies are very much available in the Corporation since 2001.
- 5.3 For that, denial of seniority benefit in the event of availing adhoc promotion is an arbitrary condition imposed unilaterally by the Corporation, which is contrary to the instructions issued by the Govt. of India from time to time discouraging the Govt. department not to resort to adhoc promotion policy.
- 5.4 For that, no ground has been assigned for non-holding of regular DPC and also no ground is assigned for not issuing promotion order on regular basis inspite of existence of regular vacancies.
- 5.5 For that, large numbers of juniors are available in the department of ESIC who may be interested to avail the adhoc promotion without benefit of seniority.
- 5.6 For that, the son and daughters of the applicant are prosecuting their studies in Assamcase Medium in the School/College and being middle of academic session the impugned arbitrary order of adhoc promotion is bad in law.
- 5.7 For that, the Government never suggested to Respondent No. 2 not to hold regular DPC in 2002, 2003, 2004 and 2005 inspite of existence of large scale vacancies in the promotional grade but the Respondent No. 2 deliberately and willfully did not take initiative to hold regular DPC in violation of the Government instructions and rules rather Respondent No. 2 in violation of the Section 17 of the ESIC Act 1948 allowing adhoc pomotees to continue beyond 2 years without approval of the UPSC as required under the Rule.

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- 5.8 For that Respondent No. 2 is not entitled to impose arbitrary conditions in the adhoc promotion order to the disadvantage of the applicant as per his whim and caprice.
- 5.9 For that there is no explanation for non-holding of regular DPC in 2002, 2003, 2004 and 2005 as per Govt. instruction as such Respondent No. 2 is not entitled to issue large scale adhoc arbitrary and unfair promotion order imposing arbitrary condition.
- 5.10 For that the impugned order dated 02.03.2006 have been issued mechanically, rejecting the request of the applicant to permit him to decline the adhoc promotion without assigning any valid ground on the real issues involved in the instant case of the applicant except certain bald statement in the impugned order dated 02.03.06.
- 5.11 For that in the impugned order dated 02.03.06 the judgment referred by the respondents are applicable only in the event of refusal of regular promotion order, when administrative exigency is there but ratio of those judgments are not applicable in the facts and circumstances of the present case where conditional and arbitrary adhoc promotion order has been passed in respect of the applicant.
- 5.12 For that respondent No. 2 failed to assign any valid ground for non-holding of regular DPC since 2002, 2003, 2004 and in the recruitment year 2005 and on that score alone the arbitrary impugned adhoc promotion order dated 19.10.2005 as well as the impugned order dated 02.03.2006 are liable to be set aside and quashed.
- 5.13 For that Respondent No. 2 deliberately issuing large scale adhoc promotion order since September 2003 and allowing adhoc promotees to continue beyond more than 2 years in deliberately violation of Sec 17 of the FSIC Act 1948 and the impugned order dated 19.10.2005 is another glaring example, which has been passed in violation of Govt. instructions.

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rules and Section 17 of the ESIC Act 1948 as such the same is not sustainable in the eye of law.

5.14 For that Respondent No. 2 did not considered additional representation of the applicant dated 12.01.2006 while passing the impugned order dated 02.03.2006 in spite of the direction of the learned Tribunal and on that score alone the impugned order dated 02.03.2006 is liable to be set aside and quashed.

5.15 For that the respondent No. 2 is not entitled to violate the rules, instructions of the Govt. of India issued from time to time and pass arbitrary order of adhoc promotion and on that score alone the impugned order dated 19.10.2005 as well as impugned order dated 02.03.2006 are liable to be set aside and quashed.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to him and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that saves and except filing O.A. No. 3/2006 before this Hon'ble Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for.

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on

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perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office order No. 614 of 2003, bearing No. A-22/13/1/2003-E.I (A) dated 26.09.2003 (Annexure-6) as well as office order No. 500 of 2005, bearing letter No. A33/12/1/97-E. I Col. II dated 19.10.2005 (Annexure-1) and the impugned order bearing letter No. A-20/11/552/97-E.I dated 02.03.2006 communicated through letter dated 07.03.2006 (Annexure-10) so far the applicant is concerned.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and to grant promotion benefit to the applicant at least from the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr. I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting in the same capacity, till consideration of regular promotion of the applicant.
- 8.4 Costs of the application.
- 8.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated

Swarajin Ch. Deka

19.10.2005 (Annexure- 1) and the impugned order bearing letter No. A-20/11/552/97-E.I dated 02.03.2006 communicated through letter dated 07.03.2006 (Annexure- 10) so far the applicant is concerned till disposal of this application.

10.

11. Particulars of the I.P.O

- i) I.P.O No. : 266 319565
- ii) Date of issue : 28.02.2006
- iii) Issued from : G.P.O, Ghy
- iv) Payable at : G.P.O, Ghy

12. List of enclosures:
As given in the index.

VERIFICATION

I, Shri Swadhin Chandra Deka, S/o- Late Kargeshwar Deka, aged about 55 years, working as Branch Manager, in the office of Branch Office, Employees State Insurance Corporation, Haibargaon, Khutikotia, A.R.B Road, Nagaon, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 15th day of March 2006.

Swadhin Ch. Deka.



HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002
<http://esic.nic.in>

Dated : 19.10.2005

OFFICE ORDER No. 500 OF 2005

The Director General is pleased to order the promotion of the following officers in the grade of Insurance Inspector (in the pay scale of Rs.5500 - 9000/-) to the grade of Assistant Director / Manager Gr. I / Section Officer (in the pay scale of Rs.6500 - 10500) on adhoc basis and post them as follows:-

| Sl. No. | Name of the Officer S/Shri/Smt. | Present place of posting as I.I / Mgr.Gr.II/ Supdt. | Region/Sub-Region/Office in which posting is now ordered as Asst. Director/ Section Officer/ Manager Gr.I on adhoc basis |
|---------|---------------------------------|---|--|
| 1. | Ashok Kumar Parida | Karnataka | Karnataka |
| 2. | W. Suresh Manuel | Coimbatore | Coimbatore |
| 3. | Nizamuddin | Karnataka | Andhra Pradesh |
| 4. | Bhagwan Singh | Jharkhand | West Bengal |
| 5. | B.K. Sinha | Bihar | Bihar |
| 6. | Jugal Barua | Assam | West Bengal |
| 7. | DK Sarkar | West Bengal | West Bengal |
| 8. | RN Moharana | Orissa | West Bengal |
| 9. | KK Kureel | Uttar Pradesh | Noida |
| 10. | VK Roda | Delhi | Hqrs. |
| 11. | VK Taneja | D(M)D | D(M)D |
| 12. | M Kalaivanan | Tamil Nadu | Karnataka |
| 13. | S Jayaraj | Tamil Nadu | Tamil Nadu |
| 14. | Pankaj Kumar | Delhi | Hqrs. |
| 15. | J.Shiva Shankar | Andhra Pradesh | Andhra Pradesh |
| 16. | Baldev Raj | Uttar Pradesh | Uttar Pradesh |
| 17. | A.K.Nim | Delhi | Hqrs. |
| 18. | M.Koodalingam | Coimbatore | Kerala |
| 19. | M.Dorai | Karnataka | Goa |
| 20. | Jaglal Chaudhary | Jharkhand | Jharkhand |
| 21. | Ramulu | Andhra Pradesh | Andhra Pradesh |
| 22. | D.Sugumaran | Karnataka | Karnataka |
| 23. | S.K.Chaturvedi | Hqrs. | Hqrs. |
| 24. | P.N.Bhasin | Delhi | Delhi |
| 25. | Ram Swaroop Kunharia | Rajasthan | Madhya Pradesh |
| 26. | Ramesh Chander -II | Delhi | Hqrs. |
| 27. | Mrs. Saroja Ashokan | Pune | Pune |
| 28. | Amarjeet Kumar | Punjab | Punjab |
| 29. | D.N. Dhalgera | Gujarat | Gujarat |
| 30. | S.S.Hirani | Gujarat | Gujarat |
| 31. | Chander Sen | D(M)D | D(M)D |
| 32. | Saheb Ram Singh | Delhi | Hqrs. |
| 33. | Anil Kr. Rastogi | Delhi | Hqrs. |
| 34. | M.A.Hafees | Andhra Pradesh | Andhra Pradesh |
| 35. | G.Panda | Orissa | West Bengal |
| 36. | Har Sahai | Uttar Pradesh | Uttar Pradesh |
| 37. | S.K.Srivastava | Madhya Pradesh | Chattisgarh |
| 38. | C.B.Gandhi | Gujarat | Gujarat |
| 39. | N.C.Purani | Gujarat | ESICM Hospital, Ahmedabad |
| 40. | Kusum Vohra | Hqrs. | Hqrs. |
| 41. | Kariwaljit Singh | Delhi | Delhi |
| 42. | V.L.Joshi | Madhya Pradesh | Madhya Pradesh |
| 43. | Daljit Kaur Mavi | Punjab | Punjab |
| 44. | D.K.Sharma | Rajasthan | Madhya Pradesh |

Attested
Sub. Adv. Secy

| | | | |
|------|---------------------------------|----------------|--|
| 45. | Narain Dass | Rajasthan | Rajasthan |
| 46. | Abdul Quodeos | Delhi | Hqrs. |
| 47. | Vilayati Lal | Delhi | Hqrs. |
| 48. | Anil Kumar Khanna | Hqrs. | Mumbai |
| 49. | N.K.Basheri | Gujarat | Gujarat |
| 50. | J.K.Parmar | Gujarat | Gujarat |
| 51. | R.K.Sharma | Delhi | Hqrs. |
| 52. | R.S.Rohilla | Haryana | Hqrs. |
| 53. | Mrs. V.K.Pathak | Hqrs. | D(M)D |
| 54. | S C.Kulshrestha | Uttar Pradesh | Uttar Pradesh |
| 55. | Satpal | Hqrs. | Hqrs. |
| 56. | Harish Chander | Haryana | Haryana |
| 57. | Sunil Kumar | Haryana | Hqrs. |
| 58. | Hoshiar Singh | Haryana | Hqrs. |
| 59. | Kiran Kohli | Delhi | Delhi |
| 60. | Shubhkaran | Punjab | Himachal Pradesh |
| 61. | Tarsem Pal | Haryana | Haryana |
| 62. | K.S.Minhas | Haryana | Pune |
| 63. | Sat Pal Bansal | Haryana | Pune |
| 64. | Neelam Puri | Haryana | Mumbai |
| 65. | S.G.Tehr | Andhra Pradesh | Andhra Pradesh |
| 66. | Suresh Pal Singh | Rajasthan | West Bengal |
| 67. | P.V.Sahoo | Orissa | Orissa |
| 68. | G.C.Rout | Orissa | West Bengal |
| 69. | Shiv Shankar .Lal Srivastava | Uttar Pradesh | Uttar Pradesh |
| 70. | Upendra Bajaj | Madhya Pradesh | Madhya Pradesh |
| 71. | Baldev Singh | Punjab | ESICM Hospital, Bari Brahma (Jammu) |
| 72. | Smt.L.B.Shah | Gujarat | Gujarat |
| 73. | Smt.A.S.Chaurasia | Gujarat | Gujarat |
| 74. | Ladu Ram Rana | Rajasthan | Rajasthan |
| 75. | P.R. Kudal | Rajasthan | Rajasthan |
| 76. | B.C.Godika | Rajasthan | West Bengal |
| 77. | Mrs. B. Nag | Assam | West Bengal |
| 78. | A.Shyama Prasad | Karnataka | Karnataka |
| 79. | U.Vasantha Kr. Shenoy | Karnataka | Karnataka |
| 80. | Ram Kr. Dwivedi | Uttar Pradesh | Uttar Pradesh |
| 81. | K.Sreenivasan | Kerala | Kerala |
| 82. | M.V.Krishnan | Kerala | Kerala |
| 83. | P.Balakrishnan Nair | Kerala | Kerala |
| 84. | J.P.S.Malik | Haryana | West Bengal |
| 85. | V. Srinivasa | Karnataka | Karnataka |
| 86. | D.B.Bhende | Mumbai | Mumbai |
| 87. | R.A.Pillai | Pune | Pune |
| 88. | A.B.Manivatkar | Nagpur | SRO, Aurangabad |
| 89. | M.P.Gangurde | Mumbai | Mumbai |
| 90. | M.S.Dhaware | Pune | Pune |
| 91. | V.D.Pinjarkar | Nagpur | Mumbai |
| 92. | R.G.Waghmare | Mumbai | Mumbai |
| 93. | N.S.Bodhere | Mumbai | Mumbai |
| 94. | V.P.Nalavede | Pune | Pune |
| 95. | M.P.Chankapure | Nagpur | Mumbai |
| 96. | B.P.Gaigwal | Pune | Pune |
| 97. | Shankar Lal Anjana | Madhya Pradesh | Madhya Pradesh |
| 98. | A.Pondyaranjan | Madurai | Tirunelveli |
| 99. | C.N.Chauhan | Gujarat | Gujarat |
| 100. | J.Boro | Assam | West Bengal |
| 101. | S.Venkatarathnam | Andhra Pradesh | Andhra Pradesh |
| 102. | P.S.Verma | Haryana | West Bengal |
| 103. | Rameshwar Das | Punjab | ESICM Hospital, Ludhiana |
| 104. | S.R.Mago | Delhi | Delhi |
| 105. | N.K. Sahu | DMD | DMD |
| 106. | Santosh Malhotra | DMD | Mumbai |
| 107. | Prem Lata | Hqrs. | Mumbai |

