

Case No.11000/1033/2019

Dated 29.10.2019

In the matter of:

Shri Vinod Kumar, Email – vinodk9839@yahoo.in

.... Complainant

Versus

The Director/Registrar, School of Open Learning, University of Delhi, 5, Cavalry Lines,
Delhi-100007

.... Respondent

Date of hearing: 09.10.2019

Present:

1. Shri Pradeep Kumar Bajpayee, Director/OSD, SOL, Delhi University; and Shri Suresh Sharma, Section Officer, Exam Branch VI for the respondent
2. None for complainant

ORDER

The above named complainant, a student with 50% locomotor disability pursuing B.A. from School of Open Learning, University of Delhi filed a complaint through email dated 28.01.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding failing him every time in Paper No.C809-Customer Affairs with almost same marks by the respondent;

2. Under Section 75 of the Act, the matter was taken up with the respondent vide this Court's letter dated 22.03.2019.

3. The respondent filed their reply dated 23.04.2019 and submitted that marks were awarded by the examiner based on the performance of the candidate. If a candidate is not satisfied with the marks and has some doubt on it, the candidate may apply for revaluation of his paper through the mechanism devised by the University.

4. In rejoinder dated 21.05.2019 to the reply filed by the respondent, the complainant expressed his dissatisfaction that for the past one year he had been trying to meet each and every personnel of the respondent by visiting and by writing also. When they did not consider his request, he filed an application under RTI. The PIO decided the matter as per the procedure of the University for obtaining the answer scripts. The Joint Registrar & Appellate Authority (RTI), in his Order dated 30.01.2019 upheld the decision of the CPIO and ordered that, "However, the appellant, if a student of the University, is again permitted to obtain his evaluated answer script by contacting Assistant Controller of Examinations (Revaluation), in case it is available as per the record retention schedule on payment of requisite fees within 20 days of receipt of this order." The Appellate Authority further ordered that, "A copy of the First Appeal is required to be sent to the Executive Director, School of Open Learning for appropriate action at their end." The complainant has again alleged that the respondent is not even following the order passed by the Appellate Authority and is harassing him.

5. Upon considering the reply of the respondent and the rejoinder filed by the complainant a personal hearing was held on 09.08.2019.

6. During the hearing the representatives of the respondent intimated that on going through the record, no discrepancy was found in posting of marks in Paper C809. The marks have been correctly posted. The representatives of the respondent filed a copy of the relevant statement of marks and submitted that the Evaluation Centre informed that the petitioner/candidate had secured 26/100 marks in 2016 vide Roll No.7271072; 20/100 marks in 2017 vide Roll No.9880130; and 23/100 marks in 2018 vide Roll No.4001168. The marks were awarded as per the performance by the petitioner. However, there is a provision of re-checking/re-evaluation, if marks are not as per expectation of the candidate. The candidate may apply to have a copy of the answer script.

7. The complainant had not appeared in the hearing. However, he, through email dated 09.08.2019, intimated that he could not appear in the hearing due to non-receipt of Notice of Hearing on time. He alleged that he had not been permitted to meet the Assistant Registrar with regard to re-evaluation of his answer sheet. He had also not been forwarded a reply satisfactorily under RTI.

8. Considering the request of the complainant a copy of the statement of marks filed by the respondent was sent to the complainant with Record of Proceedings for filing his written submission. The next date of hearing was fixed on 09.10.2019. The parties were advised to appear in the hearing.

9. In compliance, the complainant vide email dated 30.08.2019, thankfully expressed his satisfaction for providing the mark sheets of the Paper C809. However, he submitted that the result of Paper C809 which he had attempted is still awaited after lapse of 5 months. He has further submitted that the University should be more cooperative to the students with disabilities.

10. During the hearing on 09.10.2019, the complainant could not appear. The representatives of the respondent filed a copy of the note sheet dated 26.09.2019 of Examination Branch (Revaluation Cell), University of Delhi.

11. It has been observed that the complainant could not apply for the revaluation with the stipulated time i.e. 15 days from the declaration of the result. He had applied for revaluation on 28.12.2018 whereas the last date for applying was 13.11.2018. The complainant could not also approach the Revaluation Section to collect the photocopy of the answer script of Paper code C-809, it appears that there are communication gaps between the complainant/candidate and the Revaluation Cell of the respondent. In such cases, the respondent should make proper arrangement for counseling to such candidates through the Equal Opportunity Cell/Nodal Officer.

12. The case is accordingly disposed of.

(Shakuntala D. Gamlin)
Chief Commissioner
for Persons with Disabilities

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Case No: 10623/1023/2018

Dated : 09.10.2019

Dispatch No.

In the matter of :

Shri Hitendrakumar Mahendrabhai Pandeya,
Madhapar Bapa Dayalu Nagar,
House No.46,
Purana Vas,
Madhapar,
Taluk Bhuj,
Distt. Kutch,
Gujarat - 370020

.....Complainant

Versus

Dena Gujarat Gramin Bank,
(Through Chairman),
Balvantray Mehta Panchayat Bhavan,
Near District Panchayat Office,
"CH" Road,
Sector 17,
Gandhinagar,
Gujarat – 382 017

.....Respondent

Date of Hearings : 28.08.2019.

