



**CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
61/35, COPERNICUS MARG, NEW DELHI-110001**

**Order Sheet**

Item no.: 23  
O.A./4327/2025 (DELHI)  
[ PROMOTION ]  
With  
M.A./4843/2025  
MA Joining Together  
Court No.: 3

No of Adjournment: 1

Order Dated: 28/11/2025

**ESIC MEDICAL LABORATORY TECHNOLOGISTS ASSOCIATION THROUGH ITS  
AUTHORIZED REPRESENTATIVE MS KIRTI GUPTA  
Vs  
EMPLOYEES STATE INSURANCE CORPORATION (ESIC)**

**For Applicant(s) Advocate :** Mr. Sudarshan Rajan with Mr. Ramesh Rawat

**For Respondent(s) Advocate :** Proxy counsel for Mr. Amit Chawla

**Order of The Tribunal**

Applicants are aggrieved of the OM dated 29.01.2025, whereby the decision has been taken by the respondents to conduct the DPC for the post of Lab Assistant. Learned counsel for the applicant submits that the respondents are conducting the said DPC for vacancies occurred prior to 07.01.2022 under the unamended rules. He submits that the revised recruitment regulations had come into effect on 08.01.2022. In terms of the law as settled by the **Hon'ble Apex Court in CA No. 9746/2011 - State and 9747/2011 i.e. State of Himachal Pradesh and Ors Vs. Raj Kumar and CA No. 9747/2011 - Sharma and Ors Vs. State of Himachal Pradesh and Ors**, the relevant portion of which reads as under:-

*"38.1 Returning to the facts of the present case, we have noticed that the High Court has proceeded on the premise that the vacancies occurring before the amendment of the Rules on 25.11.2006 must be governed by the 1966 Rules. The decision of the High Court took within its sweep even the 7 new posts of Labour Officers that were sanctioned by an inter-departmental letter dated 20.07.2006, which included even the 3 posts allocated for direct recruitment. The direction of the High Court to encompass even the 3 posts allocated for direct recruitment was on the ground that the posts were sanctioned on 20.07.2006, which is prior to the amendment of the Rules on 25.11.2006.*

*38.2. We have already held that there is no right for an employee outside the rules governing the services. We have also followed and applied the Constitution Bench decisions in Union of India v. Tulsiram Patel (supra) and more particularly the decision in Roshan Lal Tandon v. Union of India (supra) that the services under the State are in the nature of a status, a hallmark of 154 which is the need of the State to unilaterally alter the rules to subserve the public interest. The 2006 rules, governing the services of the Respondents came into force immediately after they were notified. There is no provision in the said rules to enable the Respondents to be considered as per the 1966 Rules. The matter must end here. There is no other right that Respondents no. 1 to 3 can claim for such consideration."*

2. He submits that in view of the settled legal position, this decision of the respondents to hold the DPC concerning vacancies occurred prior to 07.01.2022 under the unamended recruitment regulations is illegal.

3. Notices in the OA were issued on 11.11.2025 and two weeks' time was granted for filing of a short reply. Today, proxy counsel appears on behalf of the respondents and submits that the reply is ready and shall be filed in due course. He further submits that the arguing counsel is out of station.

4. Learned counsel for the applicant presses for grant of interim relief. He submits that, on the one hand, the respondents have not even arranged for a counsel to argue on the interim prayer and, on the other hand, they are proceeding with the conduct of the DPC. It is submitted that if the DPC is

allowed to be conducted and promotions are accorded, the same shall cause irreparable loss and injury to the applicants, particularly as the applicants stand a better chance for promotion under the amended / newly notified rules.

5. We have considered the submissions. In our view, the balance of convenience lies in favour of the applicants and irreparable loss and injury will be caused to them if the respondents are permitted to go ahead with the DPC without any protective direction.

6. However, since the DPC is already underway, the respondents are allowed to proceed with the same. The result of the DPC shall not be declared without the prior leave of this Tribunal.

7. List on 29.01.2026.

**Sanjeeva Kumar**  
**Member (A)**

**Harvinder Kaur Oberoi**  
**Member (J)**

Sourjya Sobhaniya  
( steno 'c' )

dpc lab assistant

>











**LB**

! Legal Branch ESIC Hqrs <legal-hq@esic.gov.in> • 🔍

← ‹ → | ✓

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📧 To "Medical Legal And Integration Cell" <med-legal.hq@esic.gov.in>



Cc "Medical VII" <med7-hq@esic.gov.in>, "Joint Legal" <jd-legal@esic.nic.in>



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Sir/Madam

Please find the attached order dated 28.11.2025 in the matter of OA 4327/2025 titled ESIC Medical Laboratory Technologists Association Vs ESIC for information and necessary action.

With regards  
Legal Branch

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