

**F.No. 12039/04/2013-SSS**  
**Government of India**  
**Ministry of Statistics & Programme Implementation**  
**SSS Division**

Sardar Patel Bhawan  
Sansad Marg, New Delhi-110001

Dated: 22<sup>nd</sup> January, 2015

**Office Memorandum**

**Sub: Re-classification of Statistical Investigator Gr.II of Labour Bureau – reg.**

The undersigned is directed to refer to Labour Bureau letter No.73/02/2013-Adm.I dated 03.12.2014 endorsing a copy thereof to Ministry of Labour & Employment, wherein it has been intimated that concurrence of DOP&T, UPSC and Ministry of Law was not obtained prior to re-classification of "**Group C**" posts of Investigator Gr.II as "**Group B**" vide Labour Bureau O.M. No.73/02/2013-Adm.I dated 20.08.2013, with retrospective effect. Labour Bureau has issued this order ignoring the advice of the Cadre Controlling Authority (CCA) of SSS vide its O.M. No.12039/03/2013-SSS dated 26.07.2013 (copy enclosed).

2. The Investigator Grade II of Labour Bureau were absorbed and appointed in SSS as Statistical Investigator Gr. IV w.e.f. 1<sup>st</sup> April, 2004 in the equivalent pay scale of Rs.5000-8000 (**Group C**) (Revised Grade Pay of Rs.4200) on the basis of extant RRs in Labour Bureau which were repealed vide Schedule IV of SSS Notification dated 4<sup>th</sup> April, 2003 (**Group C**) of SSS. Thus CCA of SSS became the Cadre Controlling Authority for these 29 Investigator Grade II of Labour Bureau and as per statutory provisions contained in DOP&T Notification dated 20.4.1988 and 12.6.1998, only the Cadre Controlling Authority of the posts can re-classify their posts as **Group B or C**. Therefore, the unilateral decision taken by the Labour Bureau to declare the post of Statistical Investigator Gr. II as Group '**B**' posts is not applicable in respect of these 29 Investigator Grade II of Labour Bureau who have been encadred into SSS.

3. Recruitment Rules (RRs) are statutory in nature and any executive order cannot override the provisions of RRs and as such the action taken by Labour Bureau is ultra-vires because the re-classification has been done on retrospective effect without the concurrence of DoPT and Ministry of Law.

4. In view of the above, the 29 Investigator Grade II of Labour Bureau who have been encadred into SSS in the pay scale of Rs.5000-8000 (Revised GP of Rs.4200) would continue to be classified as **Group 'C'** officials, until such time the current RRs of SSS came into effect on 31<sup>st</sup> May, 2013 declaring all the Statistical Investigators Gr.II of SSS as **Group 'B'**, after re-structuring of the SSS.

This issues with the approval of the competent Authority.

Encl: As above

*Saraswathy*  
**(K. Saraswathy)**

Under Secretary to the Government of India  
Tel: 23340888

Ministry of Labour & Employment  
[Kind Attn: Smt. Nisha Gaur, Under Secretary (ESA) Section]  
Room No.604, Shram Shakti Bhawan  
New Delhi.

Copy to:

1. DoP&T [Kind Attn: Shri J.A. Vaidyanathan, Director-E] w.r.t. their ID No.947307/13/CR dated 14.03.2014 for information
2. D/o Legal Affairs (Kind Attn: Shri M.N. Singh, Assistant Legal Adviser), w.r.t. FTS No.898/2014-Adv.B dated 01.05.2014 for information.
3. All concerned officials of SSS.
4. Labour Bureau ([Kind Attn: Sunil Chaudhary, Director – Admn.I Section], SCO 28-31, Sector 17-A, Chandigarh-160017 w.r.t their letter No.73/2/2013-Adm.I dt. 20.8.2013 & 03.12.2014
5. Computer Centre, R.K. Puram, New Delhi with the request to place this OM on the official website of this Ministry, under the miscellaneous like of SSS.



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Speed posts.

No. 12039 /03 / 2013- SSS  
Government of India  
Ministry of Statistics & Programme Implementation  
(SSS Division)

Sardar Patel Bhavan,  
Sansad Marg,  
New Delhi-110001

Dated: 26<sup>th</sup> July 2013

Office Memorandum

**Sub: Re-classification of the posts of Investigator Grade II in Labour Bureau w.e.f. 01.01.1996 -Regarding.**

The undersigned is directed to refer to, Labour Bureau letter No. 79 / 20 / 2012 – Adm – I dated 22<sup>nd</sup> August 2012 Chandigarh vide which Ministry of Labour & Employment have been requested to clarify, whether the post of Investigator Grade II of Labour Bureau may be re-classified in "Group B" w.e.f. 01.01.1996. Labour Bureau endorsed a this letter this Ministry with the request that seniority of concerned officials may be kept in abeyance in the light of MOS&PI OM dated 13<sup>th</sup> May 2011 till the final decision is taken in the matter. The issue of reclassification of these posts as "Group B" has been examined and the views of this Ministry are as under:

