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मुख्यालय/ HEADQUARTERS

कर्मचारी राज्य बीमा निगम

(श्रम एवं रोजगार मंत्रालय, भारत सरकार)

EMPLOYEES' STATE INSURANCE CORPORATION

(Ministry of Labour & Employment, Govt. of India)



सत्यमेव जयते

स्थापना शाखा - 1/ ESTABLISHMENT BRANCH - 1
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Website: esic.nic.in/ esic.in

O.A. No. 100/141/2017-E.I

Dated: 12 .07.2024

ORDER

The seniority list of Social Security Officer (SSO)/Branch Managers Grade-II/Superintendents appointed/promoted/recruited during the year the period from 01.04.2006 to 31.03.2009 was finalized vide Memorandum No. A-24/14/1/2008-E.I dated 08.11.2016.

The Hon'ble CAT, PB, New Delhi, in its following orders, had set aside/quashed the said seniority list of Social Security Officer dated 08.11.2016 and directed to redraw the seniority list:

- (a) Order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. case)
- (b) Order dated 15.09.2022 in O.A. No. 1715/2022 (Krishna Murari & Ors. case)
- (c) Order dated 22.03.2023 in O.A No. 1234/2022 (Shanti Mahendran case)
- (d) Order dated 20.04.2023 in O.A. No. 235/2017 (Rajiv Bajaj & Ors. case)

ESIC accepted the order dated 15.09.2022 in O.A. No. 1715/2022 and filed Writ Petition in the Hon'ble High Court of Delhi against the following orders.

- (a) Order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. case)
- (b) Order dated 22.03.2023 in O.A No. 1234/2022 (Shanti Mahendran case)
- (c) Order dated 20.04.2023 in O.A. No. 235/2017 (Rajiv Bajaj & Ors. case)

Subsequently, the Hon'ble High Court of Delhi, vide its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (Anil Katyal & Ors.), WP(C) No. 14351/2023 (Shanti Mahender case) and WP(C) No. 14434/2023 (Rajiv Bajaj & Ors.), dismissed the said 03 writ petitions and, *inter-alia*, directed as under:

"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"

In compliance of above judgement dated 18.03.2024 of the Hon'ble High Court of Delhi and Order dated 15.09.2022 in O.A. No. 1715/2022 of Hon'ble CAT, PB, New Delhi, the provisional

gradation/seniority list of officers in the grade of Social Security Officer / Branch Managers Grade-II / Superintendents was issued vide Memorandum of even No. dated 17.05.2024 and errors and objections, if any, to this provisional seniority list were called for within 03 weeks from the date of issue of the said seniority list. In continuation of the said draft seniority list dated 17.05.2024, a revised draft provisional seniority list of Social Security Officer after incorporating some modifications/corrections was again issued vide Memorandum of even No. dated 28.06.2024 for 01 week.

In response to the above circulations, 39 officers submitted their objections. These objections were carefully examined by the Competent Authority in accordance with the aforesaid direction of the Hon'ble High Court of Delhi and the Hon'ble CAT, PB, New Delhi read with extant instructions of DoP&T in the matter. Accordingly, the Competent Authority has disposed the objections as detailed below:-

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
1.	Shri Vinod Kumar Nagpal (315) Shri Sandeep Goel (399) Shri Rajendra Singh Mehra (339) Shri D H Agasti (343) Shri Nilkanth P. Warang (598) Shri Satyawar Singh (459)	1. Before dilating on the submission in the present representation against the captioned Memorandum, the undersigned at the outset would like to point out that although the Memorandum seeks representations against a purported Draft Seniority List in the Cadre of Social Security Officers, however, a reading of the following paragraphs of the Memorandum showcase that the Competent Authority has already decided the principles on which the Draft Seniority List would be finalised. In this regard, the undersigned draws your kind attention to the following paragraphs of the Memorandum: "The aforesaid judgement has been examined in consultation with legal counsels well versed in the matter. It has been noted that as per judgement of the Hon'ble High Court of Delhi while redrawing the seniority list, the concept as enumerated in N. R. Parmar and K. Meghachandra Singh would have to be kept in mind i.e. the crucial date of 19.11.19. The seniority lists of the Officials as appointed till 18.11.2019 has to be prepared on the principle of N. R. Parmar Judgement/DoPT guidelines and the seniority list of officials appointed after 19.11.19 has to be determined as per the principle as laid down in K. Meghachandra Singh and related DoPT instruction. It has further seen noted that while assigning seniority to an Officer to a particular Recruitment Year/deemed Recruitment Year, it must be seen that the said official is eligible for that Recruitment Year/deemed Recruitment Year.	The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i> , directed as under: <i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of</i>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoPT O.M. dated 13.08.2021, DoPT O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle"</p> <p>3. Without prejudice to the aforesaid, the undersigned would like to draw your attention to the following facts before asserting that the Memorandum is in wholesale derogation to Judgement of the Hon'ble High Court in WP(C) 12135/2023 titled as 'The Employees State Insurance Corporation V. Anil Katyal & Ors.' dated 18.03.2024 and Original Application No. 141 of 2016:</p> <p>a) The Seniority Lists dated 15.03.2016, Corrigendum dated 24.06.2016 and subsequent Seniority List dated 08.11.2016 were challenged before the Hon'ble Central Administrative Tribunal [Hon'ble Tribunal] in Original Application No. 141 of 2016, the Hon'ble Tribunal vide Order and Final Judgement dated 30.08.2022 was pleased to quash the above said Seniority List and hold as under:</p> <p>"10. Learned Counsel for the applicant has drawn attention to several names in the impugned seniority lists, who have been placed above the officials, who were actually appointed/promoted to the said post much earlier. For the sake of illustration in the seniority list dated 24.06.2016 which is for the period 01.04.2006 to 31.03.2009, there is one Sunny Kumar at Sl. No. 280. The said official was only 19 years & three months as on 01.04.2006 and did not even enjoy the basic eligibility to hold the said position. Similarly, at Sl. No. 296, 297 and 299 are the names where the anomaly is glaring. While one Sh. Anil Katyal at Sl. No. 299 was appointed on 30.11.2007, the officials at Sl. Nos. 296 and 297, who got appointed in 2009 and 2008, have been placed above him.</p> <p>11. Without further commenting or dwelling upon the reasons given to draw the seniority lists, we find this position to be unacceptable in view of the law laid down in the K. Meghachandra Singh case judgement (supra) which has been subsequently incorporated in the detailed guidelines issued by the DOP&T vide Office Memorandum dated 13.08.2021. Moreover, the limited protection of the actions already taken subsequent to the N. R Parmar (supra) case judgment is also not available in the instant case.</p>	<p><i>eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), inter-alia, directed as under:</p> <p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant</p>

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		<p>12. In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority lists (A-1, A-2 & A-3) are set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority lists strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than twelve weeks from the date of the order. No costs "</p> <p>b) Subsequently, the ESIC challenged the Order passed by the Hon'ble Tribunal before the Hon'ble High Court of Delhi in WP(C) 12135/2023 titled as '<i>The Employees State Insurance Corporation V. Anil Katyal and Ors.</i>' wherein the ESIC has specifically in its Additional Affidavit dated 06.09.2023 submitted as follows:</p> <p>"(v) In para 9 of the aforesaid order dated 30.08.2022, the Hon'ble CAT has observed that the action of the respondents in assigning an ante dated seniority to the direct recruits does not find any justification in the law laid down in the N.R. Parmar case. The Hon'ble CAT has further observed that nowhere does the Hon'ble Supreme Court in NR Parmar Case nor the DoPT OM dated 04.03.2014 which was an outcome of the said case, mentioned that seniority is to be assigned in the vacancy year in which the recruitment is made or in the year requisition is sent. The Hon'ble CAT has further observed that it has been categorically laid down in the K Megha Chandra Singh case that a right cannot accrue to an official with effect from a date when he had not even entered into service or was not into the cadre.</p> <p>(vi) With respect to the aforesaid observations of Hon'ble CAT, it is submitted that in Para 40 of its Judgement in K. Megha Chandra case, Hon'ble Supreme Court of India has ordered that decision in aforesaid case will not affect the inter-se seniority already based on N. R. Parmar and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy/the date of advertisement. The DoPT OM dated 13.08.2021 which has been issued in compliance of the order of Supreme Court of India in K. Meghachandra Case also provides that cases of inter se Seniority of direct recruits and Promotees already decided as per OM dated 04.03.2014 shall not be disturbed. This OM</p>	<p>to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p> <p><i>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</i></p> <p><i>(ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</i></p> <p><i>(iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of</i></p>

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		<p>further provide that where the recruitment process has been initiated by the administrative Department/Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se Seniority of direct recruits and Promotees shall also be governed by the provisions of Oms dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014"</p> <p>c) The Hon'ble High Court vide its Final Order and Judgement dated 18.03.2014 had rejected, inter-alia, the above submission of the ESIC and had dismissed the Writ Petition with the following observations:</p> <p>"46. Since the impugned lists were not final and under a cloud, they are not protected in terms of the saving paragraph in K. Meghachandra (supra). Even the Tribunal had directed that any promotion made would be subject to outcome of the said Application and in fact promotions made thereafter were made by ESIC also subject to outcome of the Application. Thus, there is no merit in the contention on behalf of the Petitioner that the lists are protected.</p> <p>47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employees State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (Supra) and the instructions & guidelines issued by the Department of Personnel & Training (DoP&T) on the subject. The exercise be completed within a period of eight weeks."</p> <p>d) The undersigned would also like to bring your attention to the following paragraphs of the DoPT OM dated 13.08.2021 and point out that none of the Officers therein have been appointed between the time period 27.11.2012 and 18.11.2019. Even otherwise, it is the ESIC own stand that the purported Draft Seniority List is of Officers appointed/promoted between 01.04.2006 to 31.03.2009:</p> <p>"(iii) In case of direct recruits and Promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the</p>	<p><i>determination of seniority has been decided by any Tribunal or Court.</i></p> <p><i>(iv) For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</i></p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p><i>" a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment</i></p>

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		<p>provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court."</p> <p>e) Despite the aforesaid categorical directions of the Hon'ble Tribunal and the Hon'ble High Court wherein it is specifically mentioned that the Judgement of K. Meghachandra (Supra) would be applied and Para 7(iii) of the DoPT OM dated viz. 'unless a different formulation/manner of determination of seniority has been decided by any Tribunal or Court', the following extracts of the Memorandum posit that the overruled Judgement of N.R. Parmar (Supra) would be applicable:</p> <p>"After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoPT O.M. dated 13.08.2021, DoPT O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle:</p> <p>(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoPT OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year"</p> <p>f) The undersigned submits that it is highly incongruous that the ESIC while accepting the Judgment passed by the Hon'ble High Court has completely negated the purport of the same and is still applying the overruled principle contained in N.R. Parmar (Supra). Even otherwise it is highly strange that despite the Hon'ble Courts reiterating that principle in Meghachandra (Supra) needs to be applied the ESIC blatantly has applied NR Parmar (Supra) again.</p> <p>g) The impact thereof is that even though they have a Judgement passed by the Hon'ble High Court in their favour, their Seniority position remains the same, they were at Item No. 315, 339, 343, 399, 459 in the quashed Seniority List and are still Item No. 315, 339, 343, 399, 459 in the purported Draft Seniority List and is still</p>	<p><i>process against a vacancy year;</i></p> <p><i>e)Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</i></p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i></p> <p><i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i></p> <p><i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i></p> <p><i>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i></p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions</p>

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		<p>below Direct Recruits and Promotees who were borne in the cadre of Social Security Officer after the undersigned i.e. 30.11.2007.</p> <p>4. In view of the above the undersigned submits that the Competent Authority should issue a redrawn Draft Seniority List in accordance with the Judgment passed by the Hon'ble High Court.</p>	<p>of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicants (except Shri N. P. Warang) were promoted to the post of Social Security Officer before 19.11.2019 on regular basis and they were promoted through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007. Therefore, their seniority have, <i>rightly</i>, been fixed in the seniority list by applying rota-quota in ratio 2:1:1 (DPC:LDCE:DR) against the recruitment year/deemed recruitment year 2007-08 as per DoP&T O.M. dated 04.03.2014.</p> <p>Further, Shri Nilkanth Prakash Warang was not eligible for getting the seniority of recruitment year/deemed recruitment year 2007-08 as he had not completed 3 years regular service as on the crucial date of eligibility and therefore, he has been placed against the</p>

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			recruitment year 2008-09 by applying rota quota in ratio 2:1:1 as per DoP&T OM dated 04.03.2014.
2.	Shri Jitender Manocha (586)	<p>1. With due respect, myself is Jitender Manocha posted as Assistant Director (adhoc) in ICT Division. I was promoted as Assistant Director (adhoc) w.e.f. 22.12.2016. Before it, I was promoted as SSO after qualifying Limited Departmental Examination 2008 and placed at Sl. No. 267 of the Final Seniority List dated 02.04.2013. But my place has been changed to Sl. No. 586 in the present provisional list circulated vide Memorandum dated 17.05.2024. I would like to submit following objections as per below representation.</p> <p>2. Before submission I would like to reproduce relevant paras of Memorandum No. O.A. 100/141/2017-E.I dated 17.05.2024 vide which principles followed, in drafting of the seniority list are conveyed, after consulting legal counsels i.e. page 2 item No. a), b) and c).</p> <p>(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year.</p> <p>(b) As per order dated 15.09.2022 of Hon'ble Tribunal in O.A. No. 1715/2022 in Krishna Murari case, the candidate appointed by operating reserved panel may be placed in the redrawn seniority list in the order of consolidated merit list as per DoP&T O.M. No. 20011/1/2008-Estt.(D) dated 11.11.2010.</p> <p>(c) The seniority position of officials recruited through sports quota needs to be assigned to the respective Recruitment Year/deemed Recruitment year to which the vacancy has been identified. The vacancies identified for Sports Quota for the</p>	<p>(1) With regard to issue raised for non-applicability of DoP&T O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, reply given in Point No. 1 above is reiterated here.</p> <p>(2) With regard to issue raised for fixing seniority of reserve panel, it is informed that the seniority of officials appointed by operating reserve panel has been fixed in compliance of the Hon'ble CAT, PB, New Delhi order dated 15.09.2022 in O.A. No. 1715/2017 (Krishna Murari & Ors vs ESIC) which, <i>inter-alia</i>, directed as under:</p> <p><i>"We find that there is no ambiguity as far as the rules and instructions determining the seniority is concerned. We have no reason to question the facts as stated in the O.A. Further, in view of the final order passed in O.A. No. 130/2020, we have also no cause to take any divergent view. Therefore, the present O.A. is allowed with a direction to the respondents to review the impugned seniority list dated 15.03.2006 and make the necessary corrections in the same by according the appropriate place in the said seniority list to the applicants in accordance with the marks and rank obtained by them in the selection examination. While reviewing the said seniority list, the respondents shall also take into consideration the representations filed by the applicants dated 21.03.2016. The aforesaid directions shall be complied with,</i></p>

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		<p>year 2006-07, 2007-08 & 2008-09 were 04, 02 and 01 respectively. Accordingly, the seniority of 04 candidates recruited through sports quota against the vacancies of recruitment year 2006-07 may be placed at bottom of the recruitment year 2006-07 by applying rota-quota with corresponding promote of the recruitment year 2006-07. In the same manner, the seniority of remaining 2 & 1 sports quota candidate recruited against the vacancy of recruitment year 2007-08 & 2008-09 may be fixed respectively.</p> <p>3. In point a) above there is a clear suppression of truth/facts (suppression veri) with suggestion of an untruth (suggestion falsi), the Hon'ble High Court vide its Judgement dated 18.03.2024 had rejected the plea of applicability of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014. Since all the officers listed are available for joining before 27.11.2012 which is the crucial date of implementation of N R Parmar judgement and none of the officer joined after 31.03.2009 is eligible to be a part of this seniority list. Office probably missed the starting date from which these orders are applicable. So, all the officers available for joining between 27.11.2012 and 18.11.2019 can only be governed under N R Parmar based DoPT order.</p> <p>4. In point b) all the officers available after operating reserved panel only after 01.04.2010 and have been adjusted with main panel and has been conveyed that adjusted in accordance with decision of O.A. No. 1715/2022. DoPT has never issued any instruction supporting the breaking/shuffling, where Merit-cum-gradation list prepared on the basis of exam performance issued by recruiting agency has been broken/shuffled. In this case it has happened. Here also there is a clear and complete suggestion of an untruth (suggestion falsi) as they all have to be adjusted as per their availability in accordance with provisions of 07.02.1986/03.07.1986.</p> <p>5. Common factor in point b) and c) is breaking/shuffling of merit list of the candidates on the basis of vacancy year concept which itself has been abolished vide 07.02.1986/03.07.1986. I have secured Rank-1 in the LDCE Examination</p>	<p><i>within a period of 10 weeks from the date of receipt of this order by way of issuing a corrected/revised seniority list."</i></p> <p>Accordingly, the officers recruited by operating reserve panel have been placed in order of consolidated merit list.</p> <p>(3) With regard to issue raised that the applicant's juniors have been placed senior to him in the instant seniority list, it is informed that the applicant was promoted through LDCE against vacancies of the recruitment year/deemed recruitment year 2007-08. However, he has, now, been placed in the seniority list against the vacancies of recruitment year/deemed recruitment year 2008-09 since he was ineligible for holding the said post against the vacancies of recruitment year 2007-08 while his juniors were getting eligible.</p>