Present :

1. Shri Hitendra Kumar Mahendrabhai Pandeya, Complainant and Shri Gautam Banerjee, Advocate.
2. Shri Varun Patel, Advocate for Respondent.

ORDER

The above named complainant, a person suffering from 70% locomotor disability has filed a complaint dated 01.10.2018 under the Rights of Persons with Disabilities Act, 2016, against arbitrary and discriminatory provisions in the Staff Regulations of Dena Gujarat Gramin Bank.

2. Shri Hitendra Kumar Mahendrabhai Pandeya, Complainant, submitted that his establishment, i.e. Dena Gujarat Gramin Bank (presently Baroda Gujarat Gramin Bank) is showing discrimination in Staff Regulations. He has requested this Court to rectify the position. He submitted that the arbitrary and discriminatory provisions in Staff Regulations were never raised by him before the High Court of Gujarat earlier.

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3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 13.12.2018.

4. The General Manager, Dena Gujarat Gramin Bank vide letter no. DGGB/HO/PER/1387/2018-19 dated 11.01.2019 has submitted that Shri H.M. Pandya was posted at Kukma Branch w.e.f. 03.10.2016 as per his request vide application dated 26.02.2015. Kukma Branch was his first choice as per his request application. He was promoted as Office Assistant vide memo no. DGGB/HO/PER/1074-35/2019-19 dated 23.10.2018 w.e.f. 01.10.2018. He was posted at Nagor Branch on promotion as per his request. The complainant was served Charge Sheet No. DGGB/HO/PER/HMP/690/2007-08 dated 30.01.2008 for committing various act/s of misconduct during his tenure at Palla Branch. A departmental enquiry was instituted against the complainant and he was given complete opportunity to defend the charges leveled against him during the course of enquiry. On the basis of enquiry, the Bank imposed penalty upon him. The penalty was reduction of 3 (three) stages in his present basic pay which was reduced to 2(two) stages in his present Basic Pay after the complainant's prayer. The complainant then approached the Hon'ble High Court of Gujarat and filed Special Civil Application No. 2123 of 2014. The Hon'ble Judge of High Court of Gujarat dismissed the said petition by passing Oral Order on 18.04.2017 as under :-

"in that view of the matter, the petition being devoid of merits
Deserves to be dismissed and is accordingly dismissed".

The complainant then filed an Appeal No. 952 of 2017 in the Division Bench of High Court of Gujarat in Special Civil Application No. 2123 of 2014. The Hon'ble learned judges of the Division Bench of High Court of Gujarat dismissed the appeal and upheld the decision of Single Judge by passing the Order in the said LPA 952 of 2017 as under:-

'Both the authorities have after complete application of mind, on appreciation of evidence of the Inquiry Officer's Report, come to a conclusion that a penalty needs to be imposed upon the petitioner'.

The Hon'ble Judges of the High Court of Gujarat had passed an Oral Order on 29.11.2017 as under :-

'Accordingly, we uphold the view taken by the Learned Single Judge in dismissing the petition. The Appeal is dismissed'.

5. The complainant vide his rejoinder dated 28.01.2019 has submitted that instead of answering many issues raised in the application for review, the Bank has given an evasive reply and has again dilated on the judgement of the Gujarat High Court for no appropriate reason. The submissions made in the original complaint in paras 6 to 10 thereof has been brushed aside as 'does not hold good' without giving any reason. He submitted that many important flaws and defects in the Staff Regulations of the Bank has been pointed out as arbitrary and discriminatory has been adverted to nor discussed thus rendering the reply absolutely evasive and irrelevant. He submitted that many important flaws and defects in the Staff Regulations of the Bank have been pointed out and unless these are examined and declared arbitrary and discriminatory by this Court, the future of the employees and officers of the Bank will remain at stake.

6. After considering Respondent's reply dated 11.01.2019 and complainant's rejoinder dated 28.01.2019, a personal hearing has been scheduled on 26.06.2019.

7. The hearing scheduled on 26.06.2019 could not be held and the next date of hearing has been fixed on 28.08.2019.

8. During the hearing the Learned Counsel for the Complainant pointed out that the penal provisions contained in the Dena Gujarat Grameen Bank (Officers and Employees) Service Regulations, 2005 as revised in 2010 applicable to the Officers and Employees suffered from arbitrariness, discrimination and were violation of Article 14 of the Constitution of India (Right to Equal Protection of the law). While facing disciplinary action the Officers and Employees (Subordinate cadre) were similarly situated and circumstanced and therefore varying penalties cannot be imposed on them on a selective basis. The above referred complaint was closed without hearing by order/letter dated 7/9/2018.