(i) The upgraded pay scale of Rs. 5000 – 8000 (Group C) was extended to all statistical functions posts scattered in different participating Ministries/ Offices of Government of India in the light of 5<sup>th</sup> CPC recommendations made under para 81.17 vide this Ministry OM dated 30.06.1998 w.e.f. 1<sup>st</sup> January 1996 including Investigators Grade II of Labour Bureau. The Labour Bureau has now extended the pay scale of Rs. 5500 – 9000 w.e.f. 01.01.1996 to its Investigators Grade II, who were holding the post of Investigator Grade II (Group C) prior to Notification of SSS, without any consultation with CCA of SSS (i.e. MOS&PI). It has been noticed that neither the Labour Bureau nor any of the Investigator Grade II belonging to Labour Bureau, who have been absorbed into SSS made the CCA of SSS a party in their cases. Since the CCA of SSS was not a party to these litigations, views / comments of CCA of SSS on this matter could not be put forth for consideration at any point of time before the Hon'ble Courts. It is further seen that, neither the Ministry of Finance/DOP&T nor did the concerned administrative i.e. Ministry of Labour consult MOS&PI, the nodal Ministry for all statistical functional posts under the Govt. of India, before implementing these Judgments of the Hon'ble Courts.

(ii). At the time of constitution of SSS, Labour Bureau had offered 13 posts of Investigators Grade II (Group – C) in the pay scale of Rs. 5000 – 8000 and only 14 posts of Senior Investigators (Group – B) out of thir total sanctioned strength of about 100 in the pay scale of Rs.6500 – 10500 for encadrement in SSS. The total sanctioned strength of Investigator Grade I & II in Labour Bureau was around 280. It is not clear why the Labour Bureau offered these posts selectively for encadrement in SSS, despite the fact that all the posts of Investigator Grade I & II were Statistical function posts. They were required to offer all statistical functions posts for encadrement in SSS, irrespective of their being filled up or vacant, however, it was left to the individuals to opt for inclusion in SSS or otherwise. The other organizations like NSSO (FOD), CSO, CPD and IBM, etc. offered all their Statistical Function posts into SSS including promotional and feeder posts.

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(iii) On the basis of information and copy of RRs furnished by the Labour Bureau, Chandigarh, the posts of Investigator Grade - II (Rs. 5000 – 8000) were encadred under Group "C" Category and the same was classified and notified in SSS vide Notification 4<sup>th</sup> April 2003. Similarly, all posts of Investigator Grade – I (Rs.6500 – 10500) were encadred under Group "B" category and the same was also classified as "Group B" vide SSS Notification dated 12<sup>th</sup> February 2002 (Group-B).

(iv) It is further informed that as per rule 8 of SSS (Group C) Notification dated 12<sup>th</sup> February 2002 and subsequent amendment Notification dated 4<sup>th</sup> April 2003, a number of statistical functions posts carrying pay scale of Rs.5000 – 8000 (Group C) as existed in the different participating Ministries / Organizations were notified, based on the information furnished by their administrative Ministries / Organization / Departments. Since, incumbents of SSS working in Labour Bureau were holding the post of Investigator Grade II in Labour Bureau in the pay scale of Rs. 5000 – 8000 (Group C) prior to Notification of SSS, therefore, they were placed in the integrated eligibility list of Rs. 5000 – 8000 (Group C) by maintaining inter-se seniority and subsequently they were absorbed and appointed, in accordance with Rule 8 of SSS Rules (Group 'C') dated 12<sup>th</sup> February 2002 as Statistical Investigator Grade IV in the pay scale of Rs.5000 – 8000 (Group C) w.e.f. 1<sup>st</sup> April 2004, on the basis of their option form submitted by them. Accordingly, they were placed in the seniority list of Statistical Investigator Grade IV of Subordinate Statistical Service (SSS).

(v) In view of the facts stated above, seniority of Sh. Bharat Singh Negi [EC- 5904], Sh. Ram Kumar Chaturvedy [EC- 5903], Sh. Hans Raj [5905], G. D. Sharma [EC- 4220] and Sh. B. B. Sharma [EC- 5897] in SSS has been re-examined and the seniority assigned to them as per the draft seniority OM dated 23<sup>rd</sup> May 2011 and 2<sup>nd</sup> July 2013 has been kept in abeyance, because the above aspects were not taken into consideration, while granting them seniority in the light of their revision of pay scale. Further, the advice sought by Labour Bureau from Ministry of Labour vide their letter dated 22<sup>nd</sup> August 2012 was not received in this Ministry. In view of this, the old seniority, assigned to them vide SSS OM dated 13<sup>th</sup> May 2011 prior to OM dated 23<sup>rd</sup> May 2011 & 2<sup>nd</sup> July 2013 is being retained. Further seniority of these officials & others similar officials would be examined according to absorptions clauses of SSS RRs vis – a- vis instructions of seniority issued by DOP&T, if required.