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		2008 and placed in the year 2008-09 but all my juniors have been placed above me in the year 2007-08. Whereas, recruitment year concept is to be followed and there is no concept of deemed recruitment year in any of the DoPT circulars. Instead, recruitment year is linked directly with availability. So, any officer joined in the year is eligible only for that year's seniority but not before that as also agreed by Hon'ble High Court of Delhi vide its judgement referring to CAT judgement in the case 1234/2022 (Shanti Mahendran case) along with direction for promotion from the date when their juniors are promoted.	
3.	Ms. Santhi Mahendran (590)	<p>I outrightly and strongly condemn the seniority list published by ESIC on 17.05.2024. This list again unfairly favours direct recruits and adversely affects my career prospects.</p> <p>The List as published by the ESIC on 17.05.2024 is in complete contravention of the Orders of the Hon'ble High Court and the Ld. Central Administrative Tribunal, Principal Bench, New Delhi.</p> <p>The Hon'ble High Court of Delhi, vide its order dated 18.03.2024 (copy enclosed), while dismissing the appeal filed by ESIC, directed ESIC to comply with the directions issued by the Tribunal. The Hon'ble High Court categorically direct ESIC to re-draw the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh and the instructions & guidelines issued by the Department of Personnel & Training (DoP&T). This exercise was to be completed within eight weeks.</p> <p>Relevant Paragraph of the Order of the Hon'ble High Court of Delhi is reproduced herewith below</p> <p><i>"47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employee State</i></p>	<p>The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), <i>inter-alia</i>, directed as under:</p>

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		<p><i>Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"</i></p> <p>The Ld. Central Administrative Tribunal, Principal Bench, New Delhi while deciding the OA 1234/2022 titled Shanti Mahendran v. Employees' State Insurance Corporation & ors. gave a categorical finding in my favour vide Judgement dt. 22.03.2023 holding as follows-</p> <p>9. We do not find that the action of the respondents in assigning an ante dated seniority to the direct recruits finds any justification in the law laid down in the N.R. Parmar case judgement (supra). While passing an order in O.A. No. 1545/2020, we had discussed this issue at great length. We are not inclined to agree with the interpretation very emphatically put forth by the learned counsel for the respondents because nowhere does the Hon'ble Supreme Court in N.R. Parmar's case (supra) nor the DOP&T's Office Memorandum referred to above, which was an outcome of the said case, mentions anywhere that seniority is to be assigned in the vacancy year in which the recruitment is made or in the year requisition is sent. The said judgement and the DOP&T OM merely say that the inter-se seniority is to be assigned with reference to the year. Subsequently, it has been categorically laid down in the K. Meghachandra Singh's case judgement (supra) that a right cannot accrue to an official with effect from a date when he had not even entered into service or was not into the cadre.</p> <p>11. Without further commenting or dwelling upon the reasons given to draw the seniority lists, we find this position to be unacceptable in view of the law laid down in the K. Meghachandra Singh case judgement (supra) which has been subsequently incorporated in the detailed guidelines issued by the DOP&T vide Office Memorandum dated 13.08.2021. Moreover, the limited protection of the action already taken subsequent to the N.R. Parmar (supra) case</p>	<p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees</p>

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		<p>judgment is also not available in the instant case.</p> <p>12. In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority lists (A-1, A-2 & A-3) are set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority lists strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than twelve weeks from the date of the order. No costs.</p> <p>8. In view of the fact that the O.A. No. 141/2017 mentioned in the impugned order has been decided (quoted herein above), this O.A. is also disposed of in similar terms. The impugned orders/seniority lists dated 04.03.2022, 15.03.2016 and 24.06.2016 are quashed and set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made herein above and the instructions & guidelines issued by the DOPT on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a period twelve weeks from the date of receipt of a certified copy of this order. It is made clear that the in-situ promotions shall be effected from the date the same has been granted to the juniors of the applicant.</p> <p>The list as published by the ESIC is a clear and specific case of contempt of not one but two orders i.e. the Order dated 18.03.2024 of the Hon'ble Court and Order dt. 22.03.2023 Ld. Tribunal.</p> <p>DoPT Guidelines vide OM dated 13.08.2021 clearly lays down the procedure for making of a Seniority List in accordance with the judgement of K. Meghachandra Case. Para 6 provides for the guiding principles for ESIC to follow while publishing the Seniority List. The same is as follows –</p> <p>"6. The determination of inter se seniority of</p>	<p>and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p> <p><i>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</i></p> <p><i>(ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</i></p> <p><i>(iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.</i></p> <p><i>(iv) For cases where the recruitment process has been initiated by the administrative</i></p>

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		<p>direct recruits and promotes, as laid down by the Hon'ble Supreme Court of India, in its Order dated 19.11.2019 in K. Meghchandra Singh case, has been carefully examined in consultation with the Department of Legal Affairs, and the following principles have emerged:-</p> <p>(i) The rotation of quota, based on the percentage of vacancies allocated to direct recruitment and promotion in the notified recruitment rules/service rules, shall continue to operate for determining vacancies to be filled by the respective quotas in a recruitment year. The term 'recruitment year' shall mean the year in which the vacancy arises. However, inter se seniority between direct recruits and promotes, who are appointed against the vacancies of respective quota, would be reckoned with reference to the year in which they are appointed i.e. year in which they are borne in the cadre or final appointment order is issued.</p> <p>(ii) The terms recruitment' and appointment' have to be read harmoniously and the determination of seniority for recruits would depend on their actual appointment and not the initiation of recruitment process itself. It thus follows that the seniority of direct recruits and promotes henceforth stands delinked from the vacancy/year of vacancy.</p> <p>(iii) The source of legitimacy of determination of seniority would be with reference to the date of joining of a person against a vacancy. Irrespective of the fact that it may have arisen in the previous year(s) and not being a carried forward vacancy of any quota.</p> <p>(iv) If adequate number of direct recruits (or promotes) do not become available, "rotation of quotas" for the purpose of determining seniority, would stop after the available direct recruits and promotes are assigned their slots on joining in a particular year.</p> <p>(v) The term 'available &. Both in the case of direct recruits as well as promotes, for the purpose of rotation and fixation of seniority, shall be the actual year of appointment after declaration of results/selection and completion of pre-appointment formalities as prescribed.'</p>	<p><i>Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</i></p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p><i>" a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</i></p> <p><i>e)Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of</i></p>

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		<p>(vi) Thus, appointees who join in the concerned recruitment year and those who join in subsequent year(s), would figure in the seniority list of the respective years of their being appointed. To that extent it may not be necessary to go into the question of quota meant for direct recruits and promotes to find out as to the year in which the vacancy arose against which the recruitment is made"</p> <p>Thus, the Seniority List dated 17.05.2024 published by the ESIC is in complete contravention of Guidelines laid down by DoPT, law as laid down by the Hon'ble Apex Court in K. Meghachandra. ESIC's actions have caused immense harassment and hardship to me. I have been constrained to fight for my due rights for more than 14 years now. Due to the colourable actions of ESIC, despite express guidelines from the DoPT, I have suffered immensely in the professional sphere. Since 2009, my promotion has been stalled due to the colourable action of ESIC.</p> <p>ESIC's action to again publish a seniority list in contravention of the law laid down in K. Meghachandra is in express contempt of the Orders of the Hon'ble High Court and Ld. Tribunal. Both the forums have upheld my case and directed ESIC to follow the DoPT guidelines and law in terms of K. Meghachandra.</p> <p>The core issue for consideration before both the Hon'ble High Court and the Ld. Central Administrative Tribunal, Principal Bench, New Delhi was that the Direct Recruits who joined on 30.05.2009 could not gain seniority for earlier years. The Seniority List for the period 2006-09 shall be governed in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh and instructions & guidelines issued by the Department of Personnel & Training (DoP&T) on the subject.</p> <p>This seniority list not only includes direct recruits who joined on 30.05.2009 but also those who joined in 2010 and 2011, thereby violating all relevant instructions and court/tribunal directions. By doing so, the administration has demonstrated a blatant disregard for the instructions on</p>	<p><i>direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</i></p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i></p> <p><i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i></p> <p><i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i></p> <p><i>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i></p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been</p>

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		<p>seniority and the directions of the Hon'ble Court/Tribunal, showing insensitivity and bias.</p> <p>The impact of this is that even though I have a judgment passed by the Hon'ble High Court of Delhi and Ld. Tribunal in my favour, my seniority position remains adversely affected. I was previously listed at Item No. 507 in the quashed seniority list, but in the purported draft seniority list, I have been brought down drastically to Sl. No. 590. This places me below direct recruits who joined the cadre of Social Security Officer on 30.05.2009, as well as those who joined in 2010 and 2011, whereas I joined the cadre on 29.12.2008.</p> <p>Importantly, the appeal was based on the argument that the impugned seniority list were prepared in accordance with the law laid down in N.R. Parmar and were thus protected as per K. Meghachandra. This argument was presented by the Additional Solicitor General, Sh. S. V. Raju, who is currently on the panel of the Enforcement Directorate Department. Despite this, the appeal was dismissed on its merit.</p> <p>The published seniority list also erroneously states that direct recruits who joined in 2009, 2010 and 2011 have been placed in the seniority for 2006-09 based on a legal consultation from well-versed lawyers. It must be emphasized that the decision of the Division Bench of the Hon'ble High Court of Delhi prevails over any individual legal opinion/consultation. The administration must understand that a legal opinion/consultation is subjective and cannot override the authoritative judgement of the Division Bench of the High Court and Tribunal.</p> <p>In view of above, I request your immediate attention to withdraw the seniority list dated 17.05.2024, as it clearly violates the principles laid down by the court/tribunal/instructions. The seniority should be re-cast not to favour the direct recruits, but in strict accordance with the Meghachandra judgement and DoP&T instructions on the subject.</p>	<p>appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicant was promoted to the post of Social Security Officer before 19.11.2019 and she was promoted through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007 and recruitment year was 2007-08. However, she may not be placed against the recruitment year 2007-08 since she was ineligible for holding the said post against the vacancies of recruitment year 2007-08. Therefore, she has been placed in the seniority list against the recruitment year 2008-09 by applying rota quota in ratio 2:1:1 (DPC:LDCE:DR) as per DoP&T OM dated 04.03.2014.</p>

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		I hope for a prompt and favourable response within a week. If not, I will have no option but to file a contempt petition under Section 10 and 12 of the Contempt of Courts Act.	
4.	Shri P. A. Joseph (165)	<p>I have to submit, hereunder, my representation/objection on the positioning of my seniority in the Draft/Provisional Gradation / Seniority List, as advised therein.</p> <p>2. The Sl. No. of my name in the List is 165. I may state that the dates of Regular Appointment/Promotion, or the dates of entry in ESIC (where their dates of Regularisation are not available in the List) in respect of the Sl. Nos. 1, 7, 17, 20, 22, 23, 24, 30, 33, 45, 70, 71, 75, 78, 85, 89, 90, 91, 94, 95, 99, 103, 110, 111, 115, 119, 123, 127, 128, 131, 135, 136, 137, 138, 143, 151, 155, 159 and 163 are far below my date of Regularisation i.e. 21.03.2007 or my date of entry in the ESIC i.e. 30.01.1975. I, therefore, humbly request to kindly rectify the same while finalising the Gradation / Seniority List.</p> <p>3. In this connection, I may also submit that while finalising the Gradation/Seniority List, the rationale adopted in the Union of India & Others Vs. N. R. Parmar (2012) 13SCC340 may not be taken, as the Judgement is NO more in existence, as the same has already been overruled by the Hon'ble Supreme Court. Moreover, the direction of the Hon'ble High Court of Delhi, vide reference cited (2) above, is to re-draft the Seniority List as per the principles laid down in the K. Meghachandra Singh case and the related DOPT instructions.</p> <p>4. I may again submit that in the updated instructions dated 16.09.2022 issued by the Government of India, Ministry of Personnel & Training, Establishment D Section on 'Determination of Seniority of persons appointed to service and posts under the Central Government, the rationale adopted in N.R. Parmar's case has not been taken as this Judgement has already been overruled and nullified.</p> <p>5. I am, therefore, to request to kindly re-fix my seniority, as stated above. I may also kindly be</p>	<p>(1) With regard to rectification in date of regularisation of some officers and date of entry in ESIC, it is informed that the date of regularisation to the post and date of entry in ESIC has been filled as per available record.</p> <p>(2) With regard to non-applicability of DoP&T O.M. dated 04.03.2014 (based on N R Parmar case) for drafting the instant seniority list, the reply has already been given in point No. 1 and the same is reiterated here. Further, the seniority list has been prepared as per existing DoP&T instructions which is circulated vide its OM 20011/2/2019-Estt. (D) dated 13.08.2021.</p>

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		granted the further entitled notional promotions and the benefit therefor, including pension and pensionary benefits. '	
5.	Ms. Mary J Mandy (161)	<p>1. As directed vide Hqrs. Memorandum cited under ref. No. 1 above , I hereby submit my representation/objection against the Provisional/Draft Gradation/Seniority List containing 702 SSOs (including myself at Sl. No. 161, with the request to re-schedule the seniority list in accordance with the law laid down by the Hon'ble Supreme Court in K. Meghachandra Singh & Ors Vs. Ningam Siro & Ors., placing my seniority above the SSO at Sl. No.:1 of the List, as the SSOs as at Sl. No. 1 , 30, 91, 95, 99, 103, 107, 111, 115, 119, 123, 127, 131, 135, 139, 143, 147, 151, 155 and 159 are placed above me though they are appointed in the post of Social Security Officers/ Manager Grade-II/Office Supdts during the year 2008 and 2009 i.e. after my promotion to the post of SSO.</p> <p>2. In this connection, I may submit that while re-scheduling the Seniority/Gradation List the rationale adopted in Union of India & Others Vs. N.R. Parmar (2012)13 SCC 340 may not be taken as the judgement is no more in existence as the judgement has already been overruled by the Hon'ble Supreme Court. Moreover, the direction of the Hon'ble High Court of Delhi referred to at Ref. No. 2 above is to re-draft the Seniority List as per the principles laid down in K. Meghachandra Singh case and related DOPT instructions.</p> <p>3. In this connection, I have also to submit that in the Updated instructions dated 16.09.2022 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Dept. of Personnel & Training, Establishment D Section, on 'Determination of Seniority of persons appointed to services and posts under the Central Government the rationale adopted in NR Parmar's case has not been taken as this judgment has already been overruled and nullified.</p> <p>4. It is requested that my seniority may be re-fixed as stated above and I may be granted the entitled promotion and promotional benefits, including pension and pensionary benefits</p>	<p>(1) With regard to placing officers at Sl. No. 1, 30 above the applicant even they were appointed after the applicant, it is informed that the applicant has been recruited against the vacancies of recruitment year 2006-07 while Officers at Sl. No. 1, 30 have been appointed against the vacancies of recruitment year 2005-06. Further, Sl. No. 91, 95, 99, 103, 107, 111, 115, 119, 123, 127, 131, 135, 139, 143, 147, 151, 155 and 159 have been appointed against the vacancies of recruitment year/deemed recruitment year 2006-07 and the applicant is also recruitment against the same recruitment year. However, after applying rota - quota between DPC & DR in ratio 3:1 as per DoP&T OM dated 04.03.2014, the aforesaid officers have been placed above the applicant since they are higher in order of merit than the applicant.</p> <p>(2) With regard to non-applicability of DoP&T O.M. dated 04.03.2014 (based on N R Parmar case) for drafting the instant seniority list, the reply has already been given in point No. 1 and the same is reiterated here. Further, the seniority list has been prepared as per existing DoP&T instructions which is circulated vide its OM 20011/2/2019-Estt. (D) dated 13.08.2021.</p>

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		accordingly. '	
6.	Shri P. R. Yalakkishettar, SSO (Retd.) (523)	<p>The seniority position of official recruited through sports quota need to be assigned to the respective recruitment year/deemed recruitment year to which the vacancy have been identified. Accordingly, the seniority of candidate recruited through sports quota against the vacancies of recruitment year 2006-07, 2007-08 & 2008-09 may be fixed respectively.</p> <p>I, therefore, request Hqrs., I being the recruited through Dept. Test/revised gradation list for the period from the year from the year & period from 01.04.2006 to 31.03.2009 [as per provisional list, I qualified through Dept. Test on 25.11.2008] my case may be kindly be examined for the deemed promotion as Assistant Director against the recruitment year/against the vacancies.</p>	<p>With regard to seniority position of official recruited through sports quota need to be assigned to the respective recruitment year/deemed recruitment year to which the vacancy has been identified, it is informed that the vacancies identified for Sports Quota for the year 2006-07, 2007-08 & 2008-09 were 04, 02 and 01 respectively. Accordingly, the seniority of 04 candidates recruited through sports quota against the vacancies of recruitment year 2006-07 have been placed at bottom of the recruitment year 2006-07 by applying rota-quota with corresponding promotee of the recruitment year/deemed recruitment year 2006-07. In the same manner, the seniority of remaining 02 & 01 sports quota candidate recruited against the vacancy of recruitment year 2007-08 & 2008-09 have been fixed respectively.</p>
7.	Shri Muraleedharan T (503)	<p>As directed vide Memo under reference, I hereby submit my representation/objection against the provisional/Draft Gradation/Seniority list containing 702 officials (including myself at Sl. No. 503) with request to re-schedule the above draft seniority list in accordance with the law laid down by the Hon'ble Supreme Court in the case of K. Meghachandra Singh & Others Vs. Ningam Siro & Others, placing my seniority position above the officials proposed at Sl. No. 91, 95, 99, 103, 107, 111, 115, 119, 123, 127, 131, 135, 139, 143, 147, 151, 155, 159, 163, 167, 171, 175, 179, 183, 187, 191, 195, 199, 203, 207, 211, 215, 219, 223, 227, 231, 235, 239, 242, 247, 251, 254 to 296, 300, 304, 308, 312, 316, 320, 324, 328, 332, 336, 340, 344, 348, 352, 356, 360, 364, 368, 372, 376, 380, 384, 388, 392, 396, 400, 404, 408, 412, 416, 420, 424, 428, 432, 436, 440, 444, 448, 452, 456, 460, 464, 468, 472, 476, 480, 484, 488, 492, 496 and 500</p>	<p>The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance</i></p>

