



मुख्यालय
HEADQUARTERS OFFICE

कर्मचारी राज्य बीमा निगम

EMPLOYEES' STATE INSURANCE CORPORATION
(An ISO 9001-2000 certified organisation)

पंचदीप भवन, सी.आई.जी. मार्ग, नई दिल्ली-2

PANCHDEEP BHAWAN C.I.G MARG NEW DELHI-2

Website: esic.nic.in/ Ph- 011-23234092-

No. A-27/17/1/97-E.III

Dated: 17-02-2011.

MEMORANDUM

Sub: Judgment of the Supreme Court of India in the SLP (C) No. 32701/2010 filed by All India ESIC Employees' Federation V/s ESI Corporation & Ors.

A copy of the certified Judgment/order dated 31.01.2011 of the Supreme Court of India, in the above mentioned case, relating to the recovery of arrears, in the case relating to pay scales of Assistants/ Personal Assistant, is enclosed herewith for necessary follow up action.

All the Regional Directors/ Directors/ Joint Director(I/C)/ Joint Director-V/ Medical Superintendents are requested to initiate the following line of action, on priority basis to implement the order of the Apex Court:-

- (i) To calculate the yearly installment to be recovered from each of the serving employee/pensioner in respect of their regions/sub regions/Hqrs/Hospitals.
- (ii) To effect the recovery of the first yearly installment during this calendar year 2011 and to ensure that the entire recovery process is completed by December, 2016.
- (iii) To intimate all the concerned employees/ pensioners about the judgment of the Supreme Court and the proposed yearly installment schedule of the amount that will be recovered from their salary/pension.
- (iv) To furnish the comprehensive details as on 31-12-2010 in respect of the employees who have died in service and the pensioners who have expired and the total arrears paid to them.
- (v) To furnish a yearly statement (by the 31st January of the succeeding year) duly counter signed by the respective head of the concerned finance wing certifying the amount recovered, during the year
- (vi) To furnish a yearly statement (by the 31st January of the succeeding year) mentioning the details of the death of the serving employee and pensioner during the said year.

This issues with the approval of Additional Commissioner (P&A).


ASSISTANT DIRECTOR

Encl.: As above.

To

All Regional Directors/Directors/Joint Directors (I/C)/ Addl. Commissioner (NTA)/ Dir.(M) Delhi/ Medical Superintendents ESI Hospitals, Basaidarapur/ Jhilmil/ Okhla/Rohini, New Delhi/ Noida/ K.K. Nagar, Chennai/ Joka (Kolkata), All ESIC Model Hospital/ Jt. Director-E-V (Hqrs.)/ SSMC/SMC.

Copy forwarded to:-

- 1 All Dy. Director (Fin.)/ Jt. Director (Fin.), of all Regions.
- 2 Additional Commissioner (legal) for information.
- 3 Director (Fin.), Hqrs.
- 4 Estt. Br.V/ Accounts-III/Accounts IV/Accounts-VII & Cash Branch, Hqrs.
- ✓ 5 Director (System) with request to put this Memorandum on the web site of ESIC.
- 6 Raj Bhasha Cell for Hindi Translation.
- 7 Guard File/ Spare copies.


ASSISTANT DIRECTOR

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

-566528

CIVIL APPEAL NO.1199 OF 2011

(@ SPECIAL LEAVE PETITION(C)NO.32701 OF 2010

ALL INDIA EMP. ST. INSU. CORPN EMP. FEDN&ANR

APPELLANT(S)

VERSUS

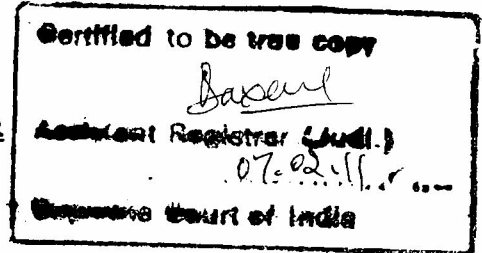
EMPL. STATE INSURANCE CORPN & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

Heard learned counsel for the parties.



2. This appeal is directed against the judgment and order dated 11.08.2010 passed in Writ Petition (C)No.7690 of 2004 by the High Court of Delhi at New Delhi. The short question which arises for consideration is regarding the refund of the amount by the employees in view of their undertaking.

3. The relevant portion of the undertaking given by each of the employee is reproduced as under :

"If the above said Writ Petition or any SLP that the ESI Corporation may choose to file in the Supreme Court is decided in favour of the Corporation, I shall refund forthwith the entire arrears of pay of allowances and also the excess pay and allowances that might have been paid to me consequent upon implementation of the Orders of the Tribunal."

In the said undertaking it was also mentioned that "in the event of my failure to refund the arrears and also the excess payment made

forthwith, the Corporation shall have a right to recover such amounts from me."

4. In view of the categoric undertaking submitted by the employees, they are under an obligation to refund the excess amount paid to the Corporation or the Corporation would be at liberty to recover excess amount paid to the employees.

5. In the facts and circumstances of this case, we direct the Corporation to recover the excess amount paid to the employees within six years by fixing yearly installments.

6. Looking to the peculiar facts of this case, we further direct the Corporation not to recover the amount from the legal heirs of the deceased employees.

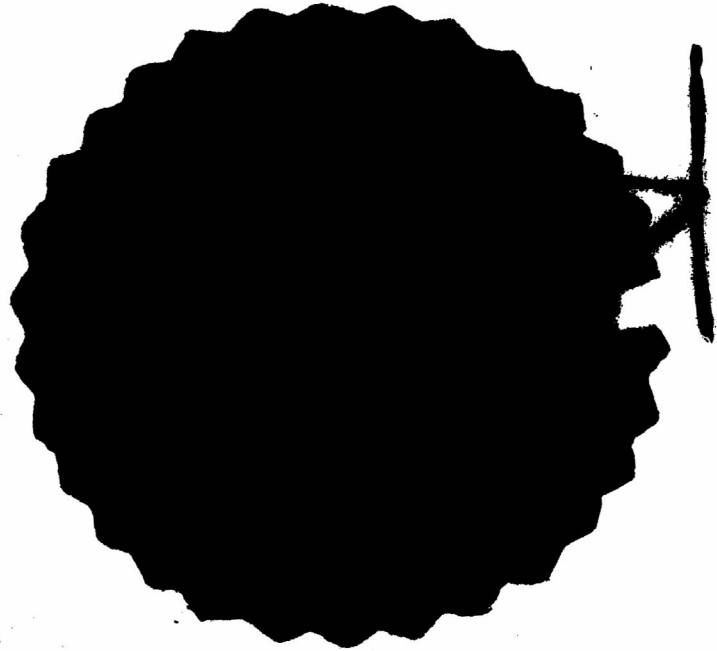
With this observation, the appeal is disposed of, leaving the parties to bear their own cost.

.....J.
(DALVEER BHANDARI)

.....J.
(DEEPAK VERMA)

NEW DELHI;
31ST JANUARY, 2011

11



A1-No. 5290
 Urgen Fee : Rs 5/-
 Certificate Fee 1s 10/-
 No. of Entries 2 Rs 2
 Total Cost Rs 17
 Date of Application 7/2/11
 Copy Ready On 7/2/11
 Date of Delivery 8/2

For Officer
 Supreme Court of India

SEALLED IN MY PRESENCE
7/2/11