The Complainant sought a Review/Reconsideration of his Case by complaint dated 01/10/2018 pointing out his grievances as contained in paras 6 to 10 of the first complaint. It was pointed out at the hearing that: -

i) The Service Regulations in the case of Officers provided for Minor penalties and Major penalties but there was no definition of minor or major misconduct. For Employees it was provided as Penalties for minor misconduct and Penalties for Major misconduct. Without defining distinguishable minor and major misconduct, discrimination and arbitrariness would result. What has been provided in the Regulations is the Obligations and restrictions to be observed by the members of the staff.

ii) The Service Regulations further provide that in the case of Officers, the words "with or without cumulative effect on future increments" has been provided but these words are not mentioned in the case of employees. This has put the employees in a position of disadvantage and stoppage of increments/reduction of pay can be made indefinitely in the case of Employees thus causing irreparable loss to the employees as has happened in the case of HM Pandeya. (In the 2010 Service Regulations the words "with or" has been deleted in the case of Officers thus creating further discrimination with the employees.)

iii) Under Clause (b)(iv) of the reduction of pay in the case of Employees could not be made upto two stages but upto next lower stage. The penalty imposed on Shri H.M. Pandeya is excessive and beyond the Service Regulations.

iv) The power of Review and Reconsideration is inherent in law and cannot be denied to an applicant in the absence of such specific power of review, if at all. The Office of the Commissioner for Persons with Disabilities can suo-motu or otherwise examine any law or policy , programme or procedure which are inconsistent with the mandate of the RPD Act, 2016 affecting persons with disability. In the instant case the complainant has 70% locomotor disability.

v) The Rights of Persons with Disabilities Act, 2016 is a special welfare legislation for persons with disability and its purpose cannot be assailed with the principles of res judicata which applies to civil suits.

vi) The arbitrary and discriminatory provisions in the Service Regulations were not examined by the Gujarat High Court in the proceedings brought before it as they were not taken up before the High Court at all and the High Court only examined whether the employee had been given adequate opportunity of hearing in the disciplinary action taken against him.

vii) In their Replies dated 3/7/2018 and 11/1/2019 before this Court, the Respondent merely repeated the observations of the High Court on the adequacy of hearing given in the disciplinary proceedings by the Bank and did not advert to the objections taken by the Complainant on the arbitrary and discriminatory provisions in the Bank's Service Regulations which speaks volumes about their inability to defend the flaws in the Service Regulations.

viii) The complainant will be seriously prejudiced if the defects, flaws and deficiencies in the Service Regulations are not highlighted and recommendations are not made by this Hon'ble Court to the Respondent Bank for corrective action.

9. During the hearing the Learned Counsel for Respondent submitted a written submission of dated 27.08.2019 stating that the Complainant is working as Office Assistant since 01.10.2018. Previously he has been working as Office Attendant. While working as Office Attendant, the Complainant had committed serious acts of misconduct such as disobeying the instructions of higher officer, unauthorized absenteeism, misbehaving with higher officers, entering into unnecessary and unwarranted correspondence with the Chairman and other higher officers of the Bank. He was issued Show-cause notice dated 10.12.2007 for the said misconducts. He was then issued Charge Sheet dated 30.01.2008 for committing aforesaid misconducts. The complainant was found guilty on three charges out of five charges levelled against him, viz, committing an act against the interest of the Bank, disobedience of the instructions given by the higher officers and habitual neglect of work. The Disciplinary Authority passed an order dated 21.05.2013 imposing punishment of reduction of three stages in basic pay against the complainant. The Appellate Authority though concurred with the findings of the inquiry officer/the disciplinary authority, passed the Order dated 17.12.2013 reducing the punishment from reduction of three stages in basic pay to reduction two stages in basic pay on the ground of assurance by the complainant for improvement and family circumstances of complainant. The complainant challenged the same before the Hon'ble High Court of Gujarat by way of petition being Special Civil Application No. 2123 of 2014. The said petition was dismissed by the learned single judge of the Hon'ble High Court of Gujarat by order dated 18.04.2017. The said Order dated 18.04.2017 was thereafter challenged by the complainant before the Division Bench of the Hon'ble High Court of Gujarat by way of Letters Paten Appeal No. 952 of 2017. The Division Bench of the Hon'ble High Court by Order dated 29.11.2017 dismissed the appeal filed by the complainant. Though, the penalty imposed upon the complainant was upheld by the Hon'ble High Court of Gujarat not only in the writ petition but also in the Letters Patent Appeal, the complainant had challenged the same by way of filing an application/complaint dated 16.04.2018 before the Hon'ble Court under Section 75(1)(a)(b) & 76 of Rights of Persons with Disabilities Act, 2016. The complainant in his aforesaid application/complaint had prayed this Court to rectify the penalty imposed upon him by the respondent bank by issuing necessary directions and recommendations to the respondent bank. The aforesaid application of the complainant was numbered as Case No. 9674/1023/2018. This Court thereafter by its decision dated 07.09.2018 had closed the aforesaid application/complaint filed by the complainant. The complainant filed a new case in the Court which was registered under Case No. 10623/1023/2018. The complainant has alleged that the provisions of penalties for Officers under the service rules are different than the provisions for penalties for the employees, which is discriminatory. The said allegations are not only erroneous, illegal and without any substance, but they are also beyond the scope of inquiry u/s 75(1)(a) and 75(1)(b) read with

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Section