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		<p>placed above me though they are directly appointed in the post during the subsequent years 2009 and 2010, i.e., after my promotion to the post in the year 2008. My promotion to the post was on 25.11.2008 by selection through LDCE in the year, 2008.</p> <p>In this connection, I may submit that while re-scheduling the Seniority / Gradation list the rationale adopted in the case of Union of India & Ors. Vs. N. R. Parmar (2012)13 SCC 340 may not be taken, as the judgment is no more in existence as the judgment has already been overruled by the Hon'ble Supreme Court. Moreover, the direction of the Hon'ble High Court of Delhi referred to at Ref. No. 2 above is to re-draft the seniority list as per the principles laid down in K. Meghachandra Singh case and related DOPT instructions.</p> <p>I have also to submit that in the updated instructions dated 16.09.2022 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training, Establishment D Section, on "Determination of Seniority of persons appointed to services and posts under the Central Government", the rationale adopted in N. R. Parmar's case has not been taken, as this judgment has already been overruled and nullified.</p> <p>It is requested that my seniority position may be re-fixed as stated above and I may be granted the entitled promotion and promotional benefits, including pension and pensionary benefits.</p>	<p><i>Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), inter-alia, directed as under:</p> <p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to</p>

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			<p>redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p> <p><i>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</i></p> <p><i>(ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</i></p> <p><i>(iii) In case of direct recruits and promotees appointed/joined during the period between</i></p>

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			<p><i>27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.</i></p> <p><i>(iv) For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</i></p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p><i>"a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and</i></p>

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			<p><i>promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</i></p> <p><i>e)Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</i></p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i></p> <p><i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i></p> <p><i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i></p> <p><i>i) The cases of seniority already</i></p>

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			<p><i>settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i></p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicant was promoted to the post of Social Security Officer through Limited Departmental Competitive Examination against the vacancies of recruitment year/deemed recruitment year 2007-08. Accordingly, he has, rightly, been placed against the seniority of recruitment year 2007-08 by applying rota-quota in ratio 2:1:1 with Promotee and DR quota candidates appointed/promoted against the same recruitment year/deemed recruitment year as per Do&T OM</p>

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			dated 13.08.2021 & 04.03.2014.
8.	Shri Jaydeep Maity (515) Shri Subhan Kant Thakur (311)	<p>I like to register my objection against the policy adopted in fixing the seniority of SSO/Mgr. Gr. II/Supdt. Promoted/ Appointed/ Recruited during 01.04.2006 to 31.03.2009, in which my name was placed under Sl. No. 515, which has been drawn suppressing the fact, the direction of Hon'ble High Court, New Delhi, the Hon'ble CAT, Principal Bench and the instruction issued by the DoPT from time to time in this regard and thus denied the natural justice as was awarded by the Hon'ble Courts. The following points are being raised before the authority to consider:</p> <p>1. That at Page/2 of the said Memo, under the re-production of the verdict of Hon'ble High Court, New Delhi, it was mentioned that "the aforesaid judgement has been examined in consultation with legal counsels well versed in the matter. It has been noted that as per judgement of the Hon'ble High Court of Delhi while redrawing the seniority list, the concept as enumerated in N.R. Parmar and K. Meghachandra Singh would have to be kept in mind i.e. the crucial date of 19.11.19. The seniority lists of the Officials as appointed till 18.11.2019 has to be prepared on the principle of N.R. Parmar Judgement/DoPT guidelines and the seniority list of Officials appointed after 19.11.19 has to be determined as per the principle as laid down in K. Meghachandra Singh and related DoPT instruction. It has further been noted that while assigning seniority to an Officer to a particular Recruitment Year/Deemed Recruitment year " which is not only baseless but also a deliberate attempt to suppress/deny the order/judgement passed by the Hon'ble High Court, Delhi. It is not understood as to how the Judicial Order can be examined/reviewed by the Executive Body. Either it should be implemented in toto or to be challenged in Higher Forum as per the Rule of the Land. Further, in the judgement of the Hon'ble High Court, Delhi, the verdict was very clear being "to redraw the seniority complying the direction of the Hon'ble Tribunal, in accordance with the law laid down by the Apex Court in the K. Meghachandra Singh (Supra) and the instruction & guidelines issued by DoPT in the subject." As such there should not be any iota of</p>	With regard to objections raised by the applicant regarding non-applicability of DoP&T O.M. dated 04.03.2014 (based on N R Parmar case) for drafting the instant seniority list, the reply has already been given in point No. 1 and the same is reiterated here.

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		<p>doubt that in my case, the N.R. Parmar case does not come under consideration in any manner and the action taken by Hqrs. Office, as discussed above is not only bad before Law but also liable to be set aside.</p> <p>2. That the sanctity of the Order of the Hon'ble Courts was unholified by taking decision for setting principles in issuing/publishing the seniority list in question as enumerated under (a), (b) & (c) of Page/2 of the Memo in question for the reason as already discussed under Point No. 1. Further, I have to state that the Hon'ble Tribunal vide order dated 30.08.2022 was clearly instructed to re-draw the seniority "strictly in accordance with the observation made herein above and the guidelines issued by the DoPT on the subject" which was clearly instructed to re-draw the seniority "strictly in accordance with the observation made hereinabove and the guidelines issued by the DoPT on the subject" which was further upheld by the Hon'ble High Court in its verdict dated 18.03.2024 stating "to redraw the seniority complying the direction of the Hon'ble Tribunal." It is pertinent to mention that vide order dated 30.08.2022 passed by the Hon'ble Tribunal, in the matter of O.A. No. 141/2017, M.A. No. 447/2022, M.A. No. 418/2021 & M.A. No. 2164/2020 under observation point 10, the Hon'ble Tribunal stated that "similarly at Sl. No. 296, 297 & 299 are the names where the anomaly is glaring" and under Point No. 11 "we find his position to be unacceptable" in the context of fixing seniority of the person appointed/promoted earlier but placed below than the person appointed/promoted later "in view of the law laid down in the K. Meghachandra Singh case judgement(supra) which was been subsequently incorporated in the detailed guidelines issued by DoPT vide O.M. dated 13.08.2021" which interalia directed to redraw the seniority list strictly in accordance with the direction passed in K. Meghachandra Case and the DoPT instruction dated 13.08.2021 and there is no scope of interference/consideration of N.R. Parmar Case in fixing the seniority. As such the principle adopted in re-drawing the seniority is not only bad before law being a rigorous attempt to violate the Judgement passed by the Hon'ble</p>	

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		<p>Court and thus liable to be set aside.</p> <p>3. That the N.R. Parmar Case is not at all applicable in drawing seniority of the Officials appointed/promoted between 01.04.2006 to 31.03.2009 since the DoPT order dated 04.03.2014 issued in compliance with N.R. Parmar case itself states that "the inter-se seniority to be assigned with ref. to the year" and subsequently it has been categorically laid down in the K. Meghchandra Singh Case judgement (supra) that "a right cannot accrue to an official w.e.f. a date when he had not even entered into the service or was not into the cadre"</p> <p>In view of the above, your Honour would surely be apprised that there were procedural lapses in operating the re-drawing of the seniority in compliance with the judgement of the Hon'ble High Court as well as Hon'ble Tribunal and accordingly, it is my fervent prayer to review the policy adopted in fixing my seniority vide alleged Memo dated 17.05.2024, which is totally wrong and not acceptable in the light of the Judgement passed by the Hon'ble Tribunal & Hon'ble High Court, Delhi and to place me above all those employees who were not in the cadre on the date of my joining as SSO/Manager Gr. II/Suptd., maintaining the rota-quota as applicable under the Rule published vide DoPT from time to time and in particular vide OM dated 13.08.2021.</p>	
9.	Shri Y. K. Saini (658)	<p><i>It is submitted that as per directions dated 18th July 2023 given by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in the matter of OA No. 393 of 2018, it was directed that the Competent Authority amongst the respondents that, pursuant to the direction of this Tribunal in the aforementioned OAs, (O.A. No. 1715/2017, O.A. No. 1234/2022 and O.A. No. 235/2017) that at the time of review and recast of the impugned seniority list dated 08.11.2016 the ESI Corporation should give due consideration to the contents of the representation of the applicant dated 17.04.2016 and pass appropriate orders thereupon. Furthermore, in the light of liberty granted by the CAT-PB-New Delhi supplementary representation was also submitted (before the Director General, ESIC HQ, New Delhi) on 18th August, 2023, within stipulated</i></p>	<p>The representation has been disposed of through a separate speaking order.</p>

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		<p>time.</p> <p><i>From the descriptions as given on the very first page of the published provisional list, it is noticed that Order dated 15.09.2022 in O.A. No. 1715/2022 (Krishna Murari & Ors. case) has been accepted by the Competent Authority and in the matter of remaining following 3 cases:-</i></p> <p><i>(i) Order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. case)</i></p> <p><i>(ii) Order dated 22.03.2023 in O.A. No. 1234/2022 (Shanti Mahendran case)</i></p> <p><i>(iii) Order dated 20.04.2023 in OA No. 235/2017 (Rajiv Bajaj & Ors. case)</i></p> <p><i>The ESIC has decided and filed Writ Petitions in the Hon'ble High Court of Delhi.</i></p> <p><i>But after detailed arguments, the Hon'ble High Court of Delhi, vide its judgements dated 18.03.2024 in WP(C) No. 12135/2023 (Anil Katyal & Ors.), WP(C) No. 14351/2023 (Shanti Mahenderan case) and WP(C) No. 14434/2023 (Rajiv Bajaj & Ors.), dismissed all the above said 3 writ petitions and, inter-alia, directed as under:</i></p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employees' State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (Supra) and instructions & Guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"</i></p> <p>On perusal of the said provisional seniority list it is found that no cognizance has been given to the directions as issued by the Hon'ble CAT, PB New Delhi in the matter of OA No. 393 of 2018, decided on 18th July, 2023, while drafting the alleged revised seniority list of Social Security Officer (SSO)/Branch Managers Grade-II/Superintendents for the period from</p>	

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		<p>01.04.2006 to 31.03.2009. As such the representation/objections against the said draft seniority list are being submitted hereunder:</p> <p>1. That while redrafting the revised (provisional) seniority list dated 17.05.2024, no need to the orders dated 18th July 2023 of Hon'ble Tribunal, Principle Bench, New Delhi has been given by the ESI Corporation at the time of reviewing and recasting the impugned seniority list dated 08.11.2016, whereas the ESI Corporation was directed to gave due consideration to the contents of the representation of the applicant dated 17.04.2016 and pass appropriate orders thereupon.</p> <p>2. That No appropriate speaking order has been passed by the Competent Authority in compliance of the CAT orders.</p> <p>3. That the Memorandum No. O.A. 100/141/2017-E.I dated 17.05.2024 clearly indicates that neither my representation dated 17.04.2016 nor the supplementary representation dated 18th August 2023 has been given due weightage or considered while redrafting the alleged seniority list.</p> <p>4. That in my case (OA No. 393 of 2018, decided on 18th July 2023) Hon'ble Tribunal has ordered that <i>"the present O.A. is disposed of with a direction to the competent authority amongst the respondents that, pursuant to the direction of this Tribunal in the aforementioned OAs, at the time of review and recast of the impugned seniority list dated Item No. 58 (C-4) 08.11.2016, they shall given due consideration to the contents of the representation of the applicant and pass appropriate orders thereupon."</i></p> <p>5. That even the Hon'ble High Court of Delhi, while dismissing the Writ Petition filed by the Corporation, has clearly ordered "In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade – II/Superintendents in the Employee State Insurance Corporation in</p>	

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		<p>accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject.</p> <p>6. There was no order or direction given by the Hon'ble High Court of Delhi to revise the seniority list on the principle of N.R. Parmar Judgment. It was to be revised solely according to the principle as laid down by the Hon'ble Supreme Court of India in the matter of K. Meghachandra Singh and related DoPT's instructions, on the subject.</p> <p>7. That the published provisional seniority list is related to the period 01.04.2006 to 31.03.2009 as such the judgment pronounced on 27.11.2012 by the Hon'ble Supreme Court {Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar vs. UOI & Ors} is not applicable in the matter/seniority prior to that particular date.</p> <p>8. That according to the point (h) of DoP&T's OM No. 20011/1/2012-Estt.(D) Orders dated 04.03.2014 the principles for determination of inter-se-seniority of direct recruits and promotes is effective from 27.11.2012, the date of Supreme Court's Judgement in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar v/s UoI & Ors.</p> <p>9. That it is also totally illegal to redraw the inter-se seniority of Social Security Officers, again on the basis of DoP&T's OM No. 20011/1/2012-Estt. (D) dated 04.03.2014 {issued as per principle of N R Parmar} since all officers enlisted in the said list were appointed/promoted prior to the judgement of Apex Court. Moreover, the said judgment has been negated by the Supreme Court in K. Meghachandra Singh' case.</p> <p>10. That the published provisional seniority list violates Para 7(iii) of DoP&T's OM No. 20011/2/2019-Estt.(D) dated 13th August 2021, as I joined the post of SSO on 09.08.2010 based on the LDCE held during March 2010.</p> <p>11. That in case of my seniority it is very clear that the failed candidates (declared passed under the relaxed criteria at a later stage) can't be placed at a senior place upon the candidate</p>	

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		<p>who actually qualified the Limited Departmental Competitive Examination (LDCE) for the post of SSO/BM Gr.II/Superintendent.</p> <p>12. That even in the Gazette Notification dated 19th May 2007 regarding "ESIC Insurance Inspector/Manager Grade-II/Superintendent) Recruitment Regulations 2007" under clause no. 5(power to relax) it is categorically stated that "whereas the Director General of the ESIC is of the opinion that it is necessary or expedient so to do, he may after taking the prior approval of the Central Government, 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 persons", which was not obtained.</p> <p>13. That under the pretext of relaxation in qualifying marks to the basically failed candidates, without obtaining any prior approval of the Central Govt. is definitely illegal, unfair, biased and non-maintainable before any law of the land. This smells excessive use of administrative powers and attribute to favouritism too.</p> <p>14. That, granting relaxation in qualifying marks without prior Central Government approval is illegal, unfair, biased, and non-maintainable before any law.</p> <p>15. That the impugned seniority list dated 08.11.2016 (since been further published vide order dated 15.07.2024, provisional list) to the post of Social Security Officer/Manager Grade-II/Superintendent should be revised to the extend by which the persons those who have been appointed after relaxation of rules have been placed above the persons who have been qualified/appointed without any relaxation of rules, declaring to the effect that the same are illegal, arbitrary and discriminatory.</p> <p>16. That the alleged provisional seniority to the post of SSOs/BMs/Superintendents should be changed / re-casted in the true spirits, as per orders dated 18.07.2023 of Hon'ble CAT, with all consequential benefits including the promotion to the post of Assistant Director to the applicant.</p> <p>17. That the failed officials/officers who have</p>	

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		<p>been declared qualified after granting relaxation and unlawfully placed at placed at Sr. No. 1, 3 to 4, 6 to 16 & 18 to 21 of the Office Order No. 12 of 2010 (issued under reference no. A-36(31) / 2009-Exam dated 12th May 2010) may kindly be declared junior to the officials (who actually qualified the LDCE on merit) at Sr. No. 2, 5 & 17 of the same order.</p> <p>18. That the persons those who have been appointed or promoted after relaxation should always are to be placed at bottom of the penal and there is no reasons and justification to place those person above the persons those who have been promoted by normal conditions, without any relaxation.</p> <p>Therefore, most humbly it is requested that the published provisional seniority list dated 17.05.2024 may kindly be re-visited in the light of the directions given on 18th July 2023 by Hon'ble Tribunal, New Delhi in the matter of OA No. 393 of 2018 (Y.K. Saini vs ESI Corporation & another) and the seniority should be decided after due consideration of the representation(s) dated 17.4.2016 (reminder dated 05.07.2016) and 18.08.2023 submitted by the applicant for consideration of the competent authority, with all the consequential benefits, including the promotion, pay and allowances, pension etc. according to DoPT's orders and instructions on the issue.</p> <p>Kindly pass appropriate speaking order for review & recast the seniority list, after giving due weightage and considering the facts and circumstances as mentioned in the ibid representations, submitted by the applicant, as per consent given by the learned counsel of the corporation before the Hon'ble CAT – Principle Bench – New Delhi.</p> <p>Further, it may kindly be noted that even if my seniority is not revised as per directions of Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 393 of 2018, dated 18 July 2023 and Hon'ble High Court of Delhi order dated 18.03.2024 in WP(C) No. 12135/2023, WP(C) No. 14351/2023 and WP(C) No. 14434/2023, at appropriate point, the</p>	