(vi) Further, it is noted that the recruitment rules have already been repealed vide rule 24 of SSS Notification dated 12<sup>th</sup> February 2002 (Group C) for the posts offered for inclusion in SSS. Therefore, due to grant of pay scale of Rs. 5500 – 9000 [Group C], these posts may not be Re-classified now as Group 'B' post from retrospective date by Labor Bureau, particularly in respect of those incumbents, who have already been absorbed in SSS.

(vii) It may be noted that the post carrying the pay scale of Rs. 5500 – 9000 in Labour Bureau may be treated as "Group B post" as per DOP&T Notification dated 20<sup>th</sup> April 1998 for which an amendment is required to be issued in the existing RRs by Labour Bureau. It is an established practice that RRs, being statutory in nature, may not be amended from retrospective date. As per the, SSS Notification dated 12<sup>th</sup> February 2002 and 4<sup>th</sup> April 2003 (Group –C) the pay scale of Rs. 5500 – 9000 was notified as Non-functional pay scale. Moreover, Recruitment Rules of SSS Notified in the year of 2002, have also been repealed vide Notification dated 31<sup>st</sup> May 2013, hence the post of Investigator Grade II of Labour Bureau may not be classified as "Group B" posts at this belated stage.

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(viii) As per SSS Notification dated 12<sup>th</sup> February 2002 and 4<sup>th</sup> April 2003, the pay scale of Rs.5500 – 9000 {Group C} was classified as "Group C" and the same was notified as Non-functional scale. It is informed that SI Grade III & IV were interchangeable for sanctioned strength, work allocation and posting / transfer purposes. In view of this, SI Grade III was not a separate grade but was a segment of functional grade of SI Grade IV. Further, if an establishment does not want to classify the posts of Rs. 5500 -9000 as "Group- B" posts in functional interest then it would be necessary for that establishment to simply intimate full justification to DOP&T in the light of DOP&T OM dated 12<sup>th</sup> June 1998. In view of the above position the concerned officials can not allowed to compel an establishment that their posts may be classified as Group B posts. Taking into account above aspects, the post of SI Grade III (Rs. 5500 – 9000) of SSS was not placed in Group 'B'.

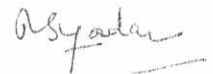
(ix) It is to inform that, posts of Investigators Grade II of Labour Bureau have already been encadred and notified vide SSS Notification dated 12<sup>th</sup> February 2002, 4th April 2003 in the pay scale of Rs. 5000 – 8000 (Group C), hence, these may not be re-classified as "Group B" at entry stage in SSS after their inclusion. This will go against the consensus decision of the Government to constitute the SSS (Group C) in the pay scale of Rs. 5000-8000 at entry scale.

(x) It is further informed that at the time of their initial absorption, no person, who was holding the post in the pay scale of Rs. 5500-9000 (Group 'C') was inducted into the Service as Statistical Investigator Grade-IV & III.

(xi) The Labour Bureau has rightly mentioned under para (iii) in their letter dated 22<sup>nd</sup> August 2012, that the Hon'ble Court has not directed any other benefits attached to the pay scale of Rs.5500 – 9000 except re-storing the upgraded pay scale of Rs. 5500 – 9000.

2. The Labour Bureau is, therefore, advised that the posts of Statistical Investigator Grade II that have been encadred in Subordinate Statistical Service (SSS) may not be re-classified as "Group B" posts in view of SSS Rules. Further, since CCA of SSS is the cadre controlling authority for the posts encadred in Subordinate Statistical Service (SSS) along with their incumbents, Labour Bureau is also advised to consult necessarily MOS&PI, the Nodal Ministry before taking any decision concerning the Statistical Functional posts.

This issue with the approval of JS (A)



(R.S. Yadav)  
Deputy Secretary to the Govt. of India  
Tel. 011-2374 2176

Sh. Sunil Chaudhry  
Director, Ministry of Labour & Employment  
SCO, 28- 31, Sector 17-A  
Chandigarh-160017.

**Copy to:**

- (i) Sh. Harpreet Singh, Under Secretary, Ministry of Labour & Employment ESA Unit Shram Shakti Bhawan Rafi Marg New Delhi – 110001w.r.t. their letter No. A- 11014 / 01 / 2012 – ESA (LB) dated 11<sup>th</sup> September 2012 addressed to Labour Bureau Chandigarh.