



सत्यमेव जयते

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## 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: 12801/1023/2021

Complainant: Shri Kodakkal Shivaprasad  
Founder & Chairman  
Indian Divyang Empowerment Association  
E-mail: <indiandivyangempowerment@gmail.com>

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Respondent: The Secretary  
Visakhapatnam Port Trust (VPT)  
Port Area, Visakhapatnam – 530035  
E-mail: <gad.tvg.vpt@gov.in> <tvenugopal@vpt.shipping.gov.in>

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### GIST of the Complaint:

Complainant vide complaint dated **22.07.2021** submitted that Shri M.Bhaskara Rao, a person with disability was working in Visakhapatnam Port Trust as a Checker and he was demised on 19.08.2020 due to COVID – 19. Complainant alleged that it was happened due to negligence of VPT as they have not exempted persons with disabilities from roster duties. Complainant has requested to provide Permanent Employment to his spouse or dependent and also provide double the monetary compensation to his spouse i.e. 01 Crore.

2. The matter was taken up with the Respondent vide letter dated **28.07.2021** under Section 75 of the RPwD Act, 2016.

3. In response, Secretary, VPT vide letter dated **18.08.2021** inter-alia submitted that Rs. 50 Lakh monetary compensation was already paid to the spouse of deceased employee and there is no such provision/direction to pay one crore compensation to the employee who died due to Covid-19 pandemic. He further submitted that with regard to compassionate appointment, it has been clearly mentioned in the Draft Compassionate Scheme defined by IPA, that there are not entitled to compassionate appointment except the eligible compensation.

5. After considering the respondent's reply dated **18.08.2021** and the complainant's rejoinder dated **27.08.2021**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **21.09.2021** but due to administrative exigencies hearing rescheduled on **23.09.2021**

**Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **23.09.2021**. The following were present:

- Adv. Anajana Sharma on behalf of complainant
- Shri B. Sama Murty, Sr. P.O on behalf of respondent

**Observation/Recommendations:**

6. Both the parties were heard.

7. Complaint is filed on behalf of Late M. Bhaskar Rao who was divyang employee. Complainant alleges that Mr. Bhaskar Rao was forced to attend office during Covid. On 19.08.2020, he succumbed to Covid. Complainant has sought relief that the dependant of the deceased employee must be granted compensation of Rs. 1 crore and job on compassionate basis.

8. Respondent submits that when Sri Bhaskar Rao got Covid all medical benefits were extended to him. As per the existing policy, dependant is awarded compensation of Rs. 50 Lakhs. In the present case, Rs. 50 Lakhs have been given to the dependant of the deceased employee. Rules do not allow to award 1 Crore compensation.

9. It is astonishing that divyang employee was called to office despite of Covid – 19 exemption guidelines. Respondent's submission that it is not bound by DoPT Orders is not legally tenable. Respondent is bound by guidelines issued by Department of Public Enterprises (DPE). DPE issued Office Memorandum dated 23.09.2020. The Office Memorandum dated 23.09.2020 endorsed DoPT O.Ms. which exempted divyang employees from attending office.



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divyang employees from attending office till 13.02.2021. DoPT by OM dated 13.02.2021 issued instruction that attendance of all the employees is imperative, without any exemption to any category of employees. Further by O.M. dated 19.04.2021, DoPT again exempted divyang employees from attending office. O.M. dated 19.04.2021 is further extended by O.M. dated 14.06.2021. Hence, this court concludes that Respondent's act of compelling the Complainant is violative of DoPT guidelines.

11. This court takes cognizance of the fact that Ministry of Port, Shipping & Waterways by letter dated 28.04.2020 mandates that major ports may grant ex-gratia compensation of Rs. 50 Lakhs. It is also to be noted further that Para 18(c) of Scheme of Compassionate Appointments lays down that if ex gratia compensation has been granted to dependant of deceased employee then such dependant's case shall not be considered for compassionate appointment.

12. It is to be noted that Respondent's policies relating to compensation and compassionate appointment of deceased employee are of general nature. These policies do not reflect any special provision for divyang category. This Court concludes that there is no separate policy for divyang employees in this regard and particularly for those divyang employees who were made to attend duties even during Covid – 19 lockdown despite DoPT's exemption Orders endorsed by DPE.

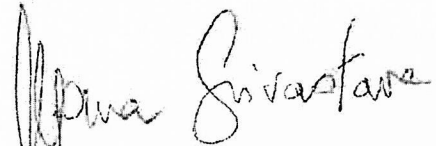
13. This Court recommends that the Respondent shall increase the compensation amount of Rs. 50 Lakhs to 1 crore which is justified on the aforesaid grounds.

14. Respondent is directed to submit the Compliance Report of this Order within 3 (three) months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed

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that the Respondent has not complied the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

15. The case is disposed off.



**(Upma Srivastava)**  
Commissioner for  
Persons with Disabilities

Dated: 18.11.2021