

**Central Administrative Tribunal
Principal Bench**

OA No.4269/2013

New Delhi, this the 2nd day of May, 2019

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

1. Shamsher Singh,
S/o Shri Rajaram
2. Ratan Lal,
S/o Sh. Kishan Lal
3. Lekh Raj,
S/o Shri Mange Ram
4. Satpal Singh,
S/o Shri Gaje Singh
5. Mukesh Kumar,
S/o Shri Lala Ram
6. Ramakant Srivastava
S/o Shri Ram Charan Lal Srivastava
7. Ramesh Chand Nirala
S/o Shri Kavar Pal Singh
8. Hari Shankar Sharma,
S/o Shri Kailash Chander
9. Vinod Kumar,
S/o Shri Kishan Chand
10. Somdutt Sharma,
S/o Shri B.D. Sharma
11. Diwan Chand
S/o Shri Itwari Lal
12. Ramesh Singh,
S/o Shri Nanda Singh
13. Govind Singh,
S/o Shri Jaber Singh

14. Rajendra Singh,
S/o Shri Bhawan Singh
15. Tajender Kumar,
S/o Shri Inder Raj Singh
16. Bharat Sah
S/o Sh. Vishwanath Sah
17. Rajesh Kumar,
S/o Shri Karan Singh
18. Jai Bhagwan,
S/o Sh. Chander Singh
19. Nihal Singh
S/o Sh. Atar Singh
20. Jitender Kashyap,
S/o Ramji Das
21. Raj Kumar,
S/o Zille Singh
22. Vijay Pal,
S/o Sh. Raj Singh
23. Mahipal Singh,
S/o Shri Jagsaran
24. Ramesh Chand,
S/o Late Sh. Gungan Ram
25. Mukesh Kumar
S/o Bahim Singh
26. Rakesh Kumar,
S/o Sh. Bachcha Singh
27. Ram Niwas,
S/o Shri Brama Nand
28. Naresh Kumar,
S/o Shri Chunni Das

29. Sunil Kumar Ranga
S/o Sh. Maman Singh Ranga
30. Khem Singh,
S/o Sh. Jasson.
31. Smt. Rani,
W/o Late Sh. Naresh Kumar
32. Smt. Savitri Devi,
W/o Late Shri Randhir Singh Yadav
33. Satyaprakash,
S/o Sh. Ram Chander
34. Naresh Kumar,
S/o Sh. Mahasingh
35. Abhey Ram,
S/o Sh. Rampat Singh
36. Sunil Kumar,
S/o Late Sh. Nand Swarup
37. Ravinder Prasad,
S/o Sh. Sudama Prasad
38. Lakhmi Chand,
S/o Sh. Nihal Singh
39. Gaurav Singh,
S/o Late Sh. Ratan Singh
40. Krishna Kumar,
S/o Sh. Narain
41. Harish Chand,
S/o Sh. Bachi Ram
42. B. Massey,
S/o Sunney Messey

43. Sanjay Kumar Pandey,
S/o Sh. Diwakar Pandey

All C/o. Directorate (Medical) Delhi, ESIC Dispensary
Complex, Tilak Vihar, New Delhi-110018.

...Applicants

(By Advocate : Shri Soumyajit Pani)

VERSUS

1. Employees State Insurance Corporation
Through Director General,
ESI Hqrs.
Panchdeep Bhawan,
C.I.G. Road,
New Delhi-110 002.

2. Director (Medical), Delhi,
ESI Scheme Dispensary Complex,
Tilak Vihar,
Delhi.

3. Union of India,
Through its Secretary,
Ministry of Labour
Shram Shakti Bhawan,
Shastri Bhavan,
Rafi Marg,
New Delhi.

...Respondents

(By Advocate : Shri Yakesh Anand with Shri Akshay
Thakur and Ms. Deepshikha Sansawwal)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The applicants herein joined the service of Employees State Insurance Corporation (for short, ESIC) at various points of time, as Peons. The Service Rules provided for promotion to the post of Record Sorter to the

extent of 100% from the category of Peons. The rules were amended at subsequent stage by renaming the post of 'Record Sorter' as 'MTS'. The method of appointment to that post was prescribed to be entirely through direct recruitment. The chances of the Peons and other similar category employees for being appointed as MTS were totally blocked. It is stated that in a different set of rules made for the post of LDC and equivalent and avenue to the extent of 10% was provided for promotion from the category of Peons. The applicants were appointed/promoted as LDC, in that process.

2. The applicants submitted a representation in July, 2013 ventilating their grievances. It was stated that on account of the complete alteration of the rules, taking away the avenue of the promotion to the post of MTS, they faced stagnation and that their legitimate expectation was denied. Since no orders have been passed thereon, the present OA is filed with a prayer to direct the respondents to promote the applicants to the post of LDC on completion of five years of service and thereafter to the post of UDC, in accordance with the relevant rules.

3. The respondents filed counter affidavit opposing the OA. It is stated that the applicants do not have the right to be promoted/appointed in the category of LDC from any particular date and that their service is governed by the rules that are made from time to time.

4. We heard Shri Soumyajit Pani, learned counsel for applicant and Shri Yakesh Anand, learned counsel for respondents.

5. A complex situation has arisen on account of the frequent amendment of the rules. Initially, the Peons had the avenue of promotion to the post of Record Sorter to the extent of 100%. In the year 2011, this facility was completely taken away. The post of Record Sorter was renamed as MTS and method of appointment was changed to 100% by Direct Recruitment. The result is that there did not exist any chance of promotion for the Peons.

6. The hardship which is caused on account of such a radical change was mitigated to certain extent, by providing the promotion to the extent of 10% to the post of LDC from the category of Peons. The applicants, no doubt, had availed that facility but are of the view that

much harm has been done on account of the change of the rules in the year 2011.

7. In the representation, the applicants ventilated several grievances. To what extent the Corporation can attend to the grievances, is a matter to be examined. It will be premature for this Tribunal to come to any conclusion unless the respondents come forward with a particular view on the representation of the applicants.

8. We, therefore, dispose of the OA directing the respondents to pass orders on the representation submitted by the applicants within a period of two months from the date of receipt of a certified copy of this order. However, we leave it open to the applicants to supplement the representation with new facts, if any, within a period of two weeks from today.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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