



JUNE

31

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. 12576/1011/2021

Complainant:

Shri Dhiraj Dhananjay Sarda,

937, Sahivaji Chowk,

Dist. : Rahuri,

Ahmednagar,

Maharashtra

Email : <dhiraj.sarda7777@gmail.com>

R-22575

Versus

Respondent :

Food Corporation of India,

(Through the Chairman & Managing Director),

16-20, Barakhamba Lane,

New Delhi – 110 001

R-22576

Disability : 53% Multiple Disability [53% Locomotor + 53% Hard of Hearing]

Gist of Complaint:

Shri Dhiraj Sarda, aged 26 years, a person with 53% multiple disability vide his complaint dated 22.01.2021 submitted that he has passed the examination to the post of AG III (General) in Food Corporation of India against their Advt. No.01/2019-FCI category-III of West Zone, Mumbai. His Document Verification has been completed by FCI on 13.02.2020 without any issues but he has not received his Regional Allotment Letter from FCI so far. He submitted that earlier he was selected for the post of Watchman against FCI's Advertisement in 2018. At that time his candidature was accepted.

[Handwritten Signature]

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सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006

Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 ; Tel.: 23386054, 23386154 ; Telefax : 23386006

E-mail: ccpd@nic.in ; Website: www.ccdisabilities.nic.in

(कृपया भविष्य में पत्राचार के लिए उपरोक्त फ़ाइल/केस संख्या अवश्य लिखें)

(Please quote the above file/case number in future correspondence)

2. The Dy. Genl. Manager (CLO), FCI vide their letter no. 44(2)/CCPD-1/LC/2021/105 dated 02.03.2021 submitted that Shri Dhiraj Dhananjay Sarda with Roll No. 2041014167 had applied for the post of Assistant Grade-III (General) and was selected with the rank under PwBD-B-1. During the document verification, it was noticed that the physical disability mentioned in the disability certificate of the complainant did not match with the applied category. Hence, the benchmark disability mentioned for the vacancy was not as per the physical requirements of the candidate. Therefore, his candidature was not considered. The complainant had represented this before the concerned FCI Office, i.e. Zonal Office (West), Mumbai. The Respondent submitted that the Disability Certificate reproduced by the candidate is currently being reviewed by them and the final decision in this regard shall be intimated to the complainant.

3. **Hearing** : A hearing through video conferencing by the Commissioner for Persons with Disabilities was fixed on 06.04.2021. The said hearing was rescheduled to 16.04.2021 at 3:00 p.m due to administrative reasons.

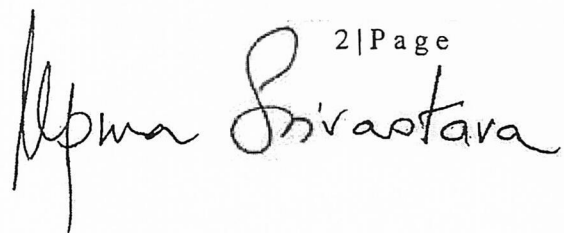
4. The following persons were present during the hearing ;

- 1) Shri Dhiraj Dhananjay Sarda in person present.
- 2) Shri R.L. Meena, DGM, FCI for Respondent.

Observations & Recommendations

5. Complainant applied for the post of Assistant Grade – III. He was selected under the category PwBD-B-1. Complainant alleges that though he has been selected, he has not yet received Allotment Letter.

6. Respondent submits that the Complainant passed the recruitment examination, however during documents verification stage it was found that

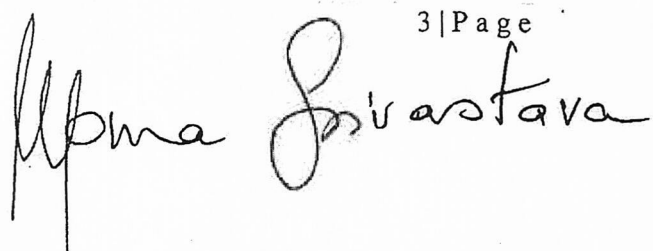
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the sub category of physical disability he mentioned in the examination form was different from the disability he was actually suffering from. Respondent submitted that it was clearly mentioned in the advertisement that PwDs with 'Locomotor Disability' or 'Hard of Hearing' were eligible for applying for the post. However, the Complainant suffered from 'Multiple Disability'. Therefore, the candidature of the Complainant was rejected at the stage of documents verification. After rejection for the first time, the complainant represented his case before 'zonal office, which is considering the application of the Complainant.

7. Complainant suffers from Multiple Disability (Locomotor disability and Hard of Hearing) upto the extent of 53%. It is an established fact that the Complainant has passed the recruitment examination conducted for the post. This fact is manifestation of hard work and determination of the Complainant, despite the disabilities.

8. Further, Rights of Persons with Disabilities Act, 2016 in its preamble lays down the objectives which are sought to be achieved by the legislation. Some of the objectives are 'Non-discrimination', 'Equality of Opportunity' and the most important being 'Full and Effective Participation and Inclusion in Society'. To achieve these objectives certain rights are conferred and recognized by the Act and authorities are established and entailed with certain duties. One such Chapter is Chapter IV which deals with Rights and Duties with respect to Skill Development and Employment.

9. Section 3 of the Act lays down that appropriate government shall take steps to ensure reasonable accommodation for Persons with Disabilities.



Section 20 of the Act, which falls in Chapter IV lays down that government establishment shall not discriminate with persons with disability in any matter relating to employment. 'Discrimination' is a wide term which is defined in Section 2(h) of the Act. As per the definition, 'discrimination' means any act of restriction or exclusion which impairs or nullifies the enjoyment of all human rights and fundamental freedoms at par with other human beings who do not belong to PwD category. Definition further lays down that denial of reasonable accommodation is also discrimination. For the purpose of achieving the objective of economic independence of the disabled persons, Section 2(y) of the Act defines "Reasonable Accommodation" the necessary and appropriate modification and adjustments made to ensure that Persons with Disabilities can enjoy their human rights and fundamental rights equally at with others.

10. Combined reading of Section 20 and Section 3 of the Act taking into consideration various definitions in Section 2, manifests the intention of the legislature. In order to make sure that Persons with Disabilities can enjoy their basic fundamental rights equally with others, appropriate government is duty bound to make necessary changes and modifications.

11. This court also attracts the kind attention of the Complainant towards List of Posts identified suitable for Persons with Disabilities. Ministry of Social Justice and Empowerment has published list of posts identified suitable for Persons with Disabilities dated 04.01.2021. Entry No. 90 of the list identifies Post of Assistant Grade (General) suitable for Person suffering from Multiple Disabilities. Therefore, even though advertisement did not mention persons suffering with 'Multiple Disabilities' eligible for the post, Respondent can take into consideration the MoSJ&E list dated 04.01.2021 while deciding the Complainant application which is still pending before Zonal Office of the Respondent establishment.

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Alpna Srivastava

12. The Respondent passed an examination in spite of the challenges the two disabilities presented before him. This court recommends that the Respondent shall on considerations of compassion and provisions of the RPwD Act, 2016 as mentioned in paras 8 & 9 above consider the Complainant's application favourably, which is pending before the Zonal Office, in light of MoSJ&E List of identified posts dated 04.01.2021.

13. The case is disposed off.

Dated: 16.06.2021



(Upma Srivastava)
Commissioner for
Persons with Disabilities