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		applicant is compelled to file a contempt petition in the court of law.	
10.	Shri Ratnakaran M. (618)	<p>1. My personal details such as date of birth, educational qualification and date of entry in ESIC shown in the Draft/provisional seniority list are not correct. The correct details are furnished below with a request to make necessary corrections in the list.</p> <p>i) Date of birth: 02-05-1957</p> <p>ii) Educational Qualification: MA, DLL, PGDCA.</p> <p>iii) Date of entry in ESIC: 01.02.1982</p> <p>2. I was promoted as SSO and assumed charge on 3-4-2008 and while continuing as SSO the result of the Limited Departmental Competitive Examination was published vide Hqrs. O.O. No. 12 of 2010 read in letter No. A-36(31)2009-Exam dated 12-5-2010.</p> <p>3. From the Memorandum cited (1) and ref (2) above it is noticed that the Hon'ble High Court of Delhi directed to re-draw seniority list of SSO/BM Gr.II/Superintendents in accordance with the law laid down by the Hon'ble Supreme Court in K. Meghachandra Singh (Supra) and instructions and guidelines issued by DOP&T. Accordingly the seniority of the direct recruits would be counted from their date of appointment to the service. But in the draft seniority list direct recruits joined in service even in 2011 were included and placed above me.</p> <p>4. It is therefore requested that my seniority position may be re-fixed considering my actual promotion to the post as 3-4-2008 based on the principle laid down in Para 8 of the General Principles Annexed in OM No. 9/11/55-RPS of the Ministry of Home Affairs Govt. of India, New Delhi, dated 22.12.1959 and as my probation in the cadre is completed, I may be granted the entitled promotion and promotional benefits including pension and pensionary benefits.</p>	With regard to fixing of seniority from the date of appointment/promotion to the post, the reply has already been given in point No. 1 and the same is reiterated here.
11.	Shri Manoj Kumar Sahoo (439)	I would like to register my objections/representations against the provisional seniority list (my Sl. No. 439) issued vide Memorandum No. O.A. 100/141/2017-E.I dated	With regard to issue that the seniority list of Social Security Officer is not in compliance of Judgement dated 18.03.2024 in

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		<p>17.05.2024 as the same has not been prepared as per the directions given by the Hon'ble High Court, New Delhi, the Hon'ble CAT, PB and the instructions issued by the DoPT from time to time in the matter.</p> <p>In this context, the undersigned draws your kind attention to the following relevant paragraphs of the judgments of Hon'ble High Court, New Delhi delivered on 18.03.2024 since the aforesaid provisional seniority list has not been drafted in accordance with the judgement dated 18.03.2024 in WP(C) No. 12135/2023(Anil Katyal & Ors.):-</p> <p>a) Para – 43 :- <i>"The provisional seniority list was published for the first time on 21.5.2015 based on N.R. Parmar (Supra) calling for objections/representations. Private respondents represented/objected against the said provisional seniority list. On 15/3/2016, the objections were rejected. Subsequently, a corrigendum was issued on 27/6/2016 and again representation/objections were called for. Said list was also objected to. Finally the representations/objections were disposed of and the impugned final seniority list was published on 8/11/2016"</i></p> <p>b) Para-44:- <i>"Immediately thereafter subject original application being OA 141 of 2017 dated 28/12/2016 was filed before the Tribunal and was listed in January, 2017 challenging the seniority lists dated 15/3/2016, 24.6.2016 and 8/11/2016. The Tribunal by order dated 29/10/2020 directed that any promotion that took place in the meanwhile would be subject to outcome of the O.A. Further, the promotions made thereafter vide Office Orders dated 19/3/2021 and 23/12/2020 have been made subject to the outcome to the subject Original Application.</i></p> <p>c) Para-45:- <i>Clearly, the impugned seniority lists dated 15/3/2016, 24/6/2016 and 8/11/2016 were not settled seniority lists as they had been objected to and immediately challenged by approaching the Tribunal on 28/12/2016"</i></p> <p>Further Hon'ble Court held that:-</p>	<p>WP(C) No. 12135/2023, the following is informed:</p> <p>The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the</i></p>

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		<p>d) Para-46:- <i>"Since the impugned lists were not final and under a cloud, they are not protected in terms of the saving paragraph in K. Meghachandra (Supra). Even the tribunal had directed that any promotion made would be subject to outcome of the said Application and in fact promotions made thereafter were made by ESIC also subject to outcome of the application. Thus there is no merit in the contention on behalf of the petitioner that the lists are protected"</i></p> <p>e) Para-47:- <i>"In view of the above, there is no merit in the petitions and the same are consequently dismissed. The petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the seniority list for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the ESIC in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the DoPT on the subject. The exercise be completed within a period of eight weeks"</i></p> <p>Further, the undersigned would also like to bring your attention to the following paragraphs of the DoP&T OM dated 13.08.2021 and point out that none of the Officers in the instant draft seniority list issued vide OM dated 17/5/2024 have been appointed between the time period 27.11.2012 and 18.11.2019. Even otherwise, it is the ESIC own stand that the purported Draft Seniority List is of Officers appointed/promoted between 01.04.2006 to 31.03.2009.</p> <p>As per DoPT instructions OM dated 13/8/2021 issued on the basis of Hon'ble Supreme Court Judgement in the case of K. Meghachandra Singh (supra), clearly says that:-</p> <p>"7(iii) In case of direct recruits and Promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalized by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court."</p>	<p><i>instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p>

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		<p>Despite the aforesaid categorical directions of the Hon'ble Tribunal and the Hon'ble High Court wherein it is specifically mentioned that the judgment of K. Meghachandra (supra) would be applied and para 7(iii) "unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court" the following extracts of the Memorandum dated 17/5/2024 posit that the overruled judgment of N. R. Parmar (supra) would be applicable:-</p> <p>"After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoP&T O.M. dated 13.08.2021, DoPT O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle:-</p> <p>(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoPT OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year."</p> <p>The undersigned submits that it is highly incongruous/baseless that the ESIC while accepting the judgment passed by the Hon'ble High Court has completely negated/disaffirm the purport of the same and is still applying the overruled principle contained in N.R. Parmar (supra). Even otherwise, it is highly strange that despite the Hon'ble Courts reiterating that principle in Meghachandra (supra) needs to be applied in my seniority case, ESIC blatantly has applied NR Parmar(supra) again which is contempt to the order passed by the Hon'ble High Court vide its order dated 18/3/2024.</p> <p>The impact thereof is that even though the undersigned has a Judgement passed by the Hon'ble High Court in its favour the Seniority</p>	<p>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</p> <p>(ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</p> <p>(iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.</p> <p>(iv) For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</p>

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		<p>position of the undersigned remains the same, the undersigned was placed at Sl. No. 439 in the quashed seniority list and is still at SL. No. 439 in the purported Draft Seniority List and is still below Direct Recruits and Promotees who were borne in the cadre of Social Security Officer after the undersigned. From the ibid draft seniority list circulated vide OM dated 17/5/2024, it clearly establishes that ESIC has not followed the Hon'ble High Court Judgment dated 18/3/2024 in true spirit.</p> <p>Further, it is also to bring to your kind notice that a Final Seniority list of SSOs was issued vide Memorandum No. A-24/14/1/2008-E.I dated 2/4/2013 as per DoPT OM dated 7.2.86/3.7.86. As per DOPT OM dated 4/3/2014 which was issued in pursuance of Hon'ble Supreme Court Judgment in the case of N.R. Parmar in consultation with Department of Legal Affairs under 5(i) "The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT OM dated 7.2.1986/3.7.1986 may not be reopened." As such the seniority list SSOs which was finalized vide OM dated 2/4/2013 should not have reopened.</p> <p>In view of the above, the undersigned requests that the Competent Authority should redraw the Draft Seniority List of SSOs in compliance of the Judgement passed by the Hon'ble High Court in its order dated 18/3/2024 and directions issued by the Tribunal. The seniority list in question should not be prepared on the basis of overruled principle contained in N.R. Parmar blatantly as the same is not applicable in my case as ruled by the Hon'ble High Court vide its judgment dated 18/3/2024.</p>	<p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p><i>"a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</i></p> <p><i>e)Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</i></p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion</i></p>

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
			<p>would be deemed to be the initiation of recruitment process for the other mode as well;</p> <p>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</p> <p>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</p> <p>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-</p>

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			<p>Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicants (except Shri N. P. Warang) were promoted to the post of Social Security Officer before 19.11.2019 on regular basis and they were promoted through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007. Therefore, their seniority have, <i>rightly</i>, been fixed in the seniority list by applying rota-quota in ratio 2:1:1 (DPC:LDCE:DR) against the recruitment year/deemed recruitment year 2007-08 as per DoP&T O.M. dated 04.03.2014.</p> <p>Further, Shri Nilkanth Prakash Warang was not eligible for getting the seniority of recruitment year/deemed recruitment year 2007-08 as he had not completed 3 years regular service as on the crucial date of eligibility and therefore, he has been placed against the recruitment year 2008-09 by applying rota quota in ratio 2:1:1 as per DoP&T OM dated 04.03.2014.</p>
12.	Anil Katyal (299)	1. Before dilating on the submission in the present representation against the captioned Memorandum, the undersigned at the outset would like to point out that although the Memorandum seeks representations against a purported Draft Seniority List in the Cadre of Social Security Officers, however, a reading of the following paragraphs of the Memorandum showcase that the Competent Authority has already decided the principles on which the Draft Seniority List would be finalised. In this regard, the undersigned draws your kind attention to the	<p>The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the</i></p>

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		<p>following paragraphs of the Memorandum:</p> <p>"The aforesaid judgement has been examined in consultation with legal counsels well versed in the matter. It has been noted that as per judgement of the Hon'ble High Court of Delhi while redrawing the seniority list, the concept as enumerated in N. R. Parmar and K. Meghachandra Singh would have to be kept in mind i.e. the crucial date of 19.11.19. The seniority lists of the Officials as appointed till 18.11.2019 has to be prepared on the principle of N. R. Parmar Judgement/DoPT guidelines and the seniority list of officials appointed after 19.11.19 has to be determined as per the principle as laid down in K. Meghachandra Singh and related DoPT instruction. It has further seen noted that while assigning seniority to an Officer to a particular Recruitment Year/deemed Recruitment Year, it must be seen that the said official is eligible for that Recruitment Year/deemed Recruitment Year.</p> <p>After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoPT O.M. dated 13.08.2021, DoPT O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle"</p> <p>3. Without prejudice to the aforesaid, the undersigned would like to draw your attention to the following facts before asserting that the Memorandum is in wholesale derogation to Judgement of the Hon'ble High Court in WP(C) 12135/2023 titled as 'The Employees State Insurance Corporation V. Anil Katyal & Ors.' dated 18.03.2024 and Original Application No. 141 of 2016:</p> <p>a) The Seniority Lists dated 15.03.2016, Corrigendum dated 24.06.2016 and subsequent Seniority List dated 08.11.2016 were challenged before the Hon'ble Central Administrative Tribunal [Hon'ble Tribunal] in Original Application No. 141 of 2016, the Hon'ble Tribunal vide Order and Final Judgement dated 30.08.2022 was pleased to quash the above said Seniority List and hold as under:</p>	<p><i>directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), inter-alia, directed as under:</p> <p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and</p>

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		<p>"10. Learned Counsel for the applicant has drawn attention to several names in the impugned seniority lists, who have been placed above the officials, who were actually appointed/promoted to the said post much earlier. For the sake of illustration in the seniority list dated 24.06.2016 which is for the period 01.04.2006 to 31.03.2009, there is one Sunny Kumar at Sl. No. 280. The said official was only 19 years & three months as on 01.04.2006 and did not even enjoy the basic eligibility to hold the said position. Similarly, at Sl. No. 296, 297 and 299 are the names where the anomaly is glaring. While one Sh. Anil Katyal at Sl. No. 299 was appointed on 30.11.2007, the officials at Sl. Nos. 296 and 297, who got appointed in 2009 and 2008, have been placed above him.</p> <p>11. Without further commenting or dwelling upon the reasons given to draw the seniority lists, we find this position to be unacceptable in view of the law laid down in the K. Meghachandra Singh case judgement (supra) which has been subsequently incorporated in the detailed guidelines issued by the DOP&T vide Office Memorandum dated 13.08.2021. Moreover, the limited protection of the actions already taken subsequent to the N. R Parmar (supra) case judgment is also not available in the instant case.</p> <p>12. In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority lists (A-1, A-2 & A-3) are set aside. The Competent Authority amongst the respondents is directed to re-draw the seniority lists strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than twelve weeks from the date of the order. No costs "</p> <p>b) Subsequently, the ESIC challenged the Order passed by the Hon'ble Tribunal before the Hon'ble High Court of Delhi in WP(C) 12135/2023 titled as '<i>The Employees State Insurance Corporation V. Anil Katyal and Ors.</i>' wherein the ESIC has specifically in its Additional Affidavit dated</p>	<p>the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p> <p>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</p>

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		<p>06.09.2023 submitted as follows:</p> <p>“(v) In para 9 of the aforesaid order dated 30.08.2022, the Hon’ble CAT has observed that the action of the respondents in assigning an ante dated seniority to the direct recruits does not find any justification in the law laid down in the N.R. Parmar case. The Hon’ble CAT has further observed that nowhere does the Hon’ble Supreme Court in NR Parmar Case nor the DoPT OM dated 04.03.2014 which was an outcome of the said case, mentioned that seniority is to be assigned in the vacancy year in which the recruitment is made or in the year requisition is sent. The Hon’ble CAT has further observed that it has been categorically laid down in the K Megha Chandra Singh case that a right cannot accrue to an official with effect from a date when he had not even entered into service or was not into the cadre.</p> <p>(vi) With respect to the aforesaid observations of Hon’ble CAT, it is submitted that in Para 40 of its Judgement in K. Megha Chandra case, Hon’ble Supreme Court of India has ordered that decision in aforesaid case will not affect the inter-se seniority already based on N. R. Parmar and the same is protected. This decision will apply prospectively except where seniority is to be fixed under the relevant Rules from the date of vacancy/the date of advertisement. The DoPT OM dated 13.08.2021 which has been issued in compliance of the order of Supreme Court of India in K. Meghachandra Case also provides that cases of inter se Seniority of direct recruits and Promotees already decided as per OM dated 04.03.2014 shall not be disturbed. This OM further provide that where the recruitment process has been initiated by the administrative Department/Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se Seniority of direct recruits and Promotees shall also be governed by the provisions of Oms dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014”</p> <p>c) The Hon’ble High Court vide its Final Order and Judgement dated 18.03.2014 had rejected, inter-alia, the above submission of the ESIC and had</p>	<p>(ii) <i>As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</i></p> <p>(iii) <i>In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.</i></p> <p>(iv) <i>For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees”</i></p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of</p>

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>dismissed the Writ Petition with the following observations:</p> <p>"46. Since the impugned lists were not final and under a cloud, they are not protected in terms of the saving paragraph in K. Meghachandra (supra). Even the Tribunal had directed that any promotion made would be subject to outcome of the said Application and in fact promotions made thereafter were made by ESIC also subject to outcome of the Application. Thus, there is no merit in the contention on behalf of the Petitioner that the lists are protected.</p> <p>47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employees State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (Supra) and the instructions & guidelines issued by the Department of Personnel & Training (DoP&T) on the subject. The exercise be completed within a period of eight weeks."</p> <p>d) The undersigned would also like to bring your attention to the following paragraph;</p> <p>I was promoted/selected through LDCE in the year 2007-08 and joined in the same year 2007-08. The seniority has been fixed in the year 2007-08 as per proposed draft WHEREAS the DIRECT RECRUITS WHO JOINED IN 2007-08 are placed in seniority in the year 2005-06 in violation of all DOPT guidelines/JUDGEMENT APPLICABLE AS ON DATE OF FINALISATION OF SENIORITY TILL 2005-06.</p> <p>The undersigned has also represented against finalisation of seniority for the period upto 2005-06 which placed DRs who joined in 2007-08, but no reply was given to me in the matter before finalisation of seniority.</p> <p>Therefore, I hereby request to fix the seniority in the 2007-08 on Rota-Quota basis for all recruits (Direct Recruits, LDCE and DPC promotees) who</p>	<p>aforesaid OM dated 04-03-2014, is as under.</p> <p>"</p> <p><i>a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</i></p> <p><i>e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for</i></p>

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		<p>joined in the year 2007-08 in view of Hon'ble Supreme Court Judgement (K. Meghachandra case) which categorically states that "a right cannot accrue to an official with effect from a date when he had not even entered into service or was not borne into the cadre." Also, there were no guidelines on the date of finalisation of seniority wherein DRs could get the right for seniority in the year 2005-06 while joining in the year 2007-08.</p> <p>The names of DRs who joined in 2007-08 are actually required to be placed in the 2006-2009 and accordingly should be placed in rota-quota with LDCEs, DPCs recruits for the year 2007-08 as per concluding paras of Memorandum dt. 17/05/2024. The names of DRs joined/appointed in 2007-08 are not placed in this seniority list for the period 2006-09. ESIC is requested to place DRs in 2006-09 who joined ESIC in 2007-08.</p> <p>e) The undersigned would also like to bring your attention to the following paragraphs of the DoPT OM dated 13.08.2021 and point out that none of the Officers therein have been appointed between the time period 27.11.2012 and 18.11.2019. Even otherwise, it is the ESIC own stand that the purported Draft Seniority List is of Officers appointed/promoted between 01.04.2006 to 31.03.2009:</p> <p>"(iii) In case of direct recruits and Promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court."</p> <p>f) Despite the aforesaid categorical directions of the Hon'ble Tribunal and the Hon'ble High Court wherein it is specifically mentioned that the Judgement of K. Meghachandra (Supra) would be applied and Para 7(iii) of the DoPT OM dated viz. 'unless a different formulation/manner of determination of seniority has been decided by any Tribunal or Court', the following extracts of the Memorandum posit that the overruled</p>	<p><i>convening of DPC to fill up the vacancies through promotion would be the relevant date.</i></p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i></p> <p><i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i></p> <p><i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i></p> <p><i>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i></p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated /</p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>Judgement of N.R. Parmar (Supra) would be applicable:</p> <p>"After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoPT O.M. dated 13.08.2021, DoPT O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle:</p> <p>(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoPT OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year"</p> <p>g) The undersigned submits that it is highly incongruous that the ESIC while accepting the Judgment passed by the Hon'ble High Court has completely negated the purport of the same and is still applying the overruled principle contained in N.R. Parmar (Supra). Even otherwise it is highly strange that despite the Hon'ble Courts reiterating that principle in Meghachandra (Supra) needs to be applied the ESIC blatantly has applied NR Parmar (Supra) again.</p> <p>h) The impact thereof is that even though the undersigned has a Judgment passed by the Hon'ble High Court in its favour, the Seniority position of the undersigned remains the same, the undersigned was at Item No. 299 in the quashed Seniority List and is still Item No. 299 in the purported Draft Seniority List and is still below Direct Recruits and Promotees who were borne in the cadre of Social Security Officer after the undersigned i.e. 30.11.2007.</p> <p>4. In view of the above the undersigned submits that the Competent Authority should issue a redrawn Draft Seniority List in accordance with the Judgment passed by the Hon'ble High Court and place me in the year 2007-2008 along with</p>	<p>deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicants (except Shri N. P. Warang) were promoted to the post of Social Security Officer before 19.11.2019 on regular basis and they were promoted through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007. Therefore, their seniority have, <i>rightly</i>, been fixed in the seniority list by applying rota-quota in ratio 2:1:1 (DPC:LDCE:DR) against the recruitment year/deemed recruitment year 2007-08 as per DoP&T O.M. dated 04.03.2014.</p> <p>Further, Shri Nilkanth Prakash Warang was not eligible for getting the seniority of recruitment year/deemed recruitment year 2007-08 as he had not completed 3 years regular service as on the crucial date of eligibility and therefore, he has been placed against the recruitment year 2008-09 by applying rota quota in ratio 2:1:1 as per DoP&T OM dated 04.03.2014.</p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		DRs who also joined in 2007-08 on Rota-Quota basis.	
13	Sunny Kumar (587)	<p>With due respect, I would like to humbly draw your kind attention towards the draft seniority list dated 17.05.2024 issued as per direction of the Hon'ble High Court of Delhi in WP(C) No. 12135/20223, WP(C) No. 14351/2023, WP(C) No. 14434/2023 and Hon'ble CAT Judgement in O.A. No. 1715/2022.</p> <p>The said draft seniority list has been issued against the previous seniority list finalized vide Memorandum No. A-24/14/1/2008-E.I. dated 08.11.2016 wherein I was placed at Sl. No. 280.</p> <p>However, in the current draft seniority list issued vide memorandum No. O.A. 100/141/2017-E.I. Dated-17.05.2024, I have been placed at S. No. 587 stating that I was not eligible against the vacancies of earlier recruitment year/deemed recruitment year i.e. 2006-07 & 2007-08 and hence, placed against the seniority of recruitment year/deemed recruitment year 2008-09.</p> <p>In this regard, I would like to submit that while issuing the draft seniority list dated 17.05.2024, the principle laid down vide DoP&T OM No. 22011/7/86-Estt. (D), dated 03.07.1986 as well as other DOPT instructions issued from time to time for fixing seniority of direct recruitment has been violated.</p> <p>As per established procedure and the DOP&T guidelines, the date of birth cannot be the criteria for determining the seniority of DR Quota.</p> <p>As the ESIC follows DOP&T instructions for fixation of seniority, promotion etc., therefore the inter-se-seniority of all direct recruits appointed with me pursuant to aforesaid advertisement dated 5-11 Jan. 2008 was to be fixed as per DOPT OM No. 22011/7/86-Estt. (D) dated 03.07.1986 & OM No. 20011/1/2012-Estt. (D) dated-04.03.2014. The aforesaid OMs clearly stipulate that the inter-se-seniority of direct recruitment shall be fixed as per merit.</p> <p>The relevant Para of the said OM No. 220 11/7/86-Estt. (D) dated 03.07.1986 reads as under:</p>	<p>With regard to query raised by the applicant that despite being above in merit in direct recruitment examination, he has been placed below the officers who are lower in merit than him, it is informed that the Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, <i>inter-alia</i>, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks "</i></p> <p>Further, the Hon'ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), inter-alia, directed as under:</p> <p><i>"In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list</i></p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply												
		<p>"2.1 The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendation of the UPSC or other selecting authority, persons appointed as a result of earlier selection being senior to those of subsequent selection".</p> <p>The said OM was considered by Hon'ble Supreme Court of India in the case of N.R. Parmar Vs. Union of India & Ors. In Civil Appeal No. 7514-7515/2005.</p> <p>In the said judgment, the Hon'ble Supreme Court of India has held that the Om dated 03.07.1986 being the mother OM cannot be diluted by issuing subsequent instructions in the form of clarification. The OM dated 03.03.2008 whereby the main import of OM dated 03.07.1986 was taken away has been declared void ab-initio.</p> <p>The DOP&T also accepted the said position and accordingly treated OM dated 03.03.2008 as non-existent/withdrawn ab-initio, meaning thereby as if the said OM was never issued.</p> <p>Unfortunately, while issuing the draft seniority list dated 17.05.2024, the principle laid down vide Om dated 03.07.1986 for fixing seniority of direct recruitment has been violated and the violation of such a degree which leads to anomalous situation in the department and causing huge resentment.</p> <p>The said illegality/mistake is apparent from the table mentioned herein below:</p> <table border="1"> <thead> <tr> <th>Name</th><th>Merit Position I.I/Branch Manager final result</th><th>Roll No.</th><th>Seniority position in Draft Seniority list issued on 17/5/2024</th></tr> </thead> <tbody> <tr> <td>Sunny Kumar</td><td>114</td><td>28042185</td><td>587</td></tr> <tr> <td>Ashish Ranjan Kumar</td><td>118</td><td>36040199</td><td>304</td></tr> </tbody> </table>	Name	Merit Position I.I/Branch Manager final result	Roll No.	Seniority position in Draft Seniority list issued on 17/5/2024	Sunny Kumar	114	28042185	587	Ashish Ranjan Kumar	118	36040199	304	<p><i>(A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs "</i></p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon'ble High Court and the Hon'ble Tribunal had not directed to redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits</p>
Name	Merit Position I.I/Branch Manager final result	Roll No.	Seniority position in Draft Seniority list issued on 17/5/2024												
Sunny Kumar	114	28042185	587												
Ashish Ranjan Kumar	118	36040199	304												

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections				Reply
		Sandeep Kumar	129	1104074 1	340	and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below. "(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019. (ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened. (iii) In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court. (iv) For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also
		Bhairab Satyawali	134	1801101 7	368	
		Bablesh Meena	190	1803095 4	571	
		P Thotchui	189	1803373 6	568	
		N.Martin Thangeo	188	1803332 7	564	
		Vivek Singh Pratihari	186	1403213 1	560	
		Sunil Bodh	183	1503128 0	548	
		Santosh Kumar	181	2303181 7	540	
		Amar Krishna Swami Kale	177	2703004 9	528	
		Sunil Kumar Singh	174	1801626 4	524	
		Kailash Singh Dharmsktu	171	1803230 7	520	
		Amit Banerjee	164	1401007 0	488	
		Priyaranjan Jha	154	1801424 1	452	
		It is clear from the aforesaid table that the candidates much below in the merit list have given seniority over and above the candidates having higher merit. How can the candidates having Rank No. 118, 129, 134, 190, 189, 188, 186, 183, 181, 177, 174, 171, 164, 154 be given seniority over the candidate having Rank No. 114. While inter-spacing the direct recruits with the promotee as per the law laid down in the case of N.R. Parmar, it was required to be ensured that the inter-se-seniority of direct recruits is not disturbed. The direct recruit higher in merit was required to be continued higher in seniority. Since the direct recruitment is made by issuing open advertisement and the eligibility criteria to determine eligibility remained the same, therefore the year-wise allocation of vacancies concept cannot be made applicable for direct recruits. However, the same has been applied while fixing the seniority which is legally not correct and may not stand in scrutiny of law. So, my inter-se-seniority was required to be fixed				

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		<p>as per the merit in the competitive examination against the vacancies of earlier recruitment year/deemed recruitment year 2006-07 as was done in all other direct recruits and not against the seniority of recruitment year/deemed recruitment year 2008-09 merely on the ground of not attaining the minimum age criteria for holding the post of Social Security Officer/Branch managers, Grade-II/ Superintendents against the vacancies of earlier recruitment year/deemed recruitment year 2006-07 & 2007-08. In this regard, I would like to submit the following facts for your kind consideration:</p> <p>My appointment as Social Security Officer/Branch Managers Grade-II/Superintendents was made on the basis of competitive examination conducted by ESIC against the advertisement dated 5-11 Jan 2008.</p> <p>The vacancy was notified in the year 2007 and the date to determine the eligibility & age was fixed as 25.01.2008. I fulfilled all the eligibility criteria on the date of closing of the vacancy and I had already completed 21 years on 02.01.2008. It is also pertinent to mention here that neither recruitment year nor separate eligibility criteria was mentioned in the said advertisement.</p> <p>Therefore, the vacancies which were made basis to hold one single examination were required to utilized to make appointment as per the merit and not by resorting to any other methodology, which is not recognized by any rule or law.</p> <p>The candidates, who were much below to me have gained seniority over me. The same is not legally permissible inasmuch as, the same violates not only DOP&T instructions but my fundamental rights guaranteed under Article 14 & 16 of Constitution of India.</p> <p>Right to get promotion may not be a fundamental right, but right to get correct seniority and consideration for promotion on the basis of correctly fixed seniority is my fundamental right and the same has been infringed without any justification and in clear defiance of the law laid down by Hon'ble Supreme Court of India in the case of N.R. Parmar as well as other similar</p>	<p><i>be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</i></p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p><i>" a) DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</i></p> <p><i>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and promotees;</i></p> <p><i>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</i></p> <p><i>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</i></p> <p><i>e)Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion</i></p>

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		<p>cases.</p> <p>In fact, number of glaring illegalities have been committed while issuing draft seniority list circulated vide Memo dated 17.05.2024 as pointed out above, and all the aforesaid illegalities are required to be rectified by your goodself to avoid further litigation and to ensure that I get my seniority as per DOP&T instructions and law on the subject.</p> <p>It is clear from the draft seniority list that neither any rule nor instructions have been referred to justify the fixation of seniority of direct recruits by ignoring their merit. The inter-se-merit of direct recruits has to be maintained while fixing their seniority.</p> <p>In the guise of fixation of seniority as per N.R. Parmar, the inter-se-seniority of direct recruits cannot be disturbed and the same is required to be kept intact.</p> <p>Accordingly, it is humbly requested to pass necessary orders for correcting my seniority vis-à-vis direct recruits of my batch, appointed pursuant to advertisement dated 5-11 Jan 2008 and ensure that I get seniority against the quota meant for DR keeping the merit list intact.</p>	<p>would be the relevant date.</p> <p><i>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</i></p> <p><i>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</i></p> <p><i>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</i></p> <p><i>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</i></p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated /</p>

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			<p>deemed to be initiated.</p> <p>After considering the legal opinion on the above judgement, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>Keeping in view of above judgement and legal opinion, it has been found that the applicant is not eligible for holding the post of Social Security Officer against the vacancies of recruitment year/deemed recruitment year i.e. 2006-07 & 2007-08, since he is not attaining the minimum age criteria as per the provisions of RRs. However, the applicant is getting eligible for holding the post of Social Security Officer against the seniority of recruitment year/deemed recruitment year 2008-09. Hence, he has been placed in the seniority list against the recruitment year/deemed recruitment year 2008-09 instead of 2006-07 & 2007-08.</p>
14	<p>Shri Rajiv Bajaj (294)</p> <p>Shri Vikram Aditya (574)</p> <p>Shri Gurpreet Singh (296)</p>	<p>Please refer to HQ letter No. O.A. 100/141/2017-E.I dated: 17.05.2024 in respect of above mentioned subject. In this regard, I would like to draw your kind attention to the fact that I have challenged the Final Seniority list of S.S.O/manager Grade-II/Office Superintendent dated 24/06/2016 in CAT, Principal Bench, new Delhi vide OA-235/2017. In the O.A, I prayed that the Sports persons recruited vide vacancies which were initiated on 26/07/2007 and later joined in the same financial year, should be placed over and above the batch of S.S.O/manager Grade-II/Office Superintendent whose recruitment process started on 12/12/2007 and joined in the</p>	<p>With regard to objection raised for placing Sports Persons recruited through Advertisement dated 8-14 September 2007 over and above all the Direct Recruits of list published on 17/05/2024, it is informed that DoP&T OM No. 14015/1/76-Est.(D) dated 4.8.1980, regarding seniority of meritorious sportsmen appointed in relaxation of recruitment rules, <i>inter-alia</i>, provides as under:</p> <p><i>"Where sportsmen are recruited</i></p>

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		<p>year 2009-2010. The Court accepted the same and Ordered ESIC to re-draft the Seniority of S.S.O/manager Grade-II/Office Superintendent considering the relevant DoPT Instructions issued on the basis of Supreme Court Order in the matter of K Meghachandra Singh. Thereafter ESI Corporation decided to file Writ Petition against the CAT Order which was also upheld by Honourable High Court.</p> <p>In this regard, I would like to accentuate DoPT OM No. 20011/1/2008-Estt. (D) Dated 11/11/2010, which envisages that the candidates appointed through an earlier selection shall stand senior to those appointed through a subsequent selection. The same rule was followed by the department while drawing/finalizing seniority of Deputy Director (Finance) and Deputy Director (Administration) of 2009-2010 batch. Since Sportsmen are also appointed through competition amongst themselves and faced battling stressors on and off the fields to make both ends meet in terms of various achievements of national and International Importance, the same need to be considered on the similar merits, notwithstanding the fact that sports persons are not recruited through examination. Had our i.e. Sports Persons vacancies be initiated along with the direct recruits or on later date, the situation might be different.</p> <p>Also refer DoPT Instructions No. OM No. 14015/1/76-Est. (D) dated 04/08/1980 regarding Seniority of Sports Person which says</p> <p>Where sportsmen are recruited through the Employment Exchange or by direct advertisement and are considered along with other general category candidates, they may be assigned seniority in the order in which they are placed in the panel for selection. 2. Where recruitment to a post is through a selection made by the Staff Selection Commission, whether by the competitive examination or otherwise, the sportsmen recruited in the department themselves should be place en bloc junior to those who have already been recommended by the Staff Selection Commission. The inter se-seniority of sportsmen will be in the order of selection.</p>	<p><i>through the Employment Exchange or by direct advertisement and are considered along with other general category candidates, they may be assigned seniority in the order in which they are placed in the panel for selection. Where recruitment to a post is through a selection made by the Staff Selection Commission, whether by a competitive examination or otherwise, the sportsmen recruited by the department themselves should be placed en bloc junior to those who have already been recommended by the Staff Selection Commission. The inter se-seniority of sportsmen will be in the order of selection"</i></p> <p>Shri Rajiv Bajaj & Shri Gurpreet Singh were appointed through sports quota vacancies of recruitment year/deemed recruitment year 2006-07. Therefore, they have been placed at bottom of officers who were directly recruited against the vacancies of recruitment year/deemed recruitment year 2006-07, as per above DoP&T OM dated 04.08.1980 and therefore, they have rightly been placed in the seniority list of recruitment year 2006-07 by applying rota quota in ratio 3:1 with promotees as per DoP&T O.M. dated 04.03.2014.</p> <p>Similarly, Shri Vikram Aditya was appointed through sports quota vacancies of recruitment year 2007-08. Therefore, he has been placed at bottom of officers who were directly recruited against the vacancies of recruitment year/deemed recruitment year 2007-08, as per above DoP&T</p>

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		<p>Now, in accordance with the first para of the instruction, the seniority is to be decided as per the chronology of panel and in consonance to it, an RTI reply enclosed at Annexure-I, panel of Direct Recruits recruited through Sports Quota of 2007-08 was constituted before the panel of Direct Recruits recruited through examination.</p> <p>Thereafter, as per second Para, the sports persons appointed are said to placed en-block juniors to the recommended candidates of S.S.C, but not against recommended vacancies. Whereas, at the time of joining/appointment of undersigned i.e. first batch of Sports persons, nobody was left to be placed which were already recommended by Selection Committee. Furthermore, it is worth noticing that registration inviting application for direct recruitment was undergoing at the time of joining of undersigned and the same joined in 2009-10.</p> <p>Hence, as per above factual circumstances, it is stated that either N.R. PARMAR judgement of Supreme Court governed the field which is based on date of initiation of vacancies or by keeping a view on k MEGHACHANDRAN SINGH'S case judgement of Supreme Court, which is based on year of joining, undersigned along with other sports persons of the batch are senior.</p> <p>Further, considering the High Court Judgement which envisages to draft seniority as per Supreme Court Order in the case K Meghachandra Singh and DoPT Instructions mentioned in first & second para said above, I would again like to request you to kindly place Sports Persons recruited through Advertisement dated 8-14 September 2007 over and above all the Direct Recruits of list published on 17/05/2024.</p>	<p>OM dated 04.08.1980 and thereafter, he has rightly been placed in the seniority list of recruitment year 2007-08 by applying rota quota in ratio 2:1:1 with other officers promoted through DPC and LDCE mode, as per DoP&T O.M. dated 04.03.2014.</p>
15	<p>Shri SV Sastry (416)</p> <p>Shri Girish Chonangkandam (324)</p>	<p>I have applied and appeared for the open competitive examination held for the post of I.I. (now SSO)/BM/Supdt published in Employment News dated 5-11/01/2008 against SSO exam 2007 and got selected under the category Ex-serviceman as per the result published on site dated 10/02/2009. I joined the ESI Corporation on 18/05/2009.</p> <p>The total vacancies reserved for Ex-servicemen</p>	<p>With regard to objection raised by the applicant for placing reserved panel candidate who joined after him, above the applicant who is appointed much earlier through Ex-serviceman category, it is informed that the Hon'ble CAT, PB, vide its order dated 15.09.2022 in O.A. No. 1715/2017 (Krishna Murari & Ors.</p>

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		<p>initially as per the advertisement was 12 which was later revise to 13 vide E-I branch UO note dated 15/07/2008 and then revised to 17 vide E-I branch UO note dated 04/02/2009.</p> <p>I submit that I am wrongly placed at Sl. No. 324 & 416 in the above referred draft seniority list of the following reasons:-</p> <p>That the special reservation for Ex-servicemen is provided under Article 16(1) which envisages that "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State".</p> <p>That the constitution empowers the State to identify the backward classes of citizens or other disadvantaged or weaker sections of society which require preferential treatment for their socioeconomic advancement through its affirmative action in the form of reservation, concessions, weightage or relaxations. The extent of this affirmative action for various downtrodden sections of society is based on a number of determinants such as historical oppression or discrimination, social, economic or educational backwardness. Reservation is a mechanism provided under the Constitution to ensure equality and not to claim some privileges or benefits over and above or at par with the other oppressed classes. Discrimination is inherent in the very concept of reservation. It itself permits differential treatment of un-equals which is termed as positive or compensatory discrimination.</p> <p>That it is well settled that the reservation for Ex-Servicemen is a special reservation as contemplated under Article 16(1) of the Constitution and being a horizontal reservation, it is a reservation within reservation.</p> <p>That the candidates belonging to horizontal reservations will cut across the vertical reservations in the following manner:-</p> <p>(a) Firstly, the seats for Open Category candidates will be filled up on the basis of merit;</p>	<p>vs ESIC), <i>inter-alia</i> ordered as under:</p> <p><i>"We find that there is no ambiguity as far as the rules and instructions determining the seniority is concerned. We have no reason to question the facts as stated in the O.A. Further, in view of the final order passed in O.A. No. 130/2020 we have also no cause to take any divergent view. Therefore, the present O.A. is allowed with a direction to the respondents to review the impugned seniority list dated 15.03.2006 and make the necessary corrections in the same by according the appropriate place in the said seniority list to the applicants in accordance with the marks and rank obtained by them in the selection examination. While reviewing the said seniority list, the respondents shall also take into consideration the representations filed by the applicants dated 21.03.2016. The aforesaid directions shall be complied with, within a period of 10 weeks from the date of receipt of this order by way of issuing a corrected/revised seniority list."</i></p> <p>In compliance of the aforesaid order of Hon'ble Tribunal, the seniority of all direct recruits including reserve panel candidate has been fixed in order of consolidated merit list subject to the condition of the eligibility of the candidates and subsequently, they have been interpolated with officers promoted (against the recruitment year 2006-07, 2007-08 & 2008-09) through DPC & LDCE in ratio 3:1 or 2:1:1 whichever applicable in RRs, in accordance with DoP&T OM</p>

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>(b) Secondly, the seats meant for vertical reserved categories will be filled up on the basis of merit in their own quota;</p> <p>(c) Thirdly, the seats equal to the number of the candidates belonging g to horizontal reserved category and also falling within vertical reserved category, shall stands consumed in the vertical reserved category. The candidate lower in vertical reserved category will make way for him;</p> <p>(d) Fourthly if a candidate belonging to horizontal reserved category does not belong to any of categories of reservations, a candidate in the open category will make way of such reserved category so as to satisfy quota of the seats meant for the horizontal reserved category.</p> <p>That the same candidate under the General category who made way to me earlier by virtue of horizontal reservation as explained at (d) above, has superseded me in the above referred Draft/provisional seniority/gradation list dated 17/05/2024. I was selected prior to him and was placed under the Ex-serviceman category vide the result published on 10/02/2009 and was appointed as UR(Ex-S) and the candidate under the UR (General category) in the reserve panel got selected subsequent to me in the year 2010 which is evident from the E-I branch UO note dated 08/02/2010.</p> <p>In view of the above, it is felt that placing of the candidate under the General category from the wait list (reserved panel) above the candidate under General category (horizontal reserved Ex-serviceman) of the main list is in gross violation of Article 16(1) of the Constitution. The advantage of non-joining/resignation etc., of certain category of candidates must precipitate to all the candidates placed below in that category.</p> <p>I therefore request that my position in the draft/provisional seniority/grading list may be changed from 324 & 416 and be placed before the 1st candidate under the General category in the wait list (reserve panel) candidate who is placed at Sl. No. 262 in the referred list and</p>	<p>dated 04.03.2014 & 13.08.2021 as stated in point No. 1 above.</p>

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		thereby settle the anomaly in the draft/provisional seniority/gradation list dated 17/05/2024 before finalisation of the Seniority/gradation list.	
16	H.S. Barde (594)	<p>I have joined the post of SSO/B.M. Gr. II/Superintendent on 05/12/2008 in pursuance to Hqrs. O.O. No. 218 of 2008 dated 04/12/2008 (Reference No. 1) on qualifying the LDCE.</p> <p>My seniority was finalised vide Memorandum dated 02/04/2013 at Sl. No. 283, with date of joining 05/12/2008. Whereas Shri. K.M. Prasad was placed at Sl. No. 287, Shri. M.K. Khadeeruddin at Sl. No. 290 and Jaydeep Maity at Sl. No. 296 i.e. below me and so on. (Reference No. 2).</p> <p>Similarly my seniority was again finalised vide Memorandum dated 15/03/2016 & 24/06/2016 at Sl. No. 515 with date of joining as 05/12/2008 whereas Shri. K.M. Prasad was placed at Sl. No. 519, Shri M.K. Khadeeruddin at Sl. No. 523 and Jaydeep Maity at Sl. No. 527 i.e. below me. (Reference No. 3 & 4)</p> <p>Now in the Memorandum containing draft/provisional Gradation seniority list for the post of SSO/B.M. Gr./Supdt. Dated 17/05/2024, and myself was placed at Sl. No. 594 whereas Shri. K.M. Prasad was placed at Sl. No. 507, Shri M.K. Khadeeruddin at Sl. No. 511 and Jaydeep Maity at Sl. No. 515 and likewise other LDCE qualified officers in O.O. No. 218 of 2008 dated 04/12/2008 were placed above me. (Reference No. 1)</p> <p>I would also like to draw your attention towards DOPT OM dated 13/08/2021 and states that none of the officers therein have been appointed/joined between the time period 27/11/2012 to 18/11/2019 and still find place in the draft/provisional Gradation seniority list for the post of SSO/B.M. Gr. II/Superintendent dated 17/05/2024 with date of joining after 01/04/2009.</p> <p>I therefore request your goodself, to re-draw my seniority by placing my candidature above Shri K.M. Prasad in the said draft/provisional Gradation seniority list of the post of SSO/B.M. Gr./Superintendent dated 17/05/2024 with recruitment year/deemed recruitment year 2007-</p>	<p>With regard to objection raised by the applicant for placing his seniority as per his actual joining/appointment to the said post i.e. SSO/B.M. Gr./Superintendent, it is informed that the reply of the said objection has been given at Sl. No. 1 above and the same is reiterated here.</p> <p>Further, Shri H.S. Barde was not eligible for getting the seniority of recruitment year/deemed recruitment year 2007-08 as he had not completed 3 years regular service as on the crucial date of eligibility and therefore, he has been placed against the recruitment year 2008-09 by applying rota quota in ratio 2:1:1 as per DoP&T OM dated 04.03.2014.</p>

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		08 and also above the officers who joined the post of SSO/B.M. Gr. II/Superintendent after 01/04/2009 with reference to the year of their actual joining/appointment to the said post i.e. SSO/B.M. Gr./Superintendent and oblige me.	
17	Harminder Pal (331)	<p>Please refer to your Memo No. O A 100/141/2017 E.I dated 17.05.2024 vide which the redrawn draft seniority list in the cadre of SSO/Manager Grade-II/OS who were recruited/promoted/appointed during the period from 01.04.2006 to 31.03.2009 circulated in accordance with Hon'ble high Court and CAT direction mentioned in the aforesaid memo dated 17.05.2024 and DoPT instructions in the said seniority list I was placed at Sl. No. 331. The seniority fixed is not as per the directions of Hon'ble Court and CAT judgement/directions.</p> <p>In this connection my objection to the draft seniority list is as under:-</p> <ol style="list-style-type: none"> 1. In the said judgement it is mentioned to redraw the seniority as per law laid down in the K. Meghachandra Singh case(supra) which has been subsequently incorporated in the detailed guidelines issued by DoPT vide letter dated 13.08.2021 but the same is not redrawn as all the officials shown in the seniority are joined after my date of joining i.e. 30.11.2007 i.e. the officials joined later on are shown senior to me. 2. Some SSO/Managers Grade-II/Oss joined the corporation on 30.04.2007 under direct recruitment quota but their names are not shown in the redrawn seniority list as per mentioned the Court Judgement. 3. It is seen that the seniority is redrawn as per N.R. Parmar by mentioning that upto 18.11.2019 is N.R. Parmar is applicable. But is not clear that from which date and upto 18.11.2019 the seniority list is prepared. As per the judgement crucial date is 19.11.2019 and as per DoPT instructions dated 13.08.2021 N.R. Parmar is not applicable for official appointed/recruited during the period from 01.04.2006 to 31.03.2009. <p>It is, therefore, humbly requested to redraw the seniority as per K. Meghachandra Singh by maintaining rota-quota as applicable under Recruitment Rule.</p>	With regard to objection raised by the applicant for fixing seniority as per Hon'ble Supreme Court's Judgement in K. Meghachandra case, it is informed that the reply of the said objection has already been given at Sl. No. 1 above and the same is reiterated here.

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18	G Venu Madhav (319)	<p>In response to the ESIC Hqrs. Memo referred above, I prefer to register my objection against the policy adopted in fixing the seniority of SSO/Mgr. Gr. II/Supdts promoted / appointed / Recruited during 01.04.2003 to 31.03.2009, in which my name was placed under Sl. No. 319, which has been drawn suppressing the fact, the direction of the Hon'ble CAT Principal Bench, Hon'ble High Court, New Delhi, and the instruction issued by the DoPT from time to time in this regard and thus denied the natural justice as was awarded by the Hon'ble Courts. The following points are being raised before the authority to consider:</p> <ol style="list-style-type: none"> 1. That at page/2 of the said Memo, under the re-production of the verdict of Hon'ble high Court, New Delhi, it was mentioned that "the aforesaid judgment has been examined in consultation with legal counsels well versed in the matter. It has been noted that as per judgment of the Hon'ble High court of Delhi, while redrawing the seniority list, the concept as enumerated in N.R. Parmar and K. Meghachandra Singh would have to be kept in mind i.e., the crucial date of 19.11.19. The seniority lists of the Officials as appointed till 18.11.2019 has to be prepared on the principle of N. R. Parmar judgement/DoPT guidelines and the seniority list of Officials appointed after 19.11.19 has to be determined as per the principle as laid down in the case of K. Meghachandra Singh and related DoPT instruction. It has further been noted that while assigning seniority to an Officer to a particular Recruitment year/deemed Recruitment Year" which is not baseless but a deliberate attempt to suppress/deny the order/judgment passed by the Hon'ble High Court, Delhi. It is not understood as to how the Judicial Order can be examined/reviewed by the Executive body. Either it should be implemented in Toto or to be challenged in higher forum as per the Rule of the Land. Further, in the judgement of the Hon'ble High Court, the verdict was very clear being "to redraw the seniority complying the direction of the Hon'ble Tribunal, in accordance with the law laid down by the Apex Court in the K. MeghaChandra Singh (Supra) and the instruction & guidelines issued by DoPT in the subject." As such there should not be any iota of doubt that in my case, the N. R. Parmar case does not come under 	<p>With regard to objections raised by the applicant regarding non-applicability of DoP&T O.M. dated 04.03.2014 (based on N R Parmar case) for drafting the instant seniority list, it is informed that the reply has already been given in point No. 1 and the same is reiterated here.</p>

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		<p>consideration in any manner and the action taken by Hqrs. Office, as discussed above is not only bad before Law but also liable to be set aside.</p> <p>2. That the sanctity of the Order of Hon'ble Courts was un-holified by taking decision for setting principles in issuing/publishing the seniority list in question as enumerated under(a), (b) &(C) of page/2 of the Memo in question for the reason as already discussed under point no. 1. Further, I have to state that the Hon'ble Tribunal vide order dated 30.08.2022 was clearly instructed to re-draw the seniority "strictly in accordance with the observation made hereinabove and the guidelines issued by the DoPT on the subject" which was further upheld by the Hon'ble High Court in its verdict dated 18.03.2024 stating "to redraw the seniority complying the direction of the Hon'ble Tribunal". It is pertinent to mention that vide order dated 30.08.2022 passed by the Hon'ble Tribunal, in the matter of O.A. No. 141/2017, M.A. No. 447/2022, M.A. No. 418/2021 & M.A. No. 2164/2020 under observation point 10, the Hon'ble Tribunal stated that "similarly at Sl. No. 296, 297 &299 are the names where the anomaly is glaring" and under point No. 11 "we find his position to be unacceptable" in the context of fixing seniority of the person appointed/promoted earlier but placed below than the person appointed/promoted later "in view of the law laid down in the K. Meghachandra Singh case judgment (supra) which has been subsequently incorporated in the detailed guidelines issued the DoPT vide O.M dated 13.08.2021" which interalia directed to redraw the seniority strictly in accordance with the direction passed in K. Meghachandra case and the DoPT instruction dated 13.08.2021 and there is no scope of interference/consideration of N.R. Parmar Case in fixing the seniority. As such the principle adopted in re-drawing the seniority is not only bad before law being a rigorous attempt to violate the Judgment passed by the Hon'ble Court and thus liable to be set aside.</p> <p>3. That the N.R. Parmar Case is not at all applicable in drawing seniority of the Officials appointed/promoted between 01.04.2006 to 31.03.2009 since the DoPT order dated 04.03.2014 issued in compliance with N.R. Parmar case itself states that "the inter-se-seniority to be assigned with ref. to the year" and subsequently it has been categorically</p>	

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		<p>laid down in the K. Meghachandra Singh case judgment(supra) that " a right cannot accrue to an official with effect from a date when he had not even entered into the service or was not into the cadre"</p> <p>In view of the above, your Honor would surely be apprised that there was procedural lapses in the operating the re-drawing of the seniority in compliance with the judgment of the Hon'ble high Court as well as Hon'ble Tribunal and accordingly, it is my fervent prayer to review the policy adopted in fixing my seniority vide alleged Memo dated 17.05.2024, which is totally wrong and not acceptable in the light of the judgment passed by the Hon'ble Tribunal & High Court, Delhi and it is requested re-draft the seniority/gradation list by placing me above all those employees who were not in the cadre on the date of my joining as SSO/Manager Gr. II/Suptd., maintaining the rota-quota as applicable under the Rule published vide DoPT from time to time and in particular vide O.M. dated 13.08.2021.</p> <p>Please do the needful.</p>	
19	Vishal Kumar (348)	<ol style="list-style-type: none"> 1. The above mentioned seniority list dated 17.5.2024 is a combined seniority list of the multiple years i.e. 2006-07, 2007-08 and 2008-09. It has been prepared in violation of the DOPT instructions in the matter. As per instructions of DOPT seniority list should be drawn year-wise and not be drafted in the form of a combined seniority list for multiple years. 2. I have been assigned the seniority of the year 2007-08 and 84 candidates of my batch haven been assigned the seniority of the year 2006-07. As per instructions of the DOPT all the directly recruited candidates of a batch must be placed in one year instead of different years as per consolidated merit list. Hence, as per DOPT instructions all the candidates of my batch including me should have been bunched in the year 2006-07 with my batchmates. 3. 12 candidates (Sl. No. 262, 265-268, 270-271 and 274-278) have been placed before me 	<p>(1) With regard to fixing the seniority list of all Direct Recruits candidates in the same year i.e. 2006-07, it is informed that all direct recruits were appointed against the vacancies of the recruitment year/deemed recruitment year 2006-07, 2007-08 & 2008-09 and thereafter, all Direct Recruits were fixed in the seniority list by applying rota-quota with promotes promoted against the vacancies of Recruitment Year/ deemed Recruitment Year as per DoP&T instructions as explained in point No. 1 above.</p> <p>(2) With regard to fixing the seniority of the applicant below</p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>while giving seniority of the year 2006-07 who have been appointed while operating the waiting list/Reserve Panel and joined in the year 2010 or 2011. These candidates were recruited against the vacancies likely to be caused by non-joining of the candidates within the stipulated time allowed for joining the post or where a candidate joined but he resigns or dies within a period of one year from the date of his joining or against the fresh vacancies etc. Therefore, such candidates can never be placed before me since I have joined through the main panel in the year 2009.</p> <p>4. I was placed at Sr. No. 293 in the earlier finalised Seniority list dated 15.3.2016 but I have been placed at Sr. No. 348 in the present draft/proposed Seniority List thereby shifting approx. 55 places from my earlier place in the already finalised Seniority List without any justified reasons. Further, I have already been promoted as Regular Assistant Director in the year 2020 and shifting my Seniority after my regular promotion to the higher post is against the natural justice.</p> <p>5. The vacancies of the candidates promoted against the Limited Departmental Competitive Exam were to be calculated from the date of notification of the revised Recruitment rules having element of LDCE. However, the actual position seem to be different as the LDCE vacancies on the date of Limited Departmental Competitive exam have been counted out of the total number of vacancies available on the date of the above exam thereby giving inaccurate vacancies of LDCE and places in the above draft seniority list.</p> <p>I humbly request you to consider my objections and review the above stated draft seniority list as per provisions of DOPT in the interest of natural justice and oblige.</p>	<p>some candidates who were appointed by operating reserved panel, it is informed that the seniority of officials appointed by operating reserve panel has been fixed in compliance of the Hon'ble CAT, PB, New Delhi order dated 15.09.2022 in O.A. No. 1715/2017 (Krishna Murari & Ors vs ESIC) which, <i>inter-alia</i>, directed as under:</p> <p><i>"We find that* there is no ambiguity as far as the rules and instructions determining the seniority is concerned. We have no reason to question the facts as stated in the O.A. Further, in view of the final order passed in O.A. No. 130/2020, we have also no cause to take any divergent view. Therefore, the present O.A. is allowed with a direction to the respondents to review the impugned seniority list dated 15.03.2006 and make the necessary corrections in the same by according the appropriate place in the said seniority list to the applicants in accordance with the marks and rank obtained by them in the selection examination. While reviewing the said seniority list, the respondents shall also take into consideration the representations filed by the applicants dated 21.03.2016. The aforesaid directions shall be complied with, within a period of 10 weeks from the date of receipt of this order by way of issuing a corrected/revised seniority list."</i></p> <p>Accordingly, the officers recruited by operating reserve panel have been placed in order of consolidated merit list.</p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
			The vacancy against each quota was calculated and apportioned as per provision of RRs.
20.	Shri Nikhil Kumar (336)	<p>1. The mentioned Seniority list dated 17.05.2024 is combined seniority list of the years 2006-07, 2007-08 and 2008-09 but as per instruction of DOPT seniority list to be drawn year-wise instead of combined for multiple years.</p> <p>2. I have been assigned the seniority of the year 2007-08 and 84 candidates of my batch, have been assigned the seniority of the year 2006-07 but as per instruction of DOPT all direct recruited of a batch have to be placed in one year instead of different years as per consolidated merit list.</p> <p>3. 12 candidates (Sl. No. 262, Sl. No. 265-268, Sl. No. 270-271 and Sl. No. 274-278) have been placed before me while giving seniority of the year 2006-07, who have been recruited while operating waiting list/reserve panel and joined in the year 2010 and 2011. These candidates were recruited against the vacancies likely caused by non-joining of the candidate were recruited against the vacancies likely caused by non-joining of the candidate within the stipulated time allowed for joining the post or where a candidate joins but he resigns or dies within a period of one year from the date of his joining or against fresh vacancies etc. therefore such candidates should not be placed before me since I have joined through main panel in the year 2009.</p>	<p>(1) With regard to fixing the seniority list of all Direct Recruits candidates in the same year i.e. 2006-07, it is informed that all direct recruits were appointed against the vacancies of the recruitment year/deemed recruitment year 2006-07, 2007-08 & 2008-09 and thereafter, all Direct Recruits were fixed in the seniority list by applying rota-quota with promotes promoted against the vacancies of Recruitment Year/ deemed Recruitment Year as per DoP&T instructions as explained in point No. 1 above.</p> <p>(2) With regard to fixing the seniority of the applicant below some candidates who were appointed by operating reserved panel, it is informed that the seniority of officials appointed by operating reserve panel has been fixed in compliance of the Hon'ble CAT, PB, New Delhi order dated 15.09.2022 in O.A. No. 1715/2017 (Krishna Murari & Ors vs ESIC) which, <i>inter-alia</i>, directed as under:</p> <p><i>"We find that there is no ambiguity as far as the rules and instructions determining the seniority is concerned. We have no reason to question the facts as stated in the O.A. Further, in view of the final order passed in O.A. No. 130/2020, we have also no cause to take any divergent view. Therefore, the present O.A. is allowed with a direction to the respondents to review the impugned seniority list dated 15.03.2006 and make the</i></p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
			<p><i>necessary corrections in the same by according the appropriate place in the said seniority list to the applicants in accordance with the marks and rank obtained by them in the selection examination. While reviewing the said seniority list, the respondents shall also take into consideration the representations filed by the applicants dated 21.03.2016. The aforesaid directions shall be complied with, within a period of 10 weeks from the date of receipt of this order by way of issuing a corrected/revised seniority list."</i></p> <p>Accordingly, the officers recruited by operating reserve panel have been placed in order of consolidated merit list.</p>
21	Ms. Sujata D. Agasti (698)	<p>In pursuance of the subject matter captioned above, I, Mrs. Sujata D. Agasti, Asst, Director (Adhoc), SRO: Pune would like to inform that I have been kept almost at the bottom of the instant Draft Gradation List ie at S. No. 698 (out of total 702 Incumbents). At the outset, I am to state that on being selected in Limited Departmental Examination for Regular Promotion to then post of Insurance Inspector (held on 10/03/2010), as per Hqrs' Office Order No 12 of 2010 dtd 12/05/2010; as per the merit list, I had secured 4th position (out of total 21 selected Incumbents). Thus, in this very Office Order, only 3 Incumbents were Senior to me, and 17 Incumbents were Junior to me vis-a-vis strictly as per merit position.</p> <p>Thereafter, vide so called finalised Gradation List [which was subsequently quashed by the Hon'ble CAT, Delhi & Hon'ble High Court, Delhi] so circulated by the Hqrs' Office vide Memorandum dtd 15/03/2016, my position was kept at S. No 605 (out of 702 Incumbents). In this very List, those afore-mentioned 3 Senior Incumbents were rightly placed above me and those 17 Junior Incumbents were also correctly placed behind me. But, as per the latest Draft</p>	<p>With regard to fixing the seniority list of the applicant at the almost bottom, it is informed that the Hon'ble CAT, PB, New Delhi, in its following orders, had set aside/quashed the said seniority list of Social Security Officer dated 08.11.2016 and directed to redraw the seniority list:</p> <p>(a) Order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. case)</p> <p>(b) Order dated 15.09.2022 in O.A. No. 1715/2022 (Krishna Murari & Ors. case)</p> <p>(c) Order dated 22.03.2023 in O.A No. 1234/2022 (Shanti Mahendran case)</p> <p>(d) Order dated 20.04.2023 in O.A. No. 235/2017 (Rajiv Bajaj & Ors. case)</p> <p>The Competent Authority, accorded his approval for accepting the order dated</p>

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		<p>Gradation List dtd 17/5/2024, 13 Incumbents (out of these 17 Incumbents) have been placed above me en block.</p> <p>Also, as per the aforesaid Gradation List dtd 15/3/2016, Three Direct Appointees viz Mr. Prem Kumar (S. No 646), Mr Jay Prakash (S. No 654) & Mr Ghyan Prakash (S No 658) had been appropriately placed behind me. But, as per the latest Draft Gradation List dtd 17/5/2024, all these 3 Junior Incumbents have been placed above me.</p> <p>Summing up, total 16 Incumbents [13 + 03] have been pushed above my seniority position for no reason whatsoever on the face of records. However, out of these Incumbents, 8 have been Retired. Thus, overall net adverse impact on my seniority remains in r/o 8 Incumbents. For the sake of ease of reference, the details in this regard are encapsulated in a Tabular form, as below:</p> <table><tr><th>S. No.</th><th>Name of Employee</th><th>Whether Promoted /Appointed/ Departmental Test</th><th>Date of Appointment/ Promotion</th><th>S. No. in earlier Gradation List dtd 15/03/2016</th><th>S. No. in the existing Draft Gradation List dtd 17/05/2024</th><th>Potential Loss of Seniority [comparing My position in the existing Gradation List & those of other Incumbents]</th></tr><tr><td>1</td><td>Mrs. Sujata D Agasti</td><td>Departmental Test</td><td>12/05/2010</td><td>605</td><td>698</td><td>I have been pushed back by 93 positions.</td></tr><tr><td>2</td><td>Mr Prem Kumar</td><td>Appointed</td><td>30/07/2010</td><td>646</td><td>392</td><td>Kept ahead of me by 306 positions</td></tr><tr><td>3</td><td>Mr Jay Prakash</td><td>Appointed</td><td>01/10/2010</td><td>654</td><td>408</td><td>Kept ahead of me by 290 positions</td></tr></table>	S. No.	Name of Employee	Whether Promoted /Appointed/ Departmental Test	Date of Appointment/ Promotion	S. No. in earlier Gradation List dtd 15/03/2016	S. No. in the existing Draft Gradation List dtd 17/05/2024	Potential Loss of Seniority [comparing My position in the existing Gradation List & those of other Incumbents]	1	Mrs. Sujata D Agasti	Departmental Test	12/05/2010	605	698	I have been pushed back by 93 positions.	2	Mr Prem Kumar	Appointed	30/07/2010	646	392	Kept ahead of me by 306 positions	3	Mr Jay Prakash	Appointed	01/10/2010	654	408	Kept ahead of me by 290 positions	<p>15.09.2022 of Hon'ble Tribunal in O.A. No. 1715/2022 (Krishna Murari case).</p> <p>ESIC has filed Writ Petition in the Hon'ble High Court of Delhi against the following orders.</p> <p>(a) Order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. case)</p> <p>(b) Order dated 22.03.2023 in O.A No. 1234/2022 (Shanti Mahendran case)</p> <p>(c) Order dated 20.04.2023 in O.A. No. 235/2017 (Rajiv Bajaj & Ors. case)</p> <p>Subsequently, the Hon'ble High Court of Delhi, vide its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (Anil Katyal & Ors.), WP(C) No. 14351/2023 (Shanti Mahender case) and WP(C) No. 14434/2023 (Rajiv Bajaj & Ors.), dismissed the said 03 writ petitions and, inter-alia, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade-II/Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks"</i></p> <p>The aforesaid judgement</p>
S. No.	Name of Employee	Whether Promoted /Appointed/ Departmental Test	Date of Appointment/ Promotion	S. No. in earlier Gradation List dtd 15/03/2016	S. No. in the existing Draft Gradation List dtd 17/05/2024	Potential Loss of Seniority [comparing My position in the existing Gradation List & those of other Incumbents]																									
1	Mrs. Sujata D Agasti	Departmental Test	12/05/2010	605	698	I have been pushed back by 93 positions.																									
2	Mr Prem Kumar	Appointed	30/07/2010	646	392	Kept ahead of me by 306 positions																									
3	Mr Jay Prakash	Appointed	01/10/2010	654	408	Kept ahead of me by 290 positions																									

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								<p>has been examined in consultation with legal counsels well versed in the matter. It has been noted that as per judgement of the Hon'ble High Court of Delhi while redrawing the seniority list, the concept as enumerated in N.R. Parmar and K. Meghachandra Singh would have to be kept in mind i.e. the crucial date of 19.11.19. The seniority lists of the Officials as appointed till 18.11.2019 has to be prepared on the principle of N. R. Parmar Judgment / DoPT guidelines and the seniority list of officials appointed after 19.11.19 has to be determined as per the principle as laid down in K. Meghachandra Singh and related DoPT instruction. It has further been noted that while assigning seniority to an Officer to a particular Recruitment Year/deemed Recruitment Year, it must be ensured that the said official is eligible for that Recruitment Year/deemed Recruitment Year.</p> <p>After considering the aforesaid judgement of Hon'ble High Court of Delhi, DoP&T O.M. dated 13.08.2021, DoP&T O.M. dated 04.03.2014 and legal opinion, the Competent Authority has decided to issue the draft seniority list of Social Security Officer on the basis of following principle:</p> <p>(a) The inter-se seniority of Social Security Officer may be redrawn as per principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 since all officers enlisted in the said list were appointed/promoted on/before 18.11.2019 subject to the condition that the officers who are placed in the redrawn seniority list against a particular recruitment year/deemed recruitment by</p>
		4	Mr Ghyan Prakash	Appointed	19/07/2010	658	420	Kept ahead of me by 278 positions
		5	Mr M T Gawandi	Departmental Test	22/06/2010	609	622	Kept ahead of me by 76 positions
		6	Mr Sanjay Kumar Gupta	Departmental Test	19/07/2010	613	626	Kept ahead of me by 72 positions
		7	S. Sriram	Departmental Test	08/06/2010	617	630	Kept ahead of me by 68 positions
		8	Mr Rajiv Kumar	Departmental Test	14/07/2010	625	634	Kept ahead of me by 64 positions
		9	Mr Unnikrishnan	Departmental Test	05/12/2010	629	638	Retired
		10	Mr Rajender Singh Bisht	Departmental Test	03/06/2010	641	642	Retired
		11	Mr Sayeed Ahmed	Departmental Test	06/07/2010	645	646	Retired
		12	Mr Vinodha Sumesh	Departmental Test	12/05/2010	649	650	Kept ahead of me by 48 positions
		13	Mr Ajay	Departmental Test	15/07/2010	653	654	VRS

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections							Reply
			Kumar Chawla	tal Test					applying rota-quota, must be eligible as per RRs for holding that post for that recruitment year/deemed recruitment year.
		14	Mr Yogesh Kumar Saini	Depa rtmen tal Test	09/08/2010	657	658	Retired	(b) As per order dated 15.09.2022 of Hon'ble Tribunal in O.A. No. 1715/2022 in Krishna Murari case, the candidate appointed by operating reserved panel may be placed in the redrawn seniority list in the order of consolidated merit list as per DoP&T O.M. No. 20011/1/2008-Estt.(D) dated 11.11.2010.
		15	Mr Anil Kumar Kaytyal	Depa rtmen tal Test	19/07/2010	661	662	Retired	
		16	Ch. Chandr a Rao	Depa rtmen tal Test	01/07/2011	665	666	Retired	
		17	N. V. Vyas	Depa rtmen tal Test	12/05/2010	673	670	Retired	(c) The seniority position of officials recruited through sports quota needs to be assigned to the respective Recruitment year/deemed Recruitment year to which the vacancy has been identified. The vacancies identified for Sports Quota for the year 2006-07, 2007-08 & 2008-09 were 04, 02 and 01 respectively. Accordingly, the seniority of 04 candidates recruited through sports quota against the vacancies of recruitment year 2006-07 may be placed at bottom of the recruitment year 2006-07 by applying rota-quota with corresponding promotee of the recruitment year 2006-07. In the same manner, the seniority of remaining 02 & 01 sports quota candidate recruited against the vacancy of recruitment year 2007-08 & 2008-09 may be fixed respectively.
		<p>In view of above, I solicit your good-self to set right my seniority position while finalising the Gradation List, otherwise it would cause irreparable loss to my career progression, for obvious rationales.</p>							On the basis of aforesaid principle, the applicant was not eligible to hold the post of Social Security Officer against the vacancies of Recruitment Year/deemed Recruitment Year 2006-07, 2007-08 & 2008-09 and the applicant was eligible for the

Sl. No .	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply																								
			recruitment year 2009-10. However, the candidates appointed/ promoted against recruitment year/deemed recruitment year 2009-10 are not available in the instant draft seniority list for applying rota-quota as per DoP&T instructions. Therefore, the applicant has been placed en-bloc at the bottom of recruitment year/deemed recruitment year 2008-09.																								
22.	<p>Shri Ram Krishan Meena (536)</p> <p>Shri Kamlesh Meena (663)</p> <p>Shri Rohitash Kumar Meena (643)</p> <p>Shri Bablesh Meena (571)</p> <p>Shri Laxmi Narayan Meena (595)</p> <p>Shri Mukesh Chand Meena (312)</p> <p>Shri Pradeep Kumar (615)</p> <p>Shri Kamal Kant Meena (508)</p>	<p>1. From the draft gradation/seniority list, details of category wise officials placed in the different vacancy years are as under:</p> <table><tr><th>Year</th><th>Total DR Candidates assigned in the year</th><th>UR</th><th>OB C</th><th>SC</th><th>ST</th></tr><tr><td>2006-07</td><td>80</td><td>54</td><td>22</td><td>4</td><td>0</td></tr><tr><td>2007-08</td><td>69</td><td>15</td><td>18</td><td>15</td><td>21</td></tr><tr><td>2008-09</td><td>26</td><td>0</td><td>1</td><td>0</td><td>25</td></tr></table> <p>As evident from the above, no ST candidate has been given the seniority in the year 2006-07. It is settled law that reservation roster is maintained year wise and for particular vacancy year, there is distribution of vacancies among various categories. It is fact that the UR Candidates who were selected against the vacancies for the year 2007 -08 and 2008-09 have been placed against the vacancy year 2006-07.</p> <p>2. The draft/provisional gradation/seniority list has been prepared following the principal of N R Parmar & DOPT OM No. 200111112012-Estt.(D) dated 04.03.2014. Officers have been placed against a particular recruitment year/deemed recruitment by applying rota-quota. In the N R parmar Case, the Hon'ble Apex Court held that the available direct recruits and promotees, for assignment of inter se seniori6r would refer to the direct recruits and promotees, who are appointed against the vacancies of a particular recruitment year, where the recruitment year</p>	Year	Total DR Candidates assigned in the year	UR	OB C	SC	ST	2006-07	80	54	22	4	0	2007-08	69	15	18	15	21	2008-09	26	0	1	0	25	<p>All applicants have been appointed in the grade of Social Security Officer through Direct Recruitment.</p> <p>Further, para 2.1 of DoP&T O.M. No. 22011/7/86-Estt.(D) dated 03.07.86, clearly provides that "The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of a subsequent selection."</p> <p>As per the aforesaid DoP&T guidelines, all the applicants have, rightly, been placed in the seniority list in order of merit list in which they are selected by the recruiting agency/recruitment division.</p>
Year	Total DR Candidates assigned in the year	UR	OB C	SC	ST																						
2006-07	80	54	22	4	0																						
2007-08	69	15	18	15	21																						
2008-09	26	0	1	0	25																						

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		<p>shall be the year in which the recruitment process for either of the modes of recruitment (direct recruitment or promotion) for a particular vacancy year is initiated viz. initiation of recruitment process against a vacancy year would mean the date of sending requisition for filling up of vacancies to the recruitment agency in case of direct recruits.</p> <p>3. It is fact that E-I Branch sent requisition on 13.12.2007 to Recruitment Cell for 165 vacancies (UR-64, OBC-38, SC-20 and ST-43) under DR Quota. So vacancy year should be 2007-08 for these 165 vacancies as per guidelines mentioned in the above point no.2 i.e. vacancy year would mean the date of sending requisition for filling up of vacancies to the recruitment agency in case of direct recruits. Even, if we assume that there were vacancies of 2006-07 in the above requisition, then there must be category wise bifurcation of these vacancies to ensure that candidates who are selected against the particular vacancy year get the seniority of respective vacancy year. Placing all UR Candidates in the year 2006-07 is injustice to ST Candidates including me.</p> <p>4. Giving seniority of 2008-09 to 25 ST candidates is totally wrong because all 43 ST Vacancies (which includes 35 backlog vacancies) were sent on 13.12.2007 and all are to be bunched together in the same year instead of breaking them in separate years. As per para no. 2.4.2 of DOp&T OM No. 2201117186-Estt. (D) dated 03.01.1986, in the case of carried forward vacancies of the previous years, the seniority will be determined between direct recruits and promotes to the extent of the number of vacancies for direct recruitment and promotes as determined according to the quota for that particular year, the additional direct recruits selected against the carried forward vacancies for the previous year would be placed en-bloc below the last promote or direct recruits as the case may be in the seniority list based on the rotation of vacancies for that year.</p> <p>5. Various results of UPSC or SSC may be referred wherein the vacancies of different recruitment years are filled by conducting single examination.</p>	

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		<p>In that case, candidates are selected following reservation rosters meant for the particular vacancy years. ESIC has failed to do so and have placed all UR Candidates in the year 2006-07 depriving other reserved category candidates (Specially ST) from their representation in the year 2006-07. And placing all 25 ST Candidates in the year 2008-09 is great violation because it is not possible that all 25 the vacancies arose in the year 2008-09 were earmarked for ST Category only and not a single UR Vacancy was there.</p> <p>In view of the above quoted facts, I would like to submit that I belong to ST Category and my selection took place against the ST Vacancy, but no reservation was applied for the vacancies of 2006-07 and backlog vacancies which were available in 2006-07 are not considered for the seniority against 2006-07. I, therefore, request your goodself to please accept my representation and revise the seniority list accordingly giving proper representation to reserved categories in respective vacancy years.</p>	
23.	Shri Gurmeet Singh Anand (371)	<p>Very humble & Respectfully I am to submit that recently I have come across the Revised Draft Provisional Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/Superintendents circulated Vide ESIC Hqrs.' Letter No. O.A. No. 100/141/2017-E.I dated 28.06.2024 and I place for your consideration the following objections, which are very grave in nature.</p> <p>{[Hon'ble Delhi High Court's judgement dated 18.03.2024 has dismissed the Writ petitions bearing Nos. WP(C) No. 14351/2023 (Shanti Mahender case), WP(C) No. 14434/2023 (Rajiv Bajaj & Ors. Case), and ESIC'S WP(C) No. 12135/2023 (Anil Katyal & Ors.).</p> <p>Reference Para 4 of the JUDGEMENT - "In W.P. (C) 12135/2023, ESIC sought quashing of judgment dated 30.08.2022, of the Hon'ble Tribunal in O.A. 141 of 2017, whereby the seniority lists were quashed being contrary to the law laid down in K. Meghachandra Singh & Ors. V. Ningam Siro & Ors. (2020) 5 SCC]" }</p> <p>This Revised Draft Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/Superintendents is prepared/issued in violation of the Delhi High Court's Judgement dated 18.03.2024. This Seniority List is against</p>	<p>(1) With regard issues raised by the applicant that the seniority list dated 28.06.2024 is prepared in violation of the Hon'ble High Court judgement dated 18.03.2024, the following facts are submitted:-</p> <p>The Hon'ble High Court of Delhi, in its judgement dated 18.03.2024 in WP(C) No. 12135/2023 (ESIC vs Anil Katyal & Ors.), has, inter-alia, directed as under:</p> <p><i>"In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/ Branch Managers Grade – II / Superintendents in the Employee State Insurance</i></p>

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		<p>the facts/principles/reasoning enumerated in the Judgment and is not in letter & Spirit of the Judgement/Law.. The Judgement interalia is the result of the dismissal of the Writ filed by ESIC.</p> <p>A Judgment may be defined as a reasoned pronouncement by a judge on a disputed legal question which has been argued before him.</p> <p>In the words of Chief Justice Sabyasachi Mukharji, —“The supreme requirement of a good judgment is reason. Judgment is of value on the strength of its reasons. Reason, therefore, is the soul and spirit of a good judgment.”</p> <p>The Revised Draft Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/Superintendents is bad in the eyes of law because while drafting the seniority, the concerned Officials/Officers, for the reasons may be best known to them, seem did not adhere to the following reasons, inter-alia, given in Para 39, 45, 46, 47 of the judgement.</p> <p>1. REFERENCE PARA 39 OF THE JUDGEMENT – “39. As per K. Meghachandra Singh (supra) the expression “recruitment year” does not mean the year in which, the recruitment process is initiated or the year in which vacancy arises. No candidate can be identified as a selected candidate on the date when the process of recruitment had commenced. The candidates on that day are only aspiring to be appointed to the vacancy intended for direct recruits. Persons responding to an advertisement cannot have any service related rights. Their seniority cannot be counted from the date of the advertisement. Only on completion of the process, does the candidate morph into a selected candidate. Seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre.”</p> <p>2. REFERENCE PARA 45 OF THE JUDGEMENT – “45. Clearly, the impugned seniority lists dated 15.03.2016, 24.06.2016 and 08.11.2016 were not settled Seniority Lists as they had been objected to and immediately challenged by approaching the Tribunal on 28.12.2016.</p> <p>3. REFERENCE PARA 46 OF THE JUDGEMENT - “46. Since the impugned lists were not final and under a cloud, they are not protected in terms of the saving paragraph in K. Meghachandra (supra). Even the tribunal had directed that any promotion made would be subject to outcome of the said Application and in fact promotions made thereafter were made by ESIC also subject to</p>	<p><i>Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks ”</i></p> <p>Further, the Hon’ble Tribunal, vide its order dated 30.08.2022 in O.A. No. 141/2017 (Anil Katyal & Ors. Vs ESIC), inter-alia, directed as under:</p> <p>“In view of the facts and arguments detailed above, we cannot sustain the impugned seniority lists. Accordingly, the Original Application is allowed and the impugned seniority list (A-1, A-2 & A-3) are set aside. The competent authority amongst the respondents is directed to re-draw the seniority list strictly in accordance with the observations made hereinabove and the instructions & guidelines issued by the DOP&T on the subject. These directions shall be complied with, as expeditiously as possible, certainly not later than a twelve weeks from the date of the order. No costs ”</p> <p>Keeping in view of both judgements, it is evident that it has been directed to redraw the seniority list in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department of Personnel & Training (DOP&T) on the subject. However, the Hon’ble High Court and the Hon’ble Tribunal had not directed to</p>

Sl. No.	Name and Sl. No. in the provisional seniority List	Issues raised/objections	Reply
		<p>outcome of the Application. Thus, there is no merit in the contention on behalf of the Petitioner that the lists are protected."</p> <p>4. REFERENCE PARA 47 OF THE JUDGEMENT - "47. In view of the above, there is no merit in the Petitions and the same are consequently dismissed. The Petitioner ESIC is directed to comply with the directions issued by the Tribunal and re-draw the Seniority List for the post of Social Security Officer/Branch Managers Grade – II/Superintendents in the Employee State Insurance Corporation in accordance with the law laid down by the Supreme Court in K. Meghachandra Singh (supra) and the instructions & guidelines issued by the Department Of Personnel & Training (DOP&T) on the subject. The exercise be completed within a period of eight weeks."</p> <p>Para 39 of the judgement inter-alia clearly says that the "Seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre." But it is not understood why the concerned Officials/Officers of the ESIC are interested in giving the seniority in violation thereof. It can be seen from the following reference of circulated Revised Draft Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/ Superintendents :</p> <p>In the year 2005-06 (S.No. 1 to 87) – The SSOs/Branch Managers Grade-2/Superintendents, who had got Regular Appointment / Promotion after the year 2005-06 have been accommodated.</p> <p>In the year 2006-07 (S.No. 88 to 296)– The SSOs/Branch Managers Grade-2/Superintendents, who had got Regular Appointment / Promotion after the year 2006-07 have been accommodated. 3</p> <p>In the year 2007-08 (S.No. 297 to 583) – The SSOs/Branch Managers Grade-2/Superintendents, who had got Regular Appointment / Promotion after the year 2007-08 have been accommodated.</p> <p>In the year 2008-09 (S.No. 584 to 710) – The SSOs/Branch Managers Grade-2/Superintendents, who had got Regular Appointment / Promotion after the year 2008-09 have been accommodated.</p> <p>The letter circulating the Provisional Draft</p>	<p>redraw the seniority list on the basis of date of joining to the particular post.</p> <p>Accordingly, the provisions contained in OM No 20011/2/2019-Estt. (D) dated 13-08-2021 which has been issued by DoP&T, GoI, pursuant to the judgement of the Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ors. Vs Ningam Siro & Ors, are applicable as on date for fixation of seniority of direct recruits and promotees and their inter-se seniority.</p> <p>The provisions of Para 7 (i), (ii) (iii) and (iv) of aforesaid DoP&T O.M. dated 13.08.2021 are relevant for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019. The provisions of the aforesaid Para 7 (i), (ii), (iii) and (iv) are as given below.</p> <p>"(i) DoPT's O.M. No. 20011/1/2012-Estt(D) dated 04.03.2014, issued in pursuance of Order dated 27.11.2012 in N.R. Parmar case, is treated as non-est/withdrawn w.e.f.19.11.2019.</p> <p>(ii) As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012-Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.</p> <p>(iii) In case of direct recruits and promotees appointed/joined during the period between</p>

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		<p>seniority of SSOs/Branch Managers Grade-2/ Superintendents mentions that the ESIC has taken opinion of the Advocates and based on their opinions, the Seniority has been prepared.</p> <p>It is not understood, Instead of preparing the Seniority list as per the reasoning given by the Hon'ble Delhi High Court's judgement, the Seniority has been prepared on the basis of the opinion of the Advocates ? The opinion however strong, cannot take the place of the reasoning given for the pronouncement of the judgement.</p> <p>Besides, the above, following may also be taken into consideration :</p> <p>(i) Very short period of time of one week has been given to finalise the current Provisional Draft Seniority List dated 28.06.2024.</p> <p>(ii) The Provisional Draft Seniority List mentions about one Case pertaining to Mr. Krishan Murari, we the Petitioner of O.A. 141 are not aware about the facts and the orders of the Hon'ble Tribunal.</p> <p>(iii) The Revised Draft Provisional Seniority has been for the year 01.04.2006 to 31.03.2009. But the Serial No.s 1 to 87 has been, said to be concerning the year 2005-2006. So, against the year 2005-2006 SSOs/Manager Grade 2/Superintendents appointed/promoted on regular basis should have been incorporated but they have been left to be incorporated.</p> <p>(iv) The Revised Draft Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/Superintendents is not a reasoned one. The objections raised by the Applicants of the O.A have not been justifiably dealt with.</p> <p>"Justice must not only be done, but must also be seen to be done" is a famous quote attributed to Lord Hewart, the then Lord Chief Justice of England in the case of Rex v. Sussex Justices, 1 KB 2561234. The fuller and original version of the quote is "justice should not only be done, but should manifestly and undoubtedly be seen to be done".</p> <p>The above objections/anomalies are placed for your kind consideration & for taking appropriate action in the matter, alongwith the request to get the Seniority list rectified, which in the gross violation of the Hon'ble Delhi High Court's Judgment, as per the reasoning/judgement of the</p>	<p>27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.Ms. dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.</p> <p>(iv) For cases where the recruitment process has been initiated by the administrative Department / Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of OMs dated 7.2.1986/3.7.1986 read with OM dated 4.3.2014 to ensure equal treatment of such appointees"</p> <p>The operative provisions for fixation of inter-se seniority as contained in para 5(a) to 5(i) of aforesaid OM dated 04-03-2014, is as under.</p> <p>"DoPT OM No. 20011/1/2006-Estt.(D) dated 3.3.2008 is treated as non-existent / withdrawn ab initio;</p> <p>b) The rotation of quota based on the available direct recruits and promotees appointed against the vacancies of a Recruitment Year, as provided in DOPT O.M. dated 7.2.1986/3.07.1986, would continue to operate for determination of inter se seniority between direct recruits and</p>

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		<p>Hon'ble Delhi High Court under reference, through which the ESIC's Writ Petition has been dismissed. And the Revised Draft Provisional Gradation/Seniority List for the post of Social Security Officers/ Branch Managers Grade 2/Superintendents circulated Vide ESIC Hqrs.' Letter No. O.A. No. 100/141/2017-E.I dated 28.06.2024 may not be treated as finalised.</p> <p>(a) The SSOs/Manager Grade 2/Superintendents appointed/promoted on regular basis & available during the year 2005-2006 only should find place in the seniority for the year 2005-2006.</p> <p>(b) The SSOs/Manager Grade 2/Superintendents appointed/promoted on regular basis & available during the year 2006-2007 only should find place in the seniority for the year 2006-2007.</p> <p>(c) The SSOs/Manager Grade 2/Superintendents appointed/promoted on regular basis & available during the year 2007-2008 only should find place in the seniority for the year 2007-2008.</p> <p>(d) The SSOs/Manager Grade 2/Superintendents appointed/promoted on regular basis & available during the year 2008-2009 only should find place in the seniority for the year 2008-2009.</p>	<p>promotees;</p> <p>c) The available direct recruits and promotees, for assignment of inter se seniority, would refer to the direct recruits and promotees who are appointed against the vacancies of a Recruitment Year;</p> <p>d) Recruitment Year would be the year of initiating the recruitment process against a vacancy year;</p> <p>e) Initiation of recruitment process against a vacancy year would be the date of sending of requisition for filling up of vacancies to the recruiting agency in the case of direct recruits; in the case of promotees the date on which a proposal, complete in all respects, is sent to UPSC/Chairman-DPC for convening of DPC to fill up the vacancies through promotion would be the relevant date.</p> <p>f) The initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well;</p> <p>g) Carry forward of vacancies against direct recruitment or promotion quota would be determined from the appointments made against the first attempt for filling up of the vacancies for a Recruitment Year;</p> <p>h) The above principles for determination of inter se seniority of direct recruits and promotees would be effective from 27.11.2012, the date of Supreme Court Judgment in Civil Appeal No. 7514-7515/2005 in the case of N.R. Parmar Vs. UOI & Ors.</p>

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			<p>i) The cases of seniority already settled with reference to the applicable interpretation of the term availability, as contained in DoPT O.M. dated 7.2.86/3.7.86 may not be reopened."</p> <p>In view of the facts mentioned above, it is very much clear that as per provisions of Para 7(iii) and 7(iv) of aforesaid OM dated 13-08-2021 read with provisions of Para 5(b) to 5(i) of aforesaid OM dated 04-03-2014, the principle of rotation of quota for fixation of inter se seniority of such direct recruits and promotees who have been appointed before 19-11-2019, is to be applied with reference to the year in which their recruitment was initiated / deemed to be initiated.</p> <p>After considering the legal opinion on the above judgements, it has been decided that while applying principle of N R Parmar & DoP&T OM No. 20011/1/2012-Estt.(D) dated 04.03.2014 for fixing seniority list, the concerned officer must be eligible as per RRs for holding that post for that particular recruitment year/deemed recruitment year.</p> <p>The applicant was promoted to the post of Social Security Officer before 19.11.2019 on regular basis through Limited Departmental Competitive Examination (LDCE) for which the recruitment process was initiated on 11.07.2007. Therefore, his seniority has, rightly, been fixed in the seniority list by applying rota-quota in ratio 2:1:1 (DPC:LDCE:DR) against the recruitment year/deemed</p>

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			<p>recruitment year 2007-08 as per DoP&T O.M. dated 04.03.2014.</p> <p>(2) With regard to very short period of 01 week time given, it is submitted that the provisional seniority list of Social Security Officer was issued on 17.05.2024 vide OM dated 17.05.2024 wherein 03 weeks time was given to the concerned officers for submitting representation/objections if any.</p> <p>(3) With regard to query raised that the Provisional Draft Seniority List mentions about one Case pertaining to Mr. Krishan Murari, we the Petitioner of O.A. 141 are not aware about the facts and the orders of the Hon'ble Tribunal, it is informed that both the cases i.e. O.A. No. 141/2017 (Anil Katyal case) and No. 1715/2017 (Krishna Murari case) were heard and concluded by the same judges bench of the Hon'ble CAT, PB, New Delhi. Moreover, it is not relevant to the applicant's seniority position.</p>

(Pranay Sinha)
Insurance Commissioner (P&A)