



सत्यमेव जयते

12

न्यायालय मुख्य आयुक्त दिव्यांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment
भारत सरकार/Government of India

Case No. 12627/1011/2021

Complainant:

Shri Mohak Kumar,
173, Nehru Apartments,
Kalkaji,
New Delhi – 110 019

R-28227

Versus

Respondent :

The Chief Postmaster General, Delhi Circle,
Meghdoot Bhavan,
Dr. Bhim Rao Ambedkar Marg,
Central Ridge Reserve Forest,
New Delhi – 110 001.

R-28228

Disability : 50% Intellectual Disability.

Gist of Complaint:

Shri Mohak Kumar, the complainant vide his complaint dated 01.03.2021 submitted that the Chief Postmaster General, Delhi Circle vide Advt. No. III/2020-2021 has advertised for recruitment of Gramin Dak Sevaks. He submitted that Deptt. of Posts has not included Intellectual Disability in their notification to this post which is a clear violation of Notification no. 16-15/2010-DD-III dated 29.07.2013 of Ministry of Social Justice and Empowerment.

2. The Asst. Director (Legal & Inv.), Deptt. of Posts, Delhi Circle vide letter no. CC/50-14/13 dated 30.03.2021 submitted that a notification for Delhi Circle GDS Online Engagement Cycle-3 was made live on website w.e.f. 27.01.2021 for candidates to apply online. The complainant has referred to the GDS Cycle-3 notification of Delhi Circle complaining that there is no mention of Intellectual

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person in the PwD category which is a clear violation of the notification dated 04.01.2021 issued by the Deptt. of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment. As regards notification dated 04.01.2021, no such notification has been received in their office. As per para 04 of the said Postal Directorate letter as per recommendations of the committee constituted for identification of posts in Gramin Dak Sevaks as suitable for persons with benchmark disabilities in pursuance of Rights of Persons with Disabilities Act, 2016 in para 4(e) of the following categories of disability are suitable for the posts in GDS:

Name of the Posts	Categories of disability suitable for the post
BPM / ABPM / Dak Sevaks	a) Low Vision (LV) b) D (Deaf), HH (Hard of Hearing), c) One Arm (OA), One Leg (OL), Leprosy Cured, Dwarfism, Acid Attack Victim. d) Specific Learning disability e) Multiple Disabilities from amongst disabilities mentioned at (a) to (d) above except Deaf and Blindness.

3. The complainant vide his rejoinder dated 10.04.2021 submitted that the Respondent has accepted about non receiving of Notification dated 04.01.2021 although the same is available on the public domain. The Respondent has also given reference to the Postal Directorate letter no. 17-08/2017-GDS dated 26.02.2019, which is outdated now as the present notification supersedes all the previous orders. There is also violation regarding Section 21, 23, 33 of the RPwD Act, 2016 especially Section 34 where they have extended the benefit of reservation to persons with benchmark disabilities in the new category of :-

Autism,
 Specific Learning Disability,
 Mental Illness and Intellectual Disabilities.



4. **Hearing** : A hearing through video conferencing by the Commissioner for Persons with Disabilities was held on 01.07.2021.

5. The following persons were present during the hearing ;

- 1) Complainant: Adv. Rajan Mani for Complainant.
- 2) Respondent: Shri Varun Mishra, Associate Director (Recruitment) for Respondent

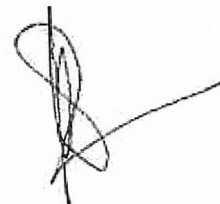
Observations & Recommendations

6. Complainant submits that posts of Gramin Dak Sevak were advertised by the Respondent establishment. As per the notification issued by the Respondent establishment, Divyangjan with Intellectual Disability could not apply for the post.

7. Respondent submits that as per Postal Directorate No. 17-08/2017, dated 26.02.2019, Intellectual Disability is not recognised for the post of Gramin Dak Sevak. Further, M/o SJE Notification dated 04.01.2021 was not received by the Respondent.

8. M/o SJE notified list of posts suitable for Divyangjan vide Notification No. 38-16/2020-DD-III, dated 04.01.2021. On Sr. No. 198, post of Village Postman/Gramin Dak Sevak is identified suitable for Divyangjan with Intellectual Disabilities. Respondent is bound by this notification and hence Respondent's submission that Postal Directorate No. 17-08/2017, dated 26.02.2019 does not recognise Intellectual Disability as suitable for Gramin Dak Sevak lacks merit. By- laws of Respondent establishment cannot derogate specific guidelines issued by Government of India under Rights of Persons with Disabilities Act, 2016.

9. This court concludes that by precluding Intellectual Disabled from applying for the post of Gramin Dak Sevak, Respondent has committed violation of RPwD Act, 2016.




10. Hence, this court recommends that the Respondent shall withdraw the impugned advertisement and re-issue the same after examining it under the provisions of RPwD Act, 2016 and guidelines issued by Government of India from time to time, particularly M/o SJE Notification dated 04.01.2021.

11. Further, this court recommends the Respondent to send copy of this Order and copy of M/o SJE Notification dated 04.01.2021 to Postal Directorate for necessary amendments in by-laws of Respondent establishment.

12. The case is disposed off.

Dated: 02.08.2021


(Upma Srivastava)
Commissioner for
Persons with Disabilities