| | | | | |
|------|------------------------|----|----------------|---------------------------------------|
| 108. | Rama Dhamija | | Hqrs. | Mumbai |
| 109. | M.C. Nag | | Assam | West Bengal |
| 110. | Raj Kumari Sabharwal | | Delhi | Hqrs. |
| 111. | Praveen Sehgal | | Gujarat | Gujarat |
| 112. | A.K. Sagi | | Delhi | Pune |
| 113. | Alluri Venu Gopal | | Andhra Pradesh | Andhra Pradesh |
| 114. | C.P. Wadhwa | | Hqrs. | West Bengal |
| 115. | N.K. Luthra | | Hqrs. | West Bengal |
| 116. | Rajiv Kumar Choudhary | | Mumbai | Mumbai |
| 117. | Jyoti Prasad | | Bihar | Bihar |
| 118. | Meenakshi Nanda | | Delhi | Pune |
| 119. | P.M. Khale | | Madhya Pradesh | Madhya Pradesh |
| 120. | Vinay Kumar Sharma | | Delhi | West Bengal |
| 121. | K.Padmavathy | | Tamil Nadu | Salem |
| 122. | Sushil Sachdeva | | Delhi | West Bengal |
| 123. | S.S. Dalal | | Haryana | Tamil Nadu |
| 124. | P.K. Bhatnagar | | Delhi | Delhi |
| 125. | Manish Gupta | | D(M)D | West Bengal |
| 126. | K.K. Malhotra | | Hqrs. | Hqrs. |
| 127. | P.M. Narayandas | | Karnataka | Karnataka |
| 128. | M.G. Parihar | | Gujarat | Gujarat |
| 129. | K.N. Jotwani | | Gujarat | Gujarat |
| 130. | Kakali Das | | Andhra Pradesh | Andhra Pradesh |
| 131. | I.G. Pillai | | Gujarat | ESICM Hospital, Ahmedabad |
| 132. | B.C. Mehta | | Gujarat | Mumbai |
| 133. | Om Prakash Dhingra | | Delhi | West Bengal |
| 134. | Vijay Kumar | | Delhi | West Bengal |
| 135. | Pankaj Kumar | | Bihar | West Bengal |
| 136. | Savita R. Suresh | | Delhi | West Bengal |
| 137. | Rajendra R. Pillai | | Nagpur | SRO Aurangabad |
| 138. | Prasun Kumar Sinha | | Mumbai | Mumbai |
| 139. | Rohtas Singh | SC | Delhi | West Bengal |
| 140. | Majmudar P. Keshav Lal | SC | Gujarat | Mumbai |
| 141. | Kalidas Sajjan | SC | West Bengal | West Bengal |
| 142. | Girish Kumar Kain | SC | Delhi | West Bengal |
| 143. | Vijay Bokalia | SC | D(M)D | Hqrs. |
| 144. | Champak Biswas | SC | West Bengal | West Bengal |
| 145. | Azad Singh | SC | Delhi | West Bengal |
| 146. | Jyoti Parkasi | SC | Karnataka | Goa |
| 147. | Ajay Kumar Mahan | SC | Delhi | Tamil Nadu |
| 148. | Premdas Jaiswara | SC | Uttar Pradesh | Uttar Pradesh |
| 149. | P.K. Krishnan Kutty | SC | Kerala | Kerala |
| 150. | V. N. Sarojini | SC | Kerala | Kerala |
| 151. | C. Gopinathan | SC | Kerala | Kerala |
| 152. | Krishna Das | SC | Jharkhand | West Bengal |
| 153. | S. Palaninathan | SC | Tamil Nadu | Tamil Nadu |
| 154. | Amarjeet Singh | SC | Punjab | Punjab |
| 155. | S. Dhandapani | SC | Coimbatore | Coimbatore |
| 156. | Ram Prasad | SC | Delhi | West Bengal |
| 157. | Mool Chand | SC | Delhi | West Bengal |
| 158. | Jai Prakash | SC | Delhi | West Bengal |
| 159. | Phool Singh Giroh | SC | Delhi | West Bengal |
| 160. | Vikramjit Singh | SC | Delhi | West Bengal |
| 161. | Ran Singh | SC | Delhi | Andhra Pradesh |
| 162. | Baldev Singh | SC | Punjab | ESICM Hospital, Bari Brahma, Jammu |
| 163. | B. Gnana Kumar | SC | Andhra Pradesh | Andhra Pradesh |
| 164. | Hari Krishan | SC | Haryana | Haryana |
| 165. | J. B. Ram | SC | Jharkhand | Jharkhand |
| 166. | Bhola Ram | SC | Haryana | West Bengal |
| 167. | Balvant Ram | SC | Haryana | Tamil Nadu |
| 168. | Ram Swaroop Jarwal | SC | Rajasthan | Mumbai |
| 169. | S.C. Deka | SC | Assam | West Bengal |
| 170. | B.C. Rahi | SC | Rajasthan | West Bengal |

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The promotion of the officers will take effect from the date of their assumption of charge.

The promotion of all the above mentioned officers is ordered purely on temporary and adhoc basis. They may be reverted to their lower post without any notice or assigning any reason therefor. The adhoc promotion shall not confer on them any right to continue in the post or for regular promotion in future. The period of service rendered by them on adhoc basis in the grade/cadre will count neither for seniority in the grade/cadre nor for eligibility for promotion to the next higher grade/cadre. The pay of all these officers on promotion will be fixed in the pay scale of Rs.6,500 - 10,500/- under the normal rules.

The transfers/postings of all these officers have been ordered in public interest and they are entitled to TA/TTA/DA/Joining Time as admissible under the rules, wherever applicable.

The officers posted to regions which are different from their present ones will be relieved from their present posts by their present controlling officers concerned only after they receive communications regarding their places of postings from the Regional Directors/ Directors/ Joint Directors i/c of the Regions/Sub-Regions to which they are posted. The orders indicating the placement of officers who are posted in other Regions/ Sub-Regions shall be issued by the respective Regional Directors/ Directors/ Joint Director i/c within a week from the date of issue of this order.

The Regional Directors may utilize the services of the senior-most officers available in their regions in the cadre of Asst. Directors/ Managers Gr.I as Asst. Directors in the Regional Office as per this Office Order No. 316 of 2005 dated 30.6.2005 in file No. A -22 (13) 1/2004-E I.

The charge reports may be sent to all concerned in due course.

(Hindi version follows)

[Signature]
19/10/05
(R. NATARAJAN)
JOINT DIRECTOR E. I

To,

1. The officers concerned.
2. All officers of the Headquarters.
3. All the Regional Directors.
4. All the Directors / Joint Directors i/c of the Sub-Regional Offices.
5. All the Medical Superintendents of ESIC Hospitals and ESIC Model Hospitals.
6. D(M)Delhi/D(M) Noida/Director, ESI Hospital, KK Nagar/Director (FWP), New Delhi
7. The concerned Joint Directors (Fin.) and Dy. Directors (Fin.)
8. The Librarian, Hqrs. Office
9. Official Language Branch, Headquarters for Hindi version.
10. Copy to personal files/ Guard file/ Spare copy.


EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE NORTH EASTERN REGION
GUWAHATI-21

Annexure-2 17

No. 13-A22/15/2004-Btt.

Dated 26-10-2005

A copy of the Hqs Office Order No 500 of 2005 issued under No. A.33/12/1/97-EI Vol. XI dated 19-10-2005 regarding promotion/posting/Transfer is sent herewith for information and necessary action.


(A.C. MAJUMDAR)
DEPUTY DIRECTOR
FOR REGIONAL DIRECTOR

To

1. Sri J Baruah, Asstt., R.O. ESIC, Guwahati.
2. Mrs B Nag, Asstt., R.O., ESIC, Guwahati
3. Sri J Baro, B M, B O, ESIC, Jorhat.
4. Sri S C Deka, B M, B O, ESIC, Nagaon.

*Attested
Law
Advocate*

To,

The Director General,
E.S.I. Corporation,
Panchdeep Bhawan, C.I.G. Road,
New-Delhi-110002.

Through the Regional Director ,E.S.I.C. N.E.Region,Guwahati.

Subject:- Prayer for consideration for surrender promotion on transfer.

Sir,

Kindly refer to Hqr. Office order No. 500 of 2005 issue vide lett No. A.33/12/1/97 E.I. Col.11 dated 19.10.05 regarding promotion to the post of Asstt.Director, an adhoc basis.

In this connection, I have the honour to state that Sir, (1) my wife has been suffering from gynocological disordersince long time, and it will be very much difficult to leave her alone at this stage. (2) That Sir, my youngest son to studying in class X who will be appearing in the CBSE final examination to be held in March /2006. (3) That Sir, my daughter studing in Class XII , She will be appearing in the final Examination to be held on March ,2006 . Therefore it will be difficult to leave them at this stage.

In view of the above, I would like to request you kindly to consider my case and allow me to surrender the promotion on transfer at present.

Yours faithfully,

Swadhin Deka
Shri Swadhin Deka. :
Branch Manager
Nagpur.

*Attested
Sd/-
Advocate*

Annexure 42 (G)

REGISTERED No. DL-3001/96



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 1] नई दिल्ली, शनिवार, जनवरी 4, 1997 (पीए 14, 1918)
No. 1] NEW DELHI, SATURDAY, JANUARY 4, 1997 (PUASA 14, 1918)

इस भाग में निम्न 165 पृष्ठों को शामिल किया गया है ताकि इस भाग में इनका सही से रख रखा जा सके।
(Separate paging is given to this Part in order that it may be filed as a separate compilation)

भाग III खण्ड 4 (PART III—SECTION 4)

[विविध अधिसूचनाएं, जिनमें प्राधिकृत विभागों द्वारा जारी की गई अधिसूचनाएं, आदेश, विज्ञापन और नोटिस शामिल हैं।]

[Miscellaneous Notifications including Notifications, Orders, Advertisements and Notices issued by Statutory Bodies]

भारतीय रिजर्व बैंक

केन्द्रीय कार्यालय

सरकारी और बैंक सेवा विभाग

नयाँ दिल्ली, दिनांक 4 जनवरी 1997

भारत सरकार के राजपत्र में 20 अप्रैल 1946 को प्रकाशित तथा 29 अप्रैल 1954 को अधिसूचना सं० एफ(8)70/बी/5 और भारत सरकार के दिनांक 21 फरवरी 1990 के प्राध्यापक राजपत्र सं० 67 के प्रकाशित तथा संशोधित लोक न्याय अधिनियम 1944 की धारा 28 के अन्तर्गत भारत सरकार द्वारा बनाये गये नियमों के नियम 18 के अन्तर्गत 1994 को गणराज्य गान के निम्नलिखित सूची को गैर आर्य एतौ प्रतिभूतियों के बारे में एनड्रास विभाजित की जाती है, जिसके अन्तर्गत में इस बात का विचार करने के निम्न प्रयत्न कृष्टया आधार मीज है कि प्रतिभूतियों की गई है और भाषाओं का द्वारा उपयोगित है। नोवे लिखे गए संशोधित शीतलियों से एनर सभी व्यक्तियों/जिनका इन प्रतिभूतियों 1594 (किसी प्रकार का भाषा हो, संकाय मुद्रण लेखाकार भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय सरकारी और बैंक सेवा विभाग, केन्द्रीय कृषि प्रभाग मुम्बई को संलग्न करें। सूची को भाषों में विभाजित की गई है। भाग क में सभी पक्षों पर विज्ञापित प्रतिभूतियां शामिल की गई है और भाग 'घ' में पूर्व विज्ञापित प्रतिभूतियों की सूची दी गई है।

1-39931/96

(1)

Attested
Law
Advocate

| 1 | 2 | 3 | 4 |
|-----|--------|---|----------|
| 41. | 201693 | Mr. Ramakrishnan S. ACA Asst. Vice President Bank of America 748 Anna Salai Madras, 600 002 | 26-08-96 |
| 42. | 202978 | Ms. Sangeta Harbanslal Gupta. ACA Chartered Accountant M/s Lovelock & Lewes 4th Floor Lingapur House Himayatnagar Hyderabad 500 029 | 24-06-96 |

K.R.A.N. IYER

Secretary (Current Charge)

EMPLOYEES' STATE INSURANCE CORPORATION

New Delhi, the 20th December 1996

No. A-12(1)-1/87-E-I(A).—In exercise of the powers conferred by sub-section (1) of section 97 read with clause (xi) of sub-section (2) and sub-section (2A) of that section and sub-section (2) of section 17 of the Employees' State Insurance Act, 1948 (34 of 1948 as amended) and supersession of Employees' State Insurance Corporation (Recruitment) Regulations, 1965, in so far as they relate to the posts of Assistant Regional Director/Manager Grade-I/Section Officer/Dy. Account Officer as amended from time to time, except in respect of the things done, or omitted to be done before such supersession, the Corporation hereby makes, with the approval of the Central Government the following regulations, regulating the method of Recruitment to the post of Assistant Regional Director/Manager Grade-I/Deputy Accounts Officer/Section Officer, namely:—

1. Short Title and Commencement

- (i) These Regulations may be called Employees' State Insurance Corporation (Assistant Regional Director/Manager Gr.I/Section Officer/Deputy Accounts Officer) Recruitment Regulations, 1996.
- (ii) They shall come into force on the date of their Publication in the Official Gazette.

2. Number of Post, Classification and Scale of Pay:

The number of the posts, their Classification and the scale of pay attached thereto, shall be as specified in column 2 to 4 of the schedule annexed to these regulations.

3. The Method of Recruitment, Age Limit, Qualification

The method of recruitment, age limit, qualifications and other matters relating to the said posts, shall be specified in column 5 to 14 of the said schedule.

4. Disqualification:

No Person:—

(a) who has entered into or contracted a marriage with a person having spouse living; or

(b) who, having a spouse living, has entered into or contracted a marriage with any person.

shall be eligible for appointment to the said posts, provided that the Director General of the Corporation may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of these regulations.

5. Power to Relax

Where the Director General of the Corporation is of the opinion that it is necessary or expedient so to do, he may, after taking prior approval of the Central Government, and in Consultation with the Union Public Service Commission, by order, for reasons to be recorded in writing, relax any of the provisions of these regulations with respect to any class or category of person.

6. Residuary Matters

Subject to the provisions of these regulations, all other regulations and instructions laid down in E.S.I. Corporation (Recruitment) Regulations, 1965 as amended from time to time, applicable to the corresponding category of Officers in the Corporation, shall apply to the post specified in the Schedule annexed to these regulations.

7. Savings

Nothing in these regulations shall affect reservations and other concessions required to be provided for the Scheduled Caste the Scheduled Tribes, OBCs and other categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

S. K. SHARMA
Director General

RECRUITMENT RULES FOR THE POST OF ASSISTANT REGIONAL DIRECTOR/
MANAGER GRADE-I/ SECTION OFFICER/DEPUTY ACCOUNTS OFFICER
IN THE ESI CORPORATION

| Name of Post | No. of post | Classification | Scale of pay (Rs.) | Whether selection of non-selection post | Age limit for direct recruits | Whether Benefit of added years of service admissible | Educational & other qualification reqd. for direct recruits | Whether age & Educational qualifications prescribed for direct recruits will apply in the case of promoteds | Period of probation if any |
|---|-------------|---------------------|--|---|-------------------------------|--|---|---|----------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Asst. Regional Director/ Manager/ Gr. I/- Section Officer/ Dy. Accounts Officer | *141 | Group B Ministerial | 2000-60 2300- EB- 75-3200- 100- 3500- | selection | Not applicable | Not applicable | Not applicable | Not applicable | 2 years |
| *(1996) Subject to variation Dependent on workload. | | | | | | | | | |

| Method of Rectt. whether by Direct Rectt. or by promotion or by Deputation/transfer & % of the vacancy to be filled by various method | In case of Rectt. by Promotion Deputation/Transfer, Grades from which promotion/deputation/transfer to be made | If A DPC exists what is its composition | Circumstances in which U.P.S.C. to be consulted in making rectt. |
|---|---|--|--|
| 11 | 12 | 13 | 14 |
| Promotion | Promotion Insurance Inspector/Manager Grade II/ Supdt. in the pay Scale of Rs. 1640-2900 with three years regular service in the grade. Note : Where Juniors who have completed their qualifying/eligibility service are being considered for promotion, their Seniors would also be considered provided They are not short of the requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years whichever is less and have successfully completed their probation period for promotion to the next higher grade alongwith their juniors who have already completed such qualifying/eligibility service. | DPC (For considering Promotion) 1. Chairman/Member, U.P.S.C. : Chairman 2. Insurance Commissioner, E.S.I.C. : Member 3. Director of Administration, E.S.I.C. : Member | Consultation with UPSC necessary |



HEADQUARTERS OFFICE
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.O. ROAD: NEW DELHI-110002.
www.esic.org.in

No. A-22/13/1/2003-E.I(A)

Dated: 28.09.2003

OFFICE ORDER NO. 814 OF 2013

The following promotions/transfers/postings are ordered by the Competent Authority:-

| Sl. No. | Name of the Officer S/Shri/Ms. | Present place of posting as I.I /Mgr. Gr.II / O.S | Region/Sub-Region/Office in which posting is now ordered as Asst. Director/ Section Officer/ Manager Gr. I on ad-hoc basis |
|---------|--------------------------------|---|--|
| 1 | 2 | 3 | 4 |
| 1. | N.D. Chawla | Maharashtra | Thane Sub-Region |
| 2. | P.K. Sudeshan | Rajasthan | Kerala |
| 3. | K.J. Rao | Andhra Pradesh | Andhra Pradesh |
| 4. | P. Venkatachalam (ST) | Tamil Nadu | Tamil Nadu |
| 5. | Ravindra Nath Ojha | Madhya Pradesh | A.D. R.O. Madhya Pradesh. |
| 6. | Nizamuddin | Karnataka | Hubli Sub-Region |
| 7. | HJ Sagar | Karnataka | Hubli Sub-Region |
| 8. | JS Gawade | Pune | Pune Sub-Region |
| 9. | KS Chauhan | Gujarat | Gujarat |
| 10. | B.D. Patted | Karnataka | Karnataka |
| 11. | Mohan Singh Rawat | Rajasthan | Haryana |
| 12. | PG Narvankar | Maharashtra | Mumbai |
| 13. | Rehan Ganl | Madhya Pradesh | Madhya Pradesh. |
| 14. | AM Ramanathan | Karnataka | Karnataka |
| 15. | G.K. Bandyopadhyay | West Bengal | West Bengal |
| 16. | Karan Singh | Haryana | Haryana |
| 17. | SU Sule | Maharashtra | Mumbai |
| 18. | R Nageswaran | Tamil Nadu | Vijayawada Sub-Region |
| 19. | Mrs. R Banumathi | Coimbatore | Coimbatore |
| 20. | D Yogananda Rao | Tamil Nadu | Pondicherry |
| 21. | K Prakasam | Andhra Pradesh | Andhra Pradesh. |
| 22. | GS Murthy | Andhra Pradesh | Andhra Pradesh. |
| 23. | K Vijayan | Kerala | Kerala |
| 24. | Karnalakar Kelkar | Pune | Pune Sub-Region |
| 25. | Gangabishan | Delhi | Delhi |
| 26. | Manjeet Singh-II | Delhi | Delhi |
| 27. | PK Kundu | West Bengal | West Bengal |
| 28. | Jugal Barua | Assam | West Bengal |
| 29. | A Jothi Pandian | Tamil Nadu | Vijayawada Sub-Region |
| 30. | PV Lazar | Kerala | Kerala |
| 31. | U Rajendran | Coimbatore | Coimbatore |
| 32. | Kanti Ranjan Munshi | West Bengal. | West Bengal. |
| 33. | Bachna Ram | Punjab | Punjab |
| 34. | MK Jain | Rajasthan | Rajasthan |
| 35. | R Kgsinathan | Karnataka | Karnataka |
| 36. | BA Parvathi | Karnataka | Hubli Sub-Region |
| 37. | CH Admane | Nagpur | A.D. SRO, Nagpur |
| 38. | PV Santha Kumar | Tamil Nadu | Tamil Nadu |
| 39. | Basudeb Mukhopadhyay | West Bengal. | West Bengal. |
| 40. | CM Malhotra | Haryana | Haryana |
| 41. | KP Hariharan | Tamil Nadu | Tamil Nadu |
| 42. | V Madhavi RV Ramanl | Pune | Pune Sub-Region |
| 43. | SK Pal | West Bengal. | West Bengal. |
| 44. | Anil Kumar Banerjee | Uttar Pradesh | Uttar Pradesh. |
| 45. | JK Sahnis | Maharashtra | Mumbai |
| 46. | VP Sinha | Bihar | Bihar |
| 47. | Ram Chandra Kalbhor | Pune | Pune Sub-Region |
| 48. | TK Sharma | Rajasthan | A.D. SRO, Surat |
| 49. | Om Prakash | Haryana | Haryana |
| 50. | K Raghurama V Shetty | Maharashtra | Mumbai |
| 51. | VS Katre | Pune | Pune Sub-Region |
| 52. | Mrityunjoy Pal | West Bengal | West Bengal. |
| 53. | Mangal Bhattacharjee | West Bengal | West Bengal. |
| 54. | TR Pandey | Delhi | Delhi |
| 55. | Rakesh Kumar Gupta | Uttar Pradesh | Uttar Pradesh. |
| 56. | RN Mohrana | Madhya Pradesh | Madhya Pradesh. |
| 57. | Jagannathan R | Karnataka | Karnataka |

Attested
Sd/-
Advocate

| 1 | 2 | 3 | 4 |
|------|------------------------|----------------|----------------------------|
| 58. | Ajay Kumar | Delhi | Delhi |
| 59. | Prakash Chand | Hqrs. | Delhi |
| 60. | SC Gupta | Delhi | Delhi |
| 61. | RC Talwar | Delhi | Marol Sub-Region |
| 62. | VK Roda | Delhi | Raxoda Sub-Region |
| 63. | J Kumaraswami | Andhra Pradesh | Vijayawada Sub-Region |
| 64. | VK Taneja | D(M)D | Punjab |
| 65. | M Kalayvanan | Tamil Nadu | Vijayawada Sub-Region |
| 66. | RK Chakraborty | West Bengal | West Bengal |
| 67. | S Jayaraj | Tamil Nadu | Vijayawada Sub-Region |
| 68. | B. L. Pachoria | Madhya Pradesh | Madhya Pradesh |
| 69. | Smt. Vijayalakshmi | Andhra Pradesh | Andhra Pradesh |
| 70. | K.K. Gupta | Rajasthan | Rajasthan |
| 71. | VS Parmar | Gujarat | Gujarat |
| 72. | AS Mahida | Maharashtra | Mumbai |
| 73. | RN Brahme | Maharashtra | Mumbai |
| 74. | LC Suryavanshi | Nagpur | Nagpur Sub-Region |
| 75. | SH Ganesh | Nagpur | Nagpur Sub-Region |
| 76. | VP Kadam | Pune | Pune Sub-Region |
| 77. | SD Katre | Pune | Pune Sub-Region |
| 78. | V Aruna Kumar | Andhra Pradesh | Andhra Pradesh |
| 79. | D.K.Sammadhar | West Bengal | West Bengal |
| 80. | Prakash Chand | Haryana | Haryana |
| 81. | P Annadurai | Andhra Pradesh | Andhra Pradesh |
| 82. | Surjan Lal | Punjab | Punjab |
| 83. | S Subramani | Karnataka | Karnataka |
| 84. | K Madhava Rao | Andhra Pradesh | Andhra Pradesh |
| 85. | D. Vijay Kumar | Andhra Pradesh | Vijayawada Sub-Region |
| 86. | A.B. Sastry | Andhra Pradesh | Andhra Pradesh |
| 87. | Rama Chopra | Hqrs. | S.O. Hqrs. |
| 88. | Prem Chand | Punjab | Punjab |
| 89. | K.O.Rappal Kutty | Kerala | Kerala |
| 90. | S.S.Srivastava | Uttar Pradesh | Uttar Pradesh |
| 91. | Parveen Moudgil | Haryana | Haryana |
| 92. | K.P.Jose | Kerala | Kerala |
| 93. | Ramesh Kumar Chotla | Rajasthan | Marol Sub-Region |
| 94. | Mohd. Ashfaq | Madhya Pradesh | Madhya Pradesh |
| 95. | K.N.Vikraman | Kerala | Kerala |
| 96. | Anand Kumar | Haryana | Haryana |
| 97. | Sharda Manjunath | Andhra Pradesh | Andhra Pradesh |
| 98. | Pankaj Kumar | Delhi | Rajasthan |
| 99. | T.E.Venkatesan | Tamil Nadu | Tamil Nadu |
| 100. | R.Velu | Tamil Nadu | Tamil Nadu |
| 101. | Ravish Chandra Mandloi | Madhya Pradesh | A.D. ESIC H, Nagda |
| 102. | C.N.Raji | Colimbatore | Colimbatore |
| 103. | M.Rajendran | Madurai | A.D. SRO, Madurai |
| 104. | Vasudev | Rajasthan | A.D. (Fin.), ESIC H, Nagda |
| 105. | R.P. Sharma | Rajasthan | Madhya Pradesh |
| 106. | Boben Raphael | Kerala | Kerala |
| 107. | K.Santhalakshmi | Tamil Nadu | Tamil Nadu |
| 108. | K.N.Radhakrishnan | Kerala | Kerala |
| 109. | S.Pysone Gnanaraj | Madurai | Madurai SubRegion |
| 110. | S.ThaulathKhan | Tamil Nadu | Pondicherry |
| 111. | K.Sasidharan | Kerala | Kerala |
| 112. | J.Karunanidhi | Tamil Nadu | Vijayawada Sub-Region |
| 113. | G.Kuruppan | Kerala | Kerala |
| 114. | Praveen Kumar | Hqrs. | S.O. Hqrs. |
| 115. | Bandaru Subba Rao | Maharashtra | Mumbai |
| 116. | S.Ganesan | Madurai | Madurai Sub-Region |
| 117. | J.Verghese | Kerala | Kerala |
| 118. | Tessy Franco | Kerala | Kerala |
| 119. | Debabrata Pramanik | West Bengal | West Bengal |
| 120. | P.R.Valshampayan | Maharashtra | Mumbai |
| 121. | Baldev Raj | Uttar Pradesh | Uttar Pradesh |
| 122. | Ravinder Singh | Uttar Pradesh | Uttar Pradesh |
| 123. | G.Vasantha Kumari | Madurai | Madurai Sub-Region |
| 124. | Ram Sudhar Ram | Uttar Pradesh | Uttar Pradesh |
| 125. | G.Selvakumar | Tamil Nadu | Tamil Nadu |
| 126. | P.Sutradhar | Assam | West Bengal |
| 127. | Subodh Kr. Sasmal | West Bengal | West Bengal |

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| 1 | 2 | 3 | 4 |
|------|--------------------------|----------------|--------------------|
| 128. | E.D.Ravindran | Kerala | Kerala |
| 129. | Sindo Ram | Punjab | Punjab |
| 130. | A.K.Nini | Delhi | Madhya Pradesh |
| 131. | Bihari Ram | Gujarat | Gujarat |
| 132. | P.Kamraj | Tamil Nadu | Tamil Nadu |
| 133. | S.Mahalingam | Madurai | Madurai Sub-Region |
| 134. | Anal Kumar Pal | Bihar | Jharkhand |
| 135. | M.Biswas | Assam | West Bengal |
| 136. | M.Doral | Karnataka | Andhra Pradesh |
| 137. | Chander Singh | Haryana | Haryana |
| 138. | Chandra Parkash | Bihar | Bihar |
| 139. | Mohinder Singh | Rajasthan | Nagpur Sub-Region |
| 140. | L.B.Yadav | Maharashtra | Mumbai |
| 141. | T.R.Unnikrishnan | Maharashtra | Marol Sub-Region |
| 142. | Mangalam Gogia | Hqrs. | S.O. Hqrs. |
| 143. | A.L.Trivedi | Gujarat | Gujarat |
| 144. | N.I.Pair ter | Gujarat | Gujarat |
| 145. | N.G.Parichal | Gujarat | Gujarat |
| 146. | D.A.Thakkar | Gujarat | Gujarat |
| 147. | P.S.Peswani | Gujarat | Gujarat |
| 148. | C.S.Parsod | Bihar | Bihar |
| 149. | L.N.Joshi | Gujarat | Gujarat |
| 150. | C.B.Patel | Gujarat | Gujarat |
| 151. | M.P.Rami | Gujarat | Gujarat |
| 152. | M.S.Patel | Gujarat | Gujarat |
| 153. | D.H.Prajapati | Gujarat | Gujarat |
| 154. | P.K.Gupta | Rajasthan | Pune Sub-Region |
| 155. | M.Laxminarayana | Andhra Pradesh | Andhra Pradesh |
| 156. | Gurbachan Dass | Haryana | Haryana |
| 157. | Jaglal Chaudhary | Bihar | West Bengal |
| 158. | B.Balakrishnan | Andhra Pradesh | Andhra Pradesh |
| 159. | M.Velayudhan | Kerala | Kerala |
| 160. | D.S.Poonya | Maharashtra | Marol Sub-Region |
| 161. | M.Siddarama | Karnataka | Karnataka |
| 162. | Kanwal Nain | Punjab | Punjab |
| 163. | S.C. Mondal | West Bengal | West Bengal |
| 164. | R.N. Rana | Orissa | West Bengal |
| 165. | S.C. Mishra | Hqrs. | Madhya Pradesh |
| 166. | Chander Shekhar | Punjab | Punjab |
| 167. | Vir Sen | Haryana | Haryana |
| 168. | I.M. Kapoor | Punjab | Punjab |
| 169. | K.S. Rawat | Punjab | Punjab |
| 170. | Mohd. Ishaq | Rajasthan | Rajasthan |
| 171. | U Mohrana | Orissa | West Bengal |
| 172. | S.K.Das (SC) | West Bengal | West Bengal |
| 173. | G.Chandrasekhar (SC) | Karnataka | Karnataka |
| 174. | T.Santhamma (SC) | Karnataka | Karnataka |
| 175. | S.G. Desai | Gujarat | Baroda Sub-Region |
| 176. | S.K. Chaturvedi | Hqrs. | Uttar Pradesh |
| 177. | Rajbir Singh (SC) | Delhi | Punjab |
| 178. | Ram S. Kunharlya (SC) | Rajasthan | Pune Sub-Region |
| 179. | Rajbir Lal (SC) | Delhi | Marol Sub-Region |
| 180. | T.R.Narasing Rao (ST) | Andhra Pradesh | Andhra Pradesh |
| 181. | V.K.Narayanan (ST) | Kerala | Kerala |
| 182. | Mrs. Nalini (SC) | Hqrs. | S.O. Hqrs. |
| 183. | Mrs. T.N.Thankamani (SC) | Kerala | Kerala |
| 184. | Smt. M.Ammili (SC) | Kerala | Kerala |
| 185. | Kanhalya Lal (SC) | D(M)D | Marol Sub-Region |
| 186. | Chander Sen (SC) | D(M)D | Thane Sub-Region |
| 187. | K.Devraj (SC) | Karnataka | Karnataka |
| 188. | P.K.Krishnan (SC) | Kerala | Kerala |
| 189. | Har Sahai (SC) | Uttar Pradesh | Uttar Pradesh |
| 190. | P.K.Pappu (SC) | Kerala | Kerala |
| 191. | N.Loganathan (ST) | Coimbatore | Karnataka |
| 192. | R.Raju (ST) | Karnataka | Karnataka |
| 193. | Jai Naram Meena (ST) | Rajasthan | Pune Sub-Region |
| 194. | Kikumba Longchar (ST) | Assam | West Bengal |
| 195. | Harshran Meena (ST) | Uttar Pradesh | Delhi |
| 196. | Ramesh M. Mugdur (ST) | Karnataka | Karnataka |
| 197. | K.R.Vijayan (SC) | Kerala | Kerala |

| 1 | 2 | 3 | 4 |
|------|--------------------------|---------------|-----------------------|
| 198. | Pritam Chand (SC) | Delhi | Thane Sub-Region |
| 199. | S.Ashok Kumar (SC) | Madurai | Vijayawada Sub-Region |
| 200. | Raghubir Singh (SC) | Uttar Pradesh | Uttar Pradesh |
| 201. | V. Srinivas (SC) | Karnataka | Vijayawada Sub-Region |
| 202. | H.P.Jansari (SC) | Gujarat | Gujarat |
| 203. | P.D.Parmar (SC) | Gujarat | Gujarat |
| 204. | K.B.Chavda (SC) | Gujarat | Baroda Sub-Region |
| 205. | D.B.Londhe (SC) | Maharashtra | Thane Sub-Region |
| 206. | S.B.Deolakar (SC) | Maharashtra | Thane Sub-Region |
| 207. | Sudhir Kr. Roy (SC) | West Bengal | West Bengal. |
| 208. | Bhinal Ram (SC) | West Bengal | West Bengal. |
| 209. | Pankaj Kr. Dhali (SC) | West Bengal | West Bengal. |
| 210. | Sujit Kr. Tikadar (SC) | West Bengal | West Bengal. |
| 211. | A.L. Sarode (SC) | Pune | Pune Sub-Region |
| 212. | S.B. Sonawane (SC) | Pune | Pune Sub-Region |
| 213. | Heera Singh (ST) | Delhi | Thane Sub-Region |
| 214. | Laxman Narain Meena (ST) | Rajasthan | Pune Sub-Region |
| 215. | Sujan Lal Meena (ST) | Rajasthan | Andhra Pradesh |
| 216. | Trit Kant Choudhary (ST) | West Bengal. | West Bengal |
| 217. | Sonam (ST) | Punjab | Punjab |
| 218. | Mahadev Meena (ST) | Rajasthan | West Bengal |
| 219. | Debasish Baruah (ST) | West Bengal | West Bengal. |
| 220. | Rajendra Tudu (ST) | Bihar | West Bengal. |

The promotion of all the officials is ordered purely on temporary and ad-hoc basis. They are likely to be reverted to their lower post without any notice or assigning any reason therefor. It is made clear to them that the ad-hoc promotion shall not confer on them any right either to continue in the post or for regular promotion in future. The period of service rendered by them on ad-hoc basis in the grade/cadre will count neither for seniority in the grade/cadre nor for eligibility for promotion to the next higher grade/cadre. The pay of these officers on promotion in the pay scale of Rs. 6500-10500/- will be fixed under the normal rules.

All postings are ordered in public interest and the officers are entitled to TA, DA and Joining Time as per rules, wherever admissible.

All the officers except those shown against Sl. Nos. 5, 37, 87, 101, 103, 104, 114, 142, 170 and 182 are posted as Managers Grade I in the Regions/ Sub-Regions shown against each in Col. No. 4. Their services will be utilized only as Managers Grade I in the upgraded Local Offices. The order in respect of the officers shown against Sl. Nos. from 1 to 4 are issued in partial modification of the earlier Office Order No. 375 of 2003 of 20.6.2003 and the Office Order No. 403 of 2003 dated 8.7.2003.

This order comes into force with immediate effect.

The officers posted as Managers Grade I outside their present Regions / Offices of postings will be relieved by their controlling officers only after the orders regarding their places of postings in the new Regions / Sub-Regions are received by them.

The charge report(s) may be sent to all concerned.

Hindi version will follow.

(R. NATARAJAN)
JOINT DIRECTOR-I (A)

1. The Officers concerned
2. All the Officers of the Hqs. Office
3. All the Regional Directors
4. All the Directors
5. All the Jt. Directors I/c of the SROs
6. D(M)Delhi/ D(M) Noida/ Director, ESI Hospital, K.K. Nagar/ Director (Family Welfare Project), New Delhi.
7. All the Medical Superintendents of ESIC Hospitals
8. All the Medical Superintendents of ESIC Model Hospitals
9. The concerned Jt. Directors (Fin.) and Dy. Directors (Fin.)
10. The Librarian, Hqs.
11. Official Language Branch, Hqs. Office for Hindi version.
12. Copy for personal file(s)/Guard file/spare copy.

Advocate
Advocate

practice has been to give effect to amendments in the Recruitment Rules only prospectively, except in rare cases. Hence, regular appointments/promotions may be made in all such cases in accordance with the Recruitment Rules in force at the time when the vacancy arises. No *ad hoc* appointments/promotions may be made on the grounds that the Recruitment Rules are being revised or amended.

(iii) *Revision of Seniority List*. — Another reason for making *ad hoc* arrangements and delaying regular promotions is that, the seniority position of the officer holding the post in the feeder grade is disputed. In all such cases, regular DPCs may be held based on the existing seniority list. In case such disputes are pending before a Court/Tribunal, unless there is an injunction stay order against making regular promotions, the appointing authority may convene the DPC and make promotions on the basis of the existing seniority list. However, while issuing the orders in such cases, it should be stipulated that these promotions are provisional and subject to the final decision of the Court/Tribunal. Subsequently, when the directions of the Court/Tribunal become available, a review DPC may be held and the necessary adjustments made in the promotions of officers based upon the revised seniority list. In case any of the officers provisionally promoted do not figure in the list approved by the Review DPC, they may be reverted to the posts held by them earlier.

(iv) *Shortage in Direct Recruitment Quota*. — *Ad hoc* appointments are also made on the consideration that adequate number of qualified candidates are not available for filling the vacancies through the direct recruitment quota prescribed in the Recruitment Rules. In some cases, even though the required number of candidates are recommended by the Union Public Service Commission/Staff Selection Commission, some of them do not join or they join to resign thereafter.

According to the instructions contained in this Department's O.M. No. 24012/34/80-Estt. (B), dated the 20th February, 1981, while notifying vacancies to recruiting agencies especially the SSC, the appointing authority is expected to compute the total number of vacancies taking into consideration the likely vacancies during the period beginning from the date of announcement of the examination in question up to the date of announcement of the subsequent examination so that the total number of posts to be kept vacant may be very few.

In spite of this, if some vacancies still remain unfilled, the following measures may be adopted:—

- Wherever feasible, the posts may be allowed to remain vacant until qualified candidates become available at the next examination.
- Wherever the Recruitment Rules for the posts provide alternative methods of recruitment, i.e., not only by the direct method but also by transfer on deputation, efforts may be made to fill those vacancies which cannot be held over (until candidates of next examination

become available), by the alternative methods, i.e., by transfer on deputation, etc.

- However, in cases where direct recruitment is the only method provided in the Recruitment Rules, Ministries/Departments have been advised vide O.M. No. 14017/8/84-Estt. (RR), dated the 19th June, 1986, that the Rules may be amended to provide for transfer on deputation as an alternative method to fill short-term vacancies in the direct recruitment quota. In case the rules have not been amended, the Ministries/Departments may take steps to do so immediately so that the shortage of qualified candidates against the DR quota, may be met by filling the vacancies through transfer on deputation for short periods.

(v) *Filling up of short-term vacancies*. — Whenever short-term vacancies are caused by the regular incumbents proceeding on leave for 45 days or more, study leave, deputation, etc., of less than one year duration, they may be filled by officers available on an approved panel. Such a panel may be maintained taking into account not only the actual but also the vacancies anticipated over a period of 12 months in accordance with the existing instructions/holding DPCs. Wherever an officer is not available on an approved panel the post may be kept vacant, as far as possible.

✓ 3. *Cases where ad hoc appointments can be made*. — If the prescribed instructions and procedures are strictly adhered to, it may be seen that there will be very few cases where appointments need to be made on an *ad hoc* basis. Such circumstances may be—

- Where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgment of the Court/Tribunal is not expected early and the post also cannot be kept vacant.
- Where the DR quota has not been filled and the Recruitment Rules also do not provide for filling it up on transfer or deputation temporarily and the post cannot also be kept vacant.
- In short-term vacancies due to regular incumbents being on leave/deputation, etc., and where the posts cannot be filled as per Para. (v) above and cannot also be kept vacant.

✓ 4. *Conditions for making ad hoc appointments*. — In such exceptional circumstances, ad hoc appointments may be resorted to subject to the following conditions:—

- The total period for which the appointment/promotion may be made on an *ad hoc* basis, will be limited to one year only. The practice of giving a break periodically and appointing the same person on *ad hoc* basis may not be permitted. In case there are compulsions for extending any *ad hoc* appointment/promotion beyond one year, the approval of the Department of Personnel and Training may be sought at least two months in advance before

Ad hoc

the expiry of the one year period. If the approval of the Department of Personnel and Training to the continuance of the *ad hoc* arrangements beyond one year is not received before the expiry of the one year period, the *ad hoc* appointment/promotion shall automatically cease on the expiry of the one year term.

- (ii) If the appointment proposed to be made on an *ad hoc* basis involves the approval of the Appointments Committee of the Cabinet, this may be obtained prior to the appointment/promotion being actually made.
- (iii) Where *ad hoc* appointment is by promotion of the officer in the feeder grade, it may be done on the basis of seniority-cum-fitness basis even where promotion is by selection method as under—
 - (a) *Ad hoc* promotions may be made only after proper screening by the appointing authority of the records of the officer.
 - (b) Only those officers who fulfil the eligibility conditions prescribed in the Recruitment Rules should be considered for *ad hoc* appointments. If, however, there are no eligible officers, necessary relaxation should be obtained from the competent authority in exceptional circumstances.
 - (c) The claims of Scheduled Castes and Scheduled Tribes in *ad hoc* promotions shall be considered in accordance with the guidelines contained in the Department of Personnel and A.R., Office Memorandum No. 36011/14/83-Estt. (SCT), dated 30-4-1983.
- (iv) Where *ad hoc* appointment by direct recruitment (which as explained above should be very rare) is being done as a last resort, it should be ensured that the persons appointed are those nominated by the Employment Exchanges concerned and they also fulfil the stipulations as to the educational qualifications/experience and the upper age-limit prescribed in the Recruitment Rules. Where the normal procedure for recruitment to a post is through the Employment Exchange only, there is no justification for resorting to *ad hoc* appointment.
- (v) Where the appointing authority is not the Ministry, the Authority competent to approve *ad hoc* appointments may be decided by the Administrative Ministries themselves. The competent authority so authorized by the Ministry should be one level higher than the appointing authority prescribed for that post.

5. *Ad hoc promotions of officers whose cases are kept in sealed covers.*— *Ad hoc* promotions with respect to officers whose cases are kept in a sealed cover in accordance with O.M. No. 22011/2/86-Estt. (A), dated 12-1-1988, will however, continue to be governed by these special instructions (Order 3 below). Similarly, *ad hoc* promotions of officers belonging to the Central Secretariat Service (CSS) to posts of Under Secretary/

Deputy Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M. No. 31/16/82-EQ (MM), dated 24-8-1983.

6. *Review of ad hoc appointments/promotions.*— All *ad hoc* appointments including *ad hoc* promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in Para (4) (v). However, it may be noted that the continuance of such *ad hoc* appointments, including *ad hoc* promotions, will be subject to the overall restrictions of one year from the date of issue of these instructions.

All Ministries/Departments are requested to take action in accordance with the above-mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

[G.L. Dept. of Per. & Trg., O.M. No. 28036/8/87-Estt. (D), dated the 30th March, 1988.]

(2) *No Ad hoc appointment by Direct Recruitment.*— The undersigned is directed to say that as per the Department of Personnel and Administrative Reforms O.M. No. 22011/3/75-Estt. (D), dated 29-10-1975 and the Department of Personnel and Training O.M. No. 28036/8/87-Estt. (D), dated 30-3-1988 (Order (1) above), persons appointed on *ad hoc* basis to a grade are to be replaced by persons approved for regular appointment by direct recruitment, promotion or transfer (absorption), as the case may be, at the earliest opportunity. These instructions also provide that whenever an appointment is made on *ad hoc* basis, the fact that the appointment is *ad hoc* and that such an appointment will not bestow on the person a claim for regular appointment should be clearly spelt out in the orders of appointment. It should also be made clear that the service rendered on *ad hoc* basis in the grade concerned would not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher grade.

2. Instances have, however, come to the notice that despite the clear provisions, as mentioned above, persons appointed on *ad hoc* basis, when replaced, approach the courts of law for regularizing their appointment and in many cases, directions are given for regularizing the period of *ad hoc* appointment with consequential benefits like seniority, etc.

3. In this regard, it is stated that issue of regularization of *ad hoc* employees has been considered in several judgments of the Hon'ble Supreme Court. In the case of *R.N. Nanjundappa v T. Thimmaiah and others* (AIR 1972 SC 1767), the Supreme Court observed that regularization is not itself a mode of recruitment and any act in the exercise of executive power of the Government cannot override rules framed under Article 309 of the Constitution. In the case of *State of Orissa v. Sukanti Mahapatra* (AIR 1993 SC 1650), the Supreme Court has observed that assuming that their having served for long years is a valid reason for regularization, that without anything more, will not meet the requirement of the action being in public interest and what has been

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

A

Original Application No. 3 of 2006.

Date of Order : This the 5th Day of January, 2006.**THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN****THE HON'BLE MR N.D. DAYAL, ADMINISTRATIVE MEMBER**

Shri Swadhin Chandra Deka,
S/o Late Khargeshwar Deka,
Branch Manager,
Branch Office,
Employees State Insurance Corporation,
Haibargaon, Khutikotia,
A.R.B. Road, Nagaon,
Assam.

... Applicant

By Advocate Mr M. Chanda.

- Versus -

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Labour and Employment,
New Delhi.
2. The Director General,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road,
New Delhi-110002.
3. The Joint Director, E.I,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road,
New Delhi-110002.
4. The Regional Director,
Employees State Insurance Corporation,
Assam, Bamunimaidan,
Guwahati-781021.

... Respondents

By Advocate Miss U. Das, Addl. C.G.S.C.

ORDERSIVARAJAN J. (V.C)

The applicant, it is stated, is now working as

Branch Manager, Grade II at Branch Office, Nagaon in the
department of Employees State Insurance Corporation. The



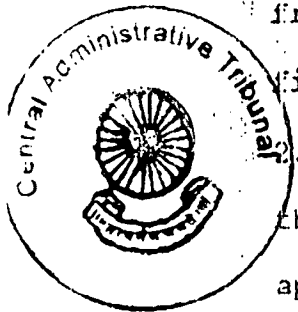
Advocate
Mr M. Chanda

Received
5/1/06



applicant, alongwith 169 officers, was promoted on ad hoc basis to the post of Assistant Director/Manager Grade I/Section Officer in the pay scale of Rs.6500-10500/- and posted them in the places noted in the order dated 19.10.2005 (Annexure-1). Since the promotions were only on ad hoc basis and without any benefit of seniority or eligibility for promotion to next higher grade, the applicant, it is stated, did not want to avail the ad hoc promotion at present as otherwise it will cause dislocation of his family in many ways. Therefore, the applicant, it is stated, has made a representation (Annexure-3) before the 2nd respondent on 27.10.2005. Since there was no response from the said respondents, the present application is filed.

We have heard Mr M.Chanda, learned counsel for the applicant and Miss U.Das, learned Addl.C.G.S.O appearing for the respondents. We are of the view that this application can be disposed of at the admission stage itself, in that the applicant's representation (Annexure-3) is now stated to be pending before the 2nd respondent. We accordingly direct the 2nd respondent to pass a reasoned order on the representation, Annexure-3 within a period of one month from the date of receipt copy of this order, if the same has not already been disposed of. If the representation (Annexure-3) has already been disposed of the order will be communicated to the applicant immediately. If the applicant makes any additional representation within 7 days from today forgoing his ad hoc promotion that shall also be considered alongwith Annexure-



Gpt

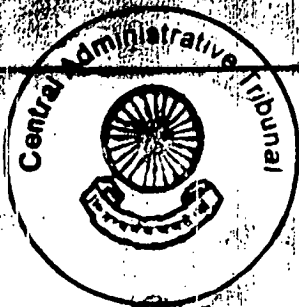
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3

3 representation as directed herein above. Till communication of the decision on the representation indicated above the status quo shall be maintained.

The application is disposed of as above.



Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

pg

Date of Application : 5.1.06
Date on which copy is ready : 5.1.06
Date on which copy is delivered : 5.1.06
Certified to be true copy

N. J. S.
Section Officer (Judl)
C. A. T. Guwahati Bench
Guwahati

HH
5/1/06

o/c
To,

The Director General.
E.S.I Corporation,
Panchdeep Bhawan,
C.I.G. Road,
New Delhi- 110002.

(Through proper channel)

Sub: - Submission of representation in compliance with the order dated 05.02.2006, in O.A. No. 3/2006 passed by the Hon'ble CAT, Guwahati Bench, Guwahati.

Sir,

Most humbly and respectfully I beg to submit that I have approached the Hon'ble CAT, Guwahati Bench through O.A. No. 3/2006, against the order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005, whereby the undersigned has been promoted to the post of Asst. Director on adhoc basis and now sought to be transferred from Nagaon in the state of Assam to West Bengal. The Hon'ble CAT, Guwahati Bench vide it's order dated 05.01.06 directed to submit the undersigned additional representation if any within a period of 1 week before the authority and in compliance with the direction of the Hon'ble CAT, Guwahati Bench I am submitting the instant representation for your kind consideration.

(1) That Sir, the office order No. 500/2005 dated 19.10.2005 is a conditional adhoc promotion order to the Grade of Assistant Director/Manager Grade- I/Section Officer. In the aforesaid order dated 19.10.05 a specific pre-condition has been laid down to the disadvantage of the undersigned, wherein it is stated that the promotion order is purely temporary and adhoc basis and with the liberty to pass order of reversion without any notice or assigning any reason and in addition to that it is further specifically stated that adhoc promotes shall not be entitled to seniority in the grade/cadre for the period of adhoc service likely to be rendered by them for eligibility for promotion to the next higher grade/cadre. in other words in the event of carrying out the adhoc promotion the service of the adhoc period shall not be counted for eligibility for promotion to the next higher grade. The condition imposed in the

11/11/06

Advocate

Annexure-9 62

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office order dated 19.10.05, is highly arbitrary and the same is prejudicial to the interest of the undersigned, where adhoc promotion is sought to be effected against large scale regular vacancies which is evident from the office order dated 19.10.05 itself where inasmuch as altogether 170 vacancies in the cadre of Asstt. Director/Manager Gr. I/Section Officer are sought to be filled up. Therefore, it appears that there is no administrative exigency since a huge numbers of vacancies sought to be filled up on adhoc basis without considering the promotion of the eligible officers on regular basis. At the one hand services of the eligible officers sought to be utilized in the higher post without confirming benefit of seniority on the other hand for such adhoc promotion the undersigned is going to be adversely effected. Moreover, the Govt. of India have issued necessary instruction to consider adhoc appointment/promotion only in the following circumstances:

- (a) Where there is an injunction by a Court/Tribunal directing that the post may not be filled on a regular basis and if the final judgment of the Court/Tribunal is not expected early and the post also cannot be kept vacant.
- (b) Where the DR quota has not been filled and the Recruitment Rules also do not provide for filling it up on transfer or deputation temporarily and the post cannot also be kept vacant.
- (c) In short-term vacancies due to regular incumbents being on leave/deputation, etc., and where the posts cannot be filled and cannot also be kept vacant.

However, it appears that none of the circumstances is available to resort to adhoc promotion against large scales vacancies to deprive the eligible officers of the department to avail regular promotion. Moreover, promotional vacancies are also available in the state of Assam itself.

(2) That Sir, it is relevant to mention here that the undersigned is in the verge of retirement as such not inclined to accept promotion offered to me vide your office order dated 19.10.05. Moreover, large numbers of junior employees in

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my cadre are available who may be interested to avail the adhoc promotion if the offer of appointment is made to them.

(2) That Sir, It is relevant to mention here that son of the undersigned, Bhaskar Jyoti Deka is reading in Class X and appearing in the final examination scheduled to be held in the month of March 2006 and my daughter Papari Deka is studying in T.C Higher Secondary Schools in Assamese medium in Class XII under the State Board of Assam, she is also appearing in the final examination scheduled to be held on March 2006 and my elder son Rupam Deka, reading in B.SC 2nd year in Arya Vidyapith College under the Gauhati University, as such it will be difficult on my part to accept the adhoc promotion during the middle of the academic session as well as in the interest of education of my children at this critical stage. More particularly when my wife is suffering from gynecological problems and it will be difficult on her part to manage the affairs of the family alone.

I therefore, categorically forgo the adhoc promotion. You are therefore requested to consider my case and pass necessary order deleting my name from the list of adhoc promotion. A copy of the Hon'ble Tribunal's order dated 05.01.2006 is enclosed herewith for your perusal and necessary action.

Encl:- Copy of the order dated 05.01.06.

Yours faithfully

Date: 12.01.2006

Manager Gr II
Branch Office,
Nagaon.

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By Speed post
Annexure-10

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE: NORTH EASTERN REGION
BAMUNIMAIDAN :: GUWAHATI-21

No:43-20/11/63/78-Estt.

Date : 7-03-2006

To;

Sri S.C.Deka, B.M.Gr.II
ESI Corporation
B.O.Nagaon.

Subject: O.A.No: 3 of 2006 dated 5-1-2006 order passed by Hon'ble
CAT, Guwahati and the Reasoned Order passed by Resp. no.2.

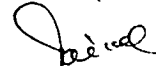
Sir,

I am to forward herewith the reasoned order passed by Hqrs.Office and
received issued through FAX vide Hqrs.Office order No; A-20/11/552/97.E.I dated 2-03-2006 on
the above subject.

The receipt of the above order may please be acknowledged.

Encl.as above.

Yours faithfully,



(ROMEN SAIKIA)
REGIONAL DIRECTOR

Attested
Law
Advocate



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Annexure-10

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HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.
[http:// esic.nic.in](http://esic.nic.in)

No. A-20/11/552/97-E.I

Dated : 2 .3.2006

ORDER

Shri Swadhin Chandra Deka, joined the ESI Corporation as LDC on 1.1.1979 and has since then been working in Assam for last 27 years. He was promoted to the cadre of Assistant Directors and posted in West Bengal Region, as per this office order dated 19.10.2005. In his representation dated 27.10.2005, he requested permission for declining the promotion on transfer, citing the following reasons:

1. His wife has been suffering from gynecological disorder for long and he should not leave her alone.
2. His youngest son is studying in class X.
3. His daughter is studying in class XII.

His case was examined.

The Employees' State Insurance Corporation is a statutory body constituted under the provisions of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948) to provide social security to the insured persons who are employed in the factories and establishments covered by the Act and are drawing wages of Rs. 7500/- p.m and less. The Corporation has its offices spread throughout the length and breadth of India and the Corporation runs more than 22 hospitals in various States. In order to administer the scheme, the Corporation requires officers who can be transferred anywhere in the country. It, therefore, appoints all officers only with an all-India transfer liability. All posts in the ESI Corporation from the cadre of Insurance Inspectors (Pay scale of Rs. 5500-9000) and above carry all-India transfer liability. The transfer liability is a pre-condition for appointment and it is made clear even at the time of inviting applications for those posts. Shri Deka joined duty in the cadre of Insurance Inspector being aware of his all-India transfer liability.

There were large number of vacancies in the cadre of Assistant Directors and almost all the Regional Directors had been complaining of pendency in Revenue and Recovery work for want of adequate number of officers. Complaints of similar nature emanated from the Medical Superintendents of various ESIC Hospitals and ESIC Model Hospitals too. The Appointing Authority had to fill up vacancies in the cadre of Assistant Directors because of the vacancies created by the promotion of officers to various higher cadres like that of Additional Commissioners, Regional Directors Grade 'A'/Directors, Regional Directors Grade 'B'/Joint

*Attested
for
Advocate*

Directors and Deputy Directors. Promotions to these higher cadres had cascading effect and large number of vacancies had arisen in the cadre of Assistant Directors, especially in West Bengal, Mumbai and certain other Regions.

A proposal for promoting 261 officers to the cadre of Assistant Directors has already been sent to the Union Public Service Commission on 29.1.2005. The UPSC is in the process of holding the meeting of the Departmental Promotion Committee for this purpose. But, the time taken in the process being long and considering the administrative exigencies as explained above, it was decided to promote the senior-most persons in the cadre of Insurance Inspectors, on adhoc basis, to man the 170 positions of Assistant Directors immediately. It was in these circumstances that the orders were issued on 19.10.2005 promoting Shri S. C. Deka, he being one among the 170 such officers.

But, out of 170 persons thus promoted as many as 54 persons gave representations either seeking permission to decline the promotion ordered or requesting change in the place of posting. In these circumstances, it was clear that if the option of declining promotion is allowed to be examined, the work entrusted to the Corporation by an Act of Parliament would suffer and the Corporation will not be able to discharge its given statutory responsibility. It was, therefore, decided not to allow the option of declining promotion to any officer and accordingly, no promotee was allowed to decline it.

In the hypothetical situation of promoting the juniors in the place of the 54 persons who had represented against the postings, there would have had to be large number of reversions of those juniors later when the regular promotion is ordered on receipt of the Select Panel from the UPSC which is expected to be received within a month or two. The adhoc promotion of junior would have had to be ordered by the Administration knowing full well that the juniors who are being promoted and posted to various outstations, would have to be paid Transfer Travelling Allowance, Travelling Allowance, Dearness Allowance, Lumpsum Grant, etc., in addition to Joining Time to serve in those places only for a shorter duration of a few months. Again, they would have had to be brought back to their original stations (at public expense) or transferred to some other stations in the lower cadre (again at public expense) soon when their seniors would have accepted regular promotion. This would have also resulted in more dislocation again and again in the administration of the cash and medical benefits to the insurance population for whom the ESI Scheme was brought into existence. That too, only to suit the convenience, likes and dislikes of certain officers who are seniormost in the feeder cadre and who had pledged, at the time of joining the service of the Respondent Organisation, to accept the all-India transfer liability. Such a course of action would, therefore, not have been in public interest.

Moreover, other officers who were given adhoc promotions and posted to outstations in various other Regions would have also, in all probability, declined such promotions if the places

of posting were not to their liking. The basic fact is that this office order dated 19.10.2005 promoting them to the cadre of Assistant Director was **an order and not an offer**. It was an order requiring compliance and not an offer necessitating acceptance.

In A.C. Roy & Others Vs. Union of India and others, (O.A. No. 555 of 1986, Date of Judgment 26.7.1988) the CAT, Calcutta has observed that "***the applicants have no right to refuse promotion. Promotion is not given merely for the benefit of the employees concerned: it is also in the interest of the administration . On account of experience and proficiency of and employee, he is judged suitable for promotion and posted at a higher post. This posting is in the interest of the administration and no government employee can refuse to carry out this order***". The Tribunal has also observed that there is no personal liberty for an employee "***to refuse promotion when a government employee is promoted and transferred in the public interest***".

In this case "***a transfer order has been passed involving hundreds of employees all over India and if in a large number of them in one particular station refuse promotion and if in such circumstances the authorities are of the opinion that the refusal will be against public interest because it will defeat the very purpose for which the transfer order has been issued, then, their decision (not to allow the employees to refuse promotion) cannot be termed arbitrary or unreasonable***". The Tribunal said that such a decision of the authorities "***is fair and maintainable***".

The Government of India, DP&AR, O.M. No. 22034/3/81 – Estt. (D) dated 1.10.1981, specifies that "where the reasons adduced by the officer for his refusal of promotion are not acceptable to the appointing authority, then he should enforce the promotion on the officer and in case the officer still refuses to be promoted, disciplinary action can be taken against him for refusing to obey his orders".

It is, therefore, clear that where the appointing authority is of the opinion that public interest would suffer by refusal of promotion involving transfer or otherwise, there would be no question of accepting the reasons for refusal of promotion. No public servant is entitled to decline promotion. Acceptance of the plea of an employee to that effect depends upon the decision of the Appointing Authority due to administrative exigencies. It is not obligatory on the part of the Appointing Authority to permit the subordinates to decline the promotion ordered in public interest.

In this case, the transfer has been ordered at the time of promotion. It is not a general transfer in the same cadre. The Corporation is in need of officers to fill up large number of vacancies in West Bengal and we have posted officers from various far away regions to West Bengal. But, Shri. S.C. Deka is not willing to move out from the neighbouring region of Assam. In Mrs. Shilpi Bose & Ors. Vs. State of Bihar & Ors. reported in AIR 1991 SC 532 the Hon'ble

Supreme Court has held that: "A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights."

The promotion and transfer of Shri Deka has been ordered in public interest and the Appointing Authority had taken into account various factors including the interest of the officers. Shri Deka has been promoted and posted only in the neighbouring region whereas many officers have been posted to far off places. The official has no inherent right to decline the order promotion.

Adhoc promotions are ordered only when there is administrative exigency. When such adhoc promotions are ordered, the conditions regarding the effect of adhoc promotion on seniority are incorporated in the order as per the Government of India, DOPT, O.M, No.31/6/90-EO (MM) dated 25.1.1990. Shri Deka himself had, on earlier occasions, been complying with the order of his adhoc promotion to the cadre of U.D.C and had worked on adhoc basis in that promoted cadre for more than three years. He had again been promoted on adhoc basis to the cadre of Assistant and had worked on adhoc basis in that cadre for about six months.

The details in this regard are given below:

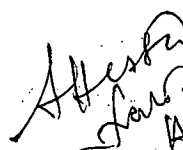
| Sl. No. | Cadre | Period of service on adhoc capacity |
|---------|-----------|-------------------------------------|
| 1 | UDC | From 23.02.1981 to 01.08.1982 |
| 2 | Assistant | From 17.04.1989 to 14.05.1989 |

The order dated 19.10.2005 is not an order of transfer of Shri Deka in lateral capacity. It is an order of promotion. Transfers are governed by separate Transfer Policy whereby general transfers are ordered at the close of the academic year. But, promotions cannot be postponed till then, as the vacancies are required to be filled.

Because of the compelling administrative reasons, as explained above, to fill up the vacancies in the cadre of Assistant Directors in West Bengal and other regions, the request of Shri Deka to permit him to decline promotion is not accepted.


(R.I. SINGH)
DIRECTOR GENERAL

To
Shri S.C. Deka,
Insurance Inspector,
Regional Office,
Assam (Through the Regional Director, Assam.)


Advocate

SWAMY'S ESTABLISHMENT AND ADMINISTRATION

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In Group 'A' and Group 'B' services/posts, if none of the officers included in the DPC to put the composition given in the Recruitment Rules is an SC or ST officer, it would be in order to co-opt a member belonging to the SC or ST if available within the Ministry/Department. If no such officer is available within the Ministry/Department, he may be taken from another Ministry/Department.

2.8 In the case of EB crossing —

PART - II FREQUENCY OF MEETINGS

Frequency at which DPC should meet

3.1 The DPCs should be convened at regular annual intervals to draw panels which could be utilized on making promotions against the vacancies occurring during the course of a year. For this purpose, it is essential for the concerned appointing authorities to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like CRs, Integrity Certificates, Seniority List, etc. for placing before the DPC. DPCs could be convened every year if necessary on a fixed date, e.g., 1st April or May. The Ministries/Departments should lay down a time-schedule for holding DPCs under their control and after laying down such a schedule the same should be monitored by making one of their officers responsible for keeping a watch over the various cadre authorities to ensure that they are held regularly. Holding of DPC meetings need not be delayed or postponed on the ground that Recruitment Rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the Recruitment Rules in force on the date of vacancy, unless rules made subsequently have been expressly given retrospective effect. Since amendments to Recruitment Rules normally have only prospective application, the existing vacancies should be filled as per the Recruitment Rules in force on the date of vacancy.

Very often, action for holding DPC meeting is initiated after a vacancy has arisen. This results in undue delay in the filling up of the vacancy causing dissatisfaction among those who are eligible for promotion. It may be ensured that regular meetings of DPC are held every year for each category of posts so that an approved select panel is available in advance for making promotions against vacancies arising over a year.

3.2 The requirement of convening annual meetings of the DPC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question.

[See O.M. dated 3-9-1998 at the end of this section for Model Calendar.]

G.L. Dept. of Per. & Trg., O.M. No. 22011/3/91-Est. (D), dated the 13th May, 1991.

PART - III PREPARATORY ACTION

Determination of regular vacancies

4.1 It is essential that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long term promotion and deputation or from creation of additional posts on a long term. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of the deputationists likely to return to the cadre and who have to be provided for. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training, etc., should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated yearwise separately.

Calculation of vacancies

It has been decided that for preparation of a select panel, Ministries/Departments may calculate the vacancies for reporting to DPC on financial yearwise where ACRs are written financial yearwise and calendar yearwise where ACRs are written on calendar yearwise.

Crucial date for determining eligibility

The eligibility dates for determining the eligibility of officers for promotion would be the first day of the crucial year, i.e., January, 1 irrespective of whether ACRs are written financial yearwise or calendar yearwise.

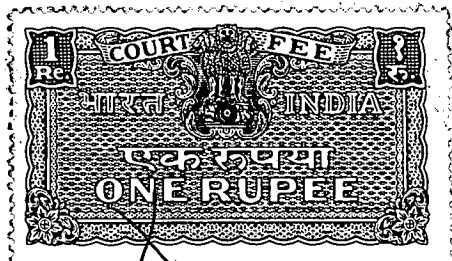
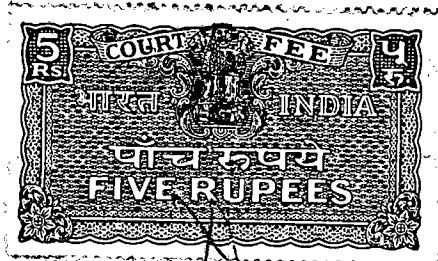
The crucial dates indicated above would be applicable to only such services and posts for which statutory Service Rules do not prescribe a crucial date.

In reiteration of the aforesaid provision (Para. 4.1) of the DPC guidelines, dated 10-4-1989, it is hereby clarified that such vacancies arising in a particular vacancy year, as noted in the aforesaid Para. 4.1, would be considered together by the DPC. These vacancies should also include newly created posts in the same vacancy year. Hence, the DPC for a particular vacancy year held subsequent to the creation of such new posts in the same vacancy year would be required to take into consideration such newly-created posts also along with other already existing/anticipated vacancies arising in the same vacancy year. As a sequel to it, the zone of consideration would also

1. G.L. Dept. of Per. & Trg., O.M. No. 22011/3/89-Est. (D), dated the 17th October, 1994.

2. G.L. Dept. of Per. & Trg., O.M. No. 22011/3/98-Est. (D), dated the 17th September, 1998.

Attested
[Signature]
[Signature]



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Swadhin ch. Deka

DISTRICT

VAKALATNAMA
CENTRAL ADMINISTRATIVE TRIBUNAL
IN THE GAUHATI HIGH COURT

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

O.A. No.
WP (C) No. 68 / 2006

Shri Swadhin Chandra Deka

Applicant-
Petitioner.

-VERSUS-

Union of India & other

Respondent

Know all men by these presents that WE the above named ^{Petitioner-Applicant-} ~~APPELLANT~~, do hereby appoint, nominate and constitute Sri Manik Chanda, S. Nath, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case 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 to ratify and confirm all such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/WE hereunto set my/our hand on this 17th day of March 2006.

Received from the executant, Mr. _____
satisfied and accepted.

Senior Advocate will lead me/us in the case.

And accepted

Advocate

Advocate

Advocate

NOTICE

From:- S. Nath
Advocate

To: Shri G. Baishya,
Sr. C.G.S.C.

Sub:- O.A. No. _____ /2006 (Shri S.C. Deka - Vs - U.O.I)

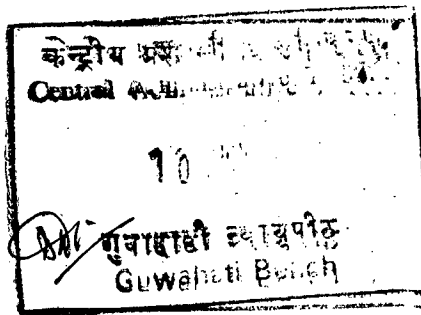
Sir, find please enclosed herewith a copy of the O.A,
which is being filed today. This is for your information
and necessary action.

Please acknowledge receipt of the same.

Received
Labi Goss
Advocate
(G. Baishya)
Sr. C.G.S.C.

Yours Sincerely
S. Nath
Advocate
17/3

I undertake to serve a
copy of this O.A. to Shri G. Baishya.
S. Nath
Advocate
17/3



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 68 OF 2006

Shri S.C. Deka ...Applicant

-VS-

Union of India & Ors...Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regards to the statement made in paragraph 1 of the instant application the respondents beg to state that the same is matter of record and the respondents ^{have} no comments to comments.
2. That with regards to the statement made in paragraph 2 and 3 of the instant application the answering respondents have no comment.
3. That with regards to the statement made in paragraph 4.1 and 4.2 of the instant application the answering respondents beg to offer no comment.

Contd....P/-

#3
Filed by
the Respondents through
Abha Das.
Addl Encl
For G. Bankura
Sr. Scribe
07/10/06

Regional Director
E.S.I. Corporation
N.E.D. Guwahati.

A.C. MAJUMDER
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

4. That with regards to the statement made in paragraph 4.3 of the instant application the answering respondents beg to state that the same are matter of record hence no comment.

5. That with regards to the statements made in paragraph 4.4 of the instant application the answering respondents begs to state that the applicant joined the ESI Corporation as LDC on 1.1.79 and was working within Assam all through his career spanning into 27 years.

The applicant joined duty in the cadre of Insurance Inspector being aware of the all India transfer liability. There is no reason for the applicant who is bound by the conditions of service of the Corporation to express surprise at the conditions governing the adhoc promotion and its effect on seniority. He is aware that the condition has been incorporated as per the Government of India, DOPT, OM No.31/6/90-EO(MM) dated 25.1.1990. The arguments of the applicant against adhoc promotion are not correct. Adhoc promotions are ordered only when there is administrative exigency. The applicant himself had, on earlier occasions been complying with the order of his adhoc promotion to the cadre of UDC and had worked on adhoc basis in that promoted cadre for more than three years. He had again been promoted on adhoc basis to the cadre of Assistant and had worked on adhoc basis in that cadre for about six months.

Contd....P/-

Regional Director
ESI Corporation
N.F.P. / Guwahati

SECRETARY
ESI CORPORATION
Guwahati-781 001

The details in this regard are given below:

| Sl.No. | Cadre | Period of service on adhoc capacity |
|--------|-----------|-------------------------------------|
| 1. | UDC | From 23.2.1981 to 1.8.1982 |
| 2. | Assistant | From 17.4.1989 to 14.5.1989 |

5. That with regards to the statements made in paragraph 4.5 of the instant application the answering respondents begs to state that the applicant is wasting the time of the Hon'ble Tribunal and is abusing the process of law by repeating what he had been saying earlier in the OA No.3 of 2006, in spite of the fact that the issues raised by him have been replied to in the speaking order passed by the Respondent No. 2 on 2.3.2006.

The personal reasons inconvenience of the official cannot be the deciding factor when the Administration has to run large number of hospitals, Regional Offices and Branch Offices throughout the nation. The order dated 19.10.2005 is not a transfer order in a lateral cadre but an order of promotion in public interest.

6. That with regards to the statements made in paragraph 4.6 of the instant application the answering respondents begs to state that the Respondent No.2 had to fill up vacancies in the cadre of Assistant Directors because of the vacancies created by the promotion of officers to various higher cadre like that of Additional Commissioners, Regional Directors Grade "A"/Directors.

Contd....P/-

Regional Director
E.S.I. Corporation
N. P. P. Givert

RECOVERY OFFICER - INDU. DIR.
ESI CORPORATION
GUWAHATI-21

Regional Directors Grade "B"/Joint Directors and Deputy Directors. Promotions to these higher cadres had cascading effect and large number of vacancies had arisen in the cadre of Assistant Directors, especially in West Bengal, Mumbai and other Regions.

The personal reasons of the official cannot be the deciding factor when the Administration has to run large number of hospitals, Regional Offices and Branch Offices throughout the nation. It is reiterated that the impugned order dated 17.10.2005 is not a transfer order in a lateral cadre but an order of promotion in public interest.

The applicant has no right to refuse promotion. His request is to be considered by the Appointing Authority which may accept or reject his request subject to administrative exigencies. The Government of India DP&AR, OM No. 22034/3/81-Estt (D) dated 1.10.1981, specifies that where the reason produced by the officer for his refusal of promotion are not acceptable to the appointing authority, then he should enforce the promotion on the officer and in case the officer still refused to be promoted, disciplinary action would be taken against him for refusal to obey his orders.

Where the appointing authority is of the opinion of that public interest would suffer by refusal of promotion involving transfer or otherwise, there would be no question of accepting the reasons for refusal of promotion.

Contd....P/-

76

Regional Director
E.S.I. Corporation
N.F.R. Guntur.

A.C. MURDER
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUNTUR-21

It is not obligatory on the part of the Appointing Authority to permit the subordinates to decline the promotion ordered in public the promotion ordered in public interest.

Because of the compelling reasons to fill up the vacancies in the cadre of Assistant Directors in West Bengal and other regions, the request of the Applicant and many other promotees to permit them to decline promotion was not accepted.

In A.C. Roy & Others Vs. Union of India and others, (OA No.555 of 1986, Date of Judgment, 26.7.1988) the CAT, Calcutta has observed that "the applicants have no right to refuse promotion. Promotion is not given merely for the benefit of the employees concerned : it is also in the interest of the administration. On account of experience and proficiency of and employee, he is judged suitable for promotion and posted at a higher post. This posting is in the interest of the administration and no government employee can refuse to carry out this order". The Hon'ble Tribunal has also observed that there is no personal liberty for an employee "to refuse promotion when a government employee is promoted and transferred in the public interest."

In this case, "a transfer order has been passed involving hundreds of employees all over India and if in a large number of them in one particular refuse promotion and if in such circumstances the au-

Contd....P/-

Noted/Disputed
 Recovery Officer and Dy. Director
 ESI Corporation
 GUWAHATI-21
 A.C. RAJUMDER

authorities are of the opinion that the refusal will be against public interest because it will defeat the very purpose for which the transfer order has been issued, then their decision (not to allow the employees to refuse promotion) cannot be termed arbitrary or unreasonable". The Tribunal said that such a decision of the authorities "is fair and maintainable".

7. That with regards to the statements made in paragraph 4.7 of the instant application the answering respondents begs to state that actions had been taken for promotion as and when necessary. The vacancies in the cadre of Assistant Directors arose in large scale because of the upgradation of 213 posts in June, 2003 for which orders of promotion had been issued on 26.9.2003. The applicant is very junior and ranks 169 in the list of 170 persons in respect of whom orders were issued on 19.10.2005. He was nowhere near the 220 candidates who had been promoted on 26.9.2003.

8. That with regards to the statements made in paragraph 4.8 of the instant application the answering respondents begs to state that the adhoc promotion does not block regular promotion. The applicant is pretending as if he is not aware of the circumstances under which the promotion of 170 persons had been ordered, inspite of the fact that all these facts had been made known to him in the Speaking order dated 2.3.2006. The applicant

Contd....P/-

A.C.M. SUMDER
 RECOVERY OFFICER AND DY. DIRECTOR
 ESI CORPORATION
 GUWAHATI-21
 Regional Director
 E.S.I. Corporation
 Guwahati

is abusing the process of law and wasting the time of the Hon'ble Tribunal by restating what he had been saying in the Original Application filed before the Hon'ble Tribunal although he is aware of the truth.

The Respondent No.2 has already sent proposal to the UPSC for convening DPC for regular promotion and the adhoc promotion ordered on 19.10.2005 was a consequential action due to many vacancies having arisen due to large scale promotion to the higher cadres in the months of July, August and September, 2005.

As the Select Panel from the UPSC is expected shortly for promoting persons on regular basis, permitting the applicant and 53 others who sought permission to decline promotion and promoting their juniors would result in short term displacement of many juniors who may not get regular promotion in the current recruitment process for which proposal has already been sent to the UPSC. As a result, if they are promoted now, they would have to be reverted and brought back to original stations (at public expense) or transferred in the lower cadre to some other stations (at public expense) soon when their seniors accept regular promotion. This will also result in more dislocation in the administration of the cash and medical benefits to the insurance population for whom the ESI Scheme was brought into existence.

Contd....P/-

79
Regional Director
E.S.I. Corporation
N.E.R. Gundlupet

A. C. MAJUMDER
RECOVERY OFFICER AND CH. DIRECTOR
ESI CORPORATION
GUNDLUPET-21

9. That with regards to the statements made in paragraph 4.9 of the instant application the answering respondents begs to state that the issue before the Respondent No.2 is to run the large social security organisation where 170 vacancies have arisen in the cadre of Assistant Directors which is a Group "B" cadre. There was nothing administratively inappropriate in the order dated 19.10.2005 and its enforcement.

10. That with regards to the statements made in paragraph 4.10 and 4.11 of the instant application the answering respondents begs to state that the UPSC is in the process of holding the DPC. The Administration had to fill up large number of vacancies which became even larger with the promotion of many officers in the senior levels due to cadre restructuring. The vacancies were more in West Bengal, Mumbai, Gujarat and other regions and the Administration had to take care of its needs to man the hospitals, Regional Offices and Branch Offices. There had even been a Parliamentary Question/Call Attention Motion in the month of October, 2005 (No.6) regarding large number of vacancies remaining unfilled.

11. That with regards to the statements made in paragraph 4.12 of the instant application the answering respondents begs to deny the averments made therein. Action had been taken by the Administration to hold DPC

Contd....P/-

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Regional Director
E.S.I. Corporation
N.F.T. Corporation

A.C. MAJUMDER
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
CLM/2005/2

in the least possible time in the wake of the sudden upgradation of 213 posts to the higher cadre in June, 2003.

12. That with regards to the statements made in paragraph 4.13 and 4.14 of the instant application the answering respondents beg to state that the averments of the Applicant are imaginary. The applicant is making all the pretenses only to stay in a particular region without being transferred. Application has been made by the applicant through ignorance and belief that he is entitled to remain in the same station forever. "There is no rule which confers any right on a government servant to stay in a particular place for a particular period." the authority in this respect was discussed in (Jenamane Prafulla Kumar Vs. State of Orissa-1981(1) 5LJ-546 Orissa AIR 1965 SC 1196- AIR 1972 SC 1004). Therefore the instant application deserves to be rejected.

13. That with regards to the statements made in paragraph 4.15 of the instant application the answering respondents beg to state that adhoc promotion were made due to urgency to fill up the vacancies as stated in the abovesaid paragraphs 7 and 8.

14. That with regards to the statements made in paragraph 4.16 of the instant application the answering respondents beg to state that the sudden creation/upgradation of 213 posts in June 2003 necessitated finalisa-

Contd....P/-

Regional Director
E.S.I. Corporation

A.C. MAJUMDAR
RECOVER OFFICE AND CY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

tion of seniority in respect of more than 500 Insurance Inspectors. The issue of seniority of Insurance Inspectors had been pending for a long time because of the principles of fixing the same between the promotees and direct recruits. There had also been court cases in this regard. Ultimately taking into account the effect of the decision on the seniority list in respect of the other cadres also, the seniority list of Insurance Inspectors circulated on 31.5.1981 had been finalised only on 7.10.2003 and the list circulated on 20.8.1986 and 22.9.2000 were finalised on 3.3.2004. Thereafter, additional seniority list had been prepared in respect of the Insurance Inspectors appointed and promoted during the period from 1.4.1997 to 31.12.1998, circulated on 23.6.2004 and finalised on 21.9.2004 after calling for objections, if any. There had therefore been no avoidable delay on the part of the Administration.

The copies of the letter dated 7.10.2003 addressed to Sri Mukesh Chandra, Deputy Director and the Memorandum dated 7.10.2003, 3.3.2004 and 21.9.2004 are annexed herewith and marked as Annexure-1,2,3, and 4.

15. That with regards to the statements made in paragraph 4.17 of the instant application the answering respondents beg to state that the proposal for promotion of officials against 261 vacancies is pending with the

Contd....P/-

Regional Director
E.S.I. Corporation
U.P.P. Gwalior

A.C. MAJUMDER
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

UPSC. There was nothing administratively inappropriate in the order dated 19.10.2005 and its enforcement. Vacancies have arisen due to the recent cadre-
re-structuring in the Group A posts of the Respondent Corporation also.

16. That with regards to the statements made in paragraph 4.18 and 4.19 of the instant application the answering respondents beg to state that the Administration has taken decision in public interest not to accept the request of the applicant and 53 others to permit them to decline promotion or change in the places of posting with due consideration to the representation and interests of the individuals and the present situation in the organisation. Any stay of the order dated 19.10.2005 will result in dislocation of administrative machinery, as the Administration cannot utilise the services of its employees in a defined and definite manner to man its offices spread throughout the nation. Deployment of persons cannot be left to the sweet will of the employees who had, before becoming Insurance Inspectors, been aware of their liability to work anywhere in India. The Applicant himself has not alleged any mala fide in his Application. Their juniors cannot be promoted now and posted to outstations as in all likelihood they may have to be reverted and brought back again at public expense when the seniors who decline the adhoc promotion accept the regular promotion. If the plea of the applicant is upheld such juniors would also

Contd....P/-

Regional Director
 ESI Corporation
 A.C. MAJUMDER
 RECOVERY OFFICER AND DY. DIRECTOR
 ESI CORPORATION
 GUWAHATI-21

in all likelihood decline promotions. There will, then, be great uncertainty in the deployment of persons to man the positions at the required point of time.

17. That with regards to the statements made in paragraph 4.20 of the instant application the answering respondents beg to state that this is not an order of transfer in the lateral capacity but an order of promotion. Transfers are governed by separate Transfer Policy whereby general transfers are ordered at the close of the academic year. But, promotions cannot be postponed till then as the vacancies are required to be filled. The Applicant does not want to discharge his liability to work in any other region except his present place of posting. His plea should not be accepted as it will become difficult for the organisation to post people to its offices throughout the nation even on promotion. It is in public interest that the Applicant is relieved at once.

18. That with regards to the statements made in paragraph 5.1 of the instant application the answering respondents beg to state that the applicant has no legal right to decline promotion. It is an administrative order and is meant to be obeyed, especially when the Applicant himself has not alleged any malafide in the postings.

Contd....P/-

84
Regional Director
E.S.I. Corporation
Guwahati

A.C. MAJUMDAR
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

Regional Director
E.S.J. Corporation
N.M.R.: Gurnahati.

A.C. No. 10-17-21
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

RECOVER

22. That with regards to the statements made in paragraph 5.6 of the instant application the answering respondents begs to state that there was an urgency in filling up the vacancies. The reasons have been explained in above noted paras 7 and 8 . Transfer are governed by separate transfer policy whereby general transfers are ordered at the close of the academic year. But, promotions cannot be postponed till then as the vacancies are required to be filled.

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23. That with regards to the statements made in paragraph 5.7 of the instant application the answering respondents begs to state that orders were issued in public interest due to administrative exigencies.

24. That with regards to the statements made in paragraph 5.8 of the instant application the answering respondents begs to state that the conditions imposed were as per the instructions pertaining to adhoc promotion. The order dated 19.10.2005 was in public interest.

25. That with regards to the statements made in paragraph 5.9 of the instant application the answering respondents begs state that the facts have furnished stated in above para 14.

26. That with regards to the statements made in paragraph 5.10 of the instant application the answering respondents begs to state that the applicant does not see what he does not want to see. The order dated 2.3.2006 was a speaking order meeting all the requirements as per the directions of the Hon'ble Tribunal. The applicant is pretending beyond limits and thereby wasting the time of the Hon'ble Tribunal.

Contd....P/-

86
Regional Director
E.S.I. Corporation
N.E.R. Guwahati.

RECOVERY OFFICER AND D. DIRECTOR
ESI CORPORATION
GUWAHATI-21

27. That with regards to the statements made in paragraph 5.11 of the instant application the answering respondents begs to state that the adhoc promotions ordered are against regular vacancies.

28. That with regards to the statements made in paragraph 5.12 and 5.13 of the instant application the answering respondents begs to state that he relies on and refers to and reiterates the statements made in above paragraph No.25.

29. That with regards to the statements made in paragraph 5.14 of the instant application the answering respondents begs to state that the order dtd. 2.3.06 had been issued duly considering the representation dated 27.10.2005 of the applicant. There were 53 more applications on similar grounds. These are administrative issues orders are not required to be speaking orders. Every order of the authority to his subordinate need not be followed by the issue of speaking order when the subordinate concerned refuses to comply with the order. The speaking order dated 2.3.2006 was issued only because of the specific direction of the Hon'ble Tribunal.

30. That with regards to the statements made in paragraph 5.15 of the instant application are untrue,

Contd....P/-

82

Regional Director
E.S.J. Corporation
N.E.R. Guwahati.

RECOVERY OFFICER AND DY. DIRECTOR
E.S.J. CORPORATION
GUWAHATI-21

false and incorrect and hence denied. Further the respondents beg to submit that the grounds set forth in the instant application are not good grounds in law, as well as on facts and therefore the application is liable to be dismissed.

31. That in view of the facts and circumstances stated above and considering the public interest involved in the present case, the Hon'ble Tribunal may not be pleased to interfere with the orders which has been passed in public interest and may be pleased to dismiss the application directing the applicant to join in the promotioned post in West Bengal immediately.

68

Regional Director
E.S.I. Corporation
N.P.B.

RECOVERY OFFICER AND DY. DIRL
ESI CORPORATION
GUWAHATI-24

VERIFICATION

I, Amal Chandra Majumder S/o Lt. K. B. Majumder

aged about 50 years, R/o

District Kamrup and competent officer of the

answering respondents, do hereby verify that the state-

ment made in paras 1 to 13, 15 to 21 are true to my

knowledge and those made in paras - 14 - being

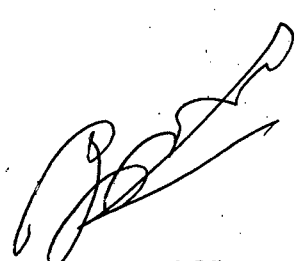
matters of record are true to my information derived

therefrom which I believe to be true and the rests are

my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 13th day
of June 2006 at Guwahati.

Signature
Regional Director
ESI Corporation
N.E.F. : Guwahati


A.C. MAJUMDER
RECOVERY OFFICER AND DY. DIRECTOR
ESI CORPORATION
GUWAHATI-21

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HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN:KOTLA ROAD:NEW DELHI-110002.

Dated : 07:10:2003

No. A-20/11/17/80-E.I(A)

To,

Shri Mukesh Chander,
Asstt. Director (Fin.)
ESI Hospital,
Okhla.

(THROUGH MEDICAL SUPERINTENDENT, ESIC HOSPITAL, OKHLA)

Sub : Seniority list of Insurance Inspectors - finalisation - reg.

Ref : Your letters dated 30.11.2002 and 1.8.2003.

Sir,

I invite your attention to references cited. Your objections regarding the Seniority List circulated on 2.2.1982 in respect of inspectors on 30.1.1981 were examined.

I have to state that although the vacancy for which DR process was initiated in 1977 pertained to the vacancies which had arisen during the period from 1971 to 1977, only one third of the vacancies had been earmarked for DR, in consonance with the amendment dated 7.5.1977. So, the consequent seniority list can also be prepared only in the ratio of 2 : 1 and not in the ratio of 1 : 1.

It was also found that you cannot be given the vacant slot pertaining to the period from 1971 to 1977. In this regard I would like to state that the senior most direct recruit in the 1980 list of Direct Recruits is Shri A.V. Srinivasan. The 1980 Direct Recruitment process pertains mainly to the vacancies which had arisen but not filled up during the period from 1971 to 1977. Shri Srinivasan should, therefore, have been given the earliest vacant slot of the year 1971 in the seniority list, if your stand is to be accepted. He was born in the year 1951. He had completed graduation in the year 1972. The essential qualification for the post of I.Is, then, was a degree from a recognized university with three years experience in a responsible capacity in Government/ semi-government bodies, etc,. It is thus clear that on the date on which the vacancy had actually arisen in 1971 Shri Srinivasan had not even fulfilled the essential qualification for the post.

You were born on 23.1.1952 and completed graduation in the year 1972. You had joined the Income Tax Department and were working there as UDC since 21.9.1974. You had also not fulfilled the essential qualification for the post of I.Is until the year 1977. If the DR process had been initiated every year during the period from 1971 to 1977, many of these Direct Recruits of 1980 would not have become eligible even to apply for the post.

The entire issue of Seniority List in respect of Inspectors as on 31.5.1981 has been examined not only with reference to the rules in force at that time but also with the rulings of the Supreme court on that issue as the vacancies that arose from the year 1971 to 1977 had been advertised in 1977 and appointments made in 1980. So as per the guidelines of the Supreme Court in the case of N.K. Chauhan Vs. State of Gujarat (1977), S.P. Gupta Vs. State of Jammu & Kashmir (2000) and A. Janardhana Vs. Union of India (1983), the Seniority List circulated on 2.2.1982 is treated as final.

Yours faithfully,

(R. NATARAJAN)
JOINT DIRECTOR-I(A)

For DIRECTOR GENERAL

The copy
of
for
an.

148602
13.8.03



**HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.**

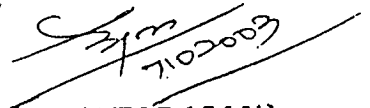
No. A-24/14/3/87-E.I(A)

Dated: 07.10.2003

MEMORANDUM

Subject: Gradation/Seniority list of Insurance Inspector/Manager Gr. II as on 31.05.81.

The Gradation/Seniority list of Insurance Inspectors/Mgr. Gr. II as on 31.05.81 circulated vide Memo. No. A-24/14/3/77-E.I(B) Col. II dated 02.02.82 is treated as final.


 (R. NATARAJAN)
JOINT DIRECTOR-I(A)
 for **DIRECTOR GENERAL**

To,

All the Insurance Inspectors/Local Office Managers Gr. II/Office Superintendents.
Through

1. The Regional Directors.
2. The Directors/Joint Directors, In-charge of SROs/Joint Director-II, Hqrs.
3. D(M) Delhi/ D(M) Noida/Director, ESI Hospital, K.K. Nagar/ Director (Family Welfare Project), New Delhi.
4. The Medical Superintendents of ESIC Hospitals.
5. Official Language Branch, Hqrs. Office for Hindi version.

True Copy
Bagin
Adv.

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Annexure 3

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HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.

Dated : 03.03.2004

No. A-24/14/3/87-E.I(A)

MEMORANDUM

Sub : Seniority Lists of Insurance Inspectors – circulated on 20.8.1986 and 22.9.2000 - finalised.

Ref : (1) Hqrs. O.M. No. A-24/14/3/2000-E.I(A) dated 15.03.2002.
(2) Hqrs. O.M. No. A-24/14/3/87-E.I(A) dated 07.10.2003.

The seniority list of Insurance Inspectors circulated on 2.2.1982 showing the position of Inspectors as on 31.05.1981 had been treated as final as communicated in this office Memo second cited. Consequently, the subsequent seniority list of Insurance Inspectors circulated on 20.8.1986 showing the position as on 31.12.1985 and the seniority list of Insurance Inspectors circulated on 22.9.2000 showing the position as on 1.4.2000 are also treated as final.

S/N
3/3/04

(R. NATARAJAN)
JOINT DIRECTOR E.I (A)
For INSURANCE COMMISSIONER

To

All the Insurance Inspectors/Local Office Managers Gr. II/Office Superintendents

Through

1. The Regional Directors.
2. The Directors/Joint Directors, In-charge of SROs/ Joint Director-II, Hqrs.
3. D(14) Delhi/ D(14) Noida/ Director, ESIC Hospital, K. C. Nagar/ Director (Family Welfare Project), New Delhi.
4. The Medical Superintendents of ESIC Hospitals.
5. Official Language Branch, Hqrs. Office for Hindi version.
6. The name at Sl. No. 100 of the seniority list stands corrected as Narayan Mikhopadhyay. His educational qualification may be read as B.Com. instead of S.F.
7. The date of birth in respect of Sh. J.K. Bhatia (Sl. No. 285) may be read as 18.06.1950 instead of 22.06.1950.
8. The date of birth in respect of Sh. Y.N. Parekh (Sl. No. 305) may be read as 15.07.1948 instead of 13.07.1948.
9. The name of Sh. B. Shekhar Rao will be read against Sl. No. 355-A instead of 389 i.e. below the name of Sh. B.C. Vyas (Sl. No. 355) and above the name of Sh. P. Narayanan Nambiar (Sl. No. 356). His educational qualification may be read as M.A. instead of B.A.
10. The name at Sl. 418 of the seniority list stands corrected as P.V. Barve instead of Sh. P.V. Borve.

The representations of Sh. B.M. Thathera and Sh. D.T. Shelkande regarding the seniority position of the promotee Insurance Inspectors who assumed charge after 14.07.97 were examined. The inter-se seniority of promotee officials is with reference to the seniority shown in the Select Panel and the order of promotion and not with reference to their date of

True Copy
Rafiq Adv.

HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.

No. A-24/14/3/87-E.I(A)

Dated: 03.03.2004

MEMORANDUM

- Sub: Seniority Lists of Insurance Inspectors - circulated on 20.8.1986
and 22.9.2000 - finalised.
- Ref: (1) Hqrs. O.M. No. A-24/14/3/2000-E.I(A) dated 15.03.2002.
(2) Hqrs. O.M. No. A-24/14/3/87-E.I(A) dated 07.10.2003.

The seniority list of Insurance Inspectors circulated on 2.2.1982 showing the position of Inspectors as on 31.05.1981 had been treated as final as communicated in this office Memo second cited. Consequently, the subsequent seniority list of Insurance Inspectors circulated on 20.8.1986 showing the position as on 31.12.1985 and the seniority list of Insurance Inspectors circulated on 22.9.2000 showing the position as on 1.4.2000 are also treated as final.

Sym
3/3/04
(R. NATARAJAN)
JOINT DIRECTOR E.I (A)
INSURANCE COMMISSIONER



- 21 -

Annexure - 4

92

HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN : C.I.G. ROAD: NEW DELHI-10002
[Http://esic.nic.in](http://esic.nic.in)

No. A-24/14/1/2002-E.I(A)

Dated: 21.09.2004

MEMORANDUM

Sub: Gradation/ Seniority list of Insurance Inspectors/ Branch Managers Gr. II/ Superintendents in the pay scale of Rs. 5500-175-9000/- Appointed/ promoted - between 01.04.97 and 31.12.98 - position as on 31.03.04 - finalised.

Ref: This office Memo. No. A-24/14/1/2002-E.I(A) dated 23.06.2004.

The provisional Gradation/ Seniority list showing the position as on 31.3.04 in respect of Insurance Inspectors/ Branch Managers Gr. II/ Superintendents who were appointed or promoted during the period between 1.4.97 and 31.12.98 was circulated vide this office Memo. even number dated 23.06.2004. The representations received in this regard were examined and decisions taken as given below:-

The following corrections/additions/modifications are made in the said Gradation/ Seniority list: -

1. The date of promotion in respect of Sh. S.R. Mago (Sl. No. 9) may be read as 14.07.97 instead of 09.09.97.
2. The date of birth in respect of Sh. Jyoti Prasad (Sl. No. 52) may be read as 01.03.1973 instead of 01.07.1973.
3. The date of entry in ESI Corporation in respect of Sh. B.C. Mehta (Sl. No. 91) may be read as 01.01.1971 instead of 21.11.1971.
4. The name at Sl. No. 100 of the seniority list stands corrected as Smt. Savita R. Chandra instead of Smt. Savita R. Surèsh.
5. The educational qualification in respect of Sh. R. Meenakshi Sundaram (Sl. No. 156) may be read as B.Sc., PGDCA instead of B.Sc.
6. The name at Sl. No. 186 of the seniority list stands corrected as Narayan Mukhopadhyay instead of Narayan Mikhopadhyay. His educational qualification may be read as B.Com. instead of S.F.
7. The date of birth in respect of Sh. J.K. Bhatia (Sl. No. 285) may be read as 18.06.1950 instead of 22.06.1950.
8. The date of birth in respect of Sh. Y.N. Parekh (Sl. No. 305) may be read as 15.07.1948 instead of 13.07.1948.
9. The name of Sh. B. Shekhar Rao will be read against Sl. No. 355-A instead of 389 i.e. below the name of Sh. B.C. Vyas (Sl. No. 355) and above the name of Sh. P. Narayanan Nambiar (Sl. No. 356). His educational qualification may be read as M.A. instead of B.A.
10. The name at Sl. 418 of the seniority list stands corrected as P.V. Barve instead of Sh. P.V. Borve.

The representations of Sh. B.M. Thathera and Sh. D.T. Shelkande regarding the seniority position of the promotee Insurance Inspectors who assumed charge after 14.07.97 were examined. The inter-se seniority of promotee officials is with reference to the seniority shown in the Select Panel and the order of promotion and not with reference to their date of

True copy
Rasni
Adv.

Notice

am
Date - 7/7/06

From - Mr. G. Baishya
Sr. C.G. SC, CAT

TO, Mr. M. Chanda
Advocate, G.H.C

O.A. NO. 68 of 2006

Sri S.C. Deka
— Applicant

— vs —

Union of India & Ors
— Respondents

Please find herewith a copy of written statement with annexures which is going to be filed on behalf of the respondents in connection with the abovesetled case.

Kindly acknowledge the receipt thereof.

Thanking you.

Yours faithfully

Rishi Gogoi
Advocate

Received Copy

Sub:
07/6
Advocate

केन्द्रीय प्रशासनिक अपिधरण
Central Administrative Tribunal

27 SEP 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH GUWAHATI

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Filed by me applicant
through: S. N. H. Advocate
27-10-2006

In the matter of:

O.A. No. 68/2006

Shri Swadhin Chandra Deka.

-Vs-

Union of India & Ors.

-AND-

In the matter of:

Rejoinder submitted by the applicant
against the written statement submitted
by the respondents.

The applicant most humbly and respectfully begs to state as under: -

1. That with regard to the statements made in para 5, 6, 7 and 8 of the written statement, the applicant denies the correctness of the same and further begs to state that there was no administrative exigencies exit in passing large-scale ad hoc arbitrary promotion orders. It is categorically submitted that the ad hoc promotion is made with arbitrary conditions to the extent that the applicant will not be entitled to benefit of seniority or claim for regular promotion, on the contrary it has been specifically laid down that he may be reverted to the lower post without any notice and as such the applicant was not willing to accept the order of promotion more so in view of his domestic problem. In the instant case of the applicant the only issue involves that

whether applicant is entitled to refuse the arbitrary conditional offer of ad hoc promotion and also whether refusal of ad hoc promotion is permissible under the law or not. But it is categorically submitted that it is not a case of simple transfer and posting as stated in the written statement and as such the decision cited by the respondents in their written statements are not at all applicable in the instant case of the applicant. It is further submitted that as per own statements of the respondents that 213 posts were upgraded in June 2003, whereas since 2003 the respondents resorted to the practice of granting conditional and arbitrary ad hoc promotion without taking any steps whatsoever for filling up promotional vacancies on regular basis in the cadre of Assistant Director and as such in the arbitrary ad hoc promotion order dated 19.10.2005 has been issued without any administrative exigency but with the sole intention to deprive regular promotional benefit to the applicant and other similarly situated employees.

2. That with regard to statements made in 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, the applicant categorically denies the contention in the said paragraphs of the written statements and further reiterates the contentions raised in the original application, and further begs to state that in view of the specific provision laid down in ESIC Act, 1948, Rule 17, Sub-rule 3 the officiating or temporary promotion, appointment cannot be made exceeding one year without consultation with the UPSC. Hence the impugned order of promotion dated 19.10.2005, whereby the applicant was promoted on ad-hoc basis has become void after 19.10.2006, since the said conditional officiating promotion/ad-hoc promotion is made without consultation with the UPSC and the same is contrary to the provision of rule 17 of the ESI Act 1948 and on that score alone the impugned order of promotion is liable to be set aside and quashed. The contention of the respondents stated in paragraph 12, wherein it is stated that it is a case of transfer whereas the issue involved in the instant case is that whether the applicant is entitled to forgo the conditional ad-hoc promotion order or not. As such decision of various Courts referred by the

9/12

respondents is not applicable in the instant case of the applicant. It is categorically submitted that large scale conditional ad-hoc promotion order dated 19.10.2005 has not been issued in public interest, but with the sole intention to deny the regular promotion to the applicant and other similarly situated employees and on that score alone the impugned order dated 19.10.2005 is liable to be set aside and quashed.

3. In the facts and circumstances stated above, the application deserves to be allowed with cost.

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VERIFICATION

1. Shri Swadhin Chandra Deka, S/o- Late Kargeshwar Deka, aged about 56 years, working as Branch Manager, in the office of Branch Office, Employees State Insurance Corporation, Haibargaon, Khutikotia, A.R.B Road, Nagaon, Assam, do hereby verify that the statements made in Paragraph 1 to 3 and I have not suppressed any material fact.

And I sign this verification on this the 25 day of October 2006.

Swadhin Ch. Deka

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NOTICE

From:-

Mr. S. Nath.
Advocate

To.

Mr. G. Baidya
Sr. C.G.S.C.

Sub: Rejoinder in G/2006

Sir, find please enclosed herewith a
copy of the rejoinder, which is being
filed on today.

This is for your information and
necessary action.

Received

G. Baidya
(G. Baidya)
27-10-06

Sr. C.G.S.C.

Yours Sincerely

S. Nath.

Advocate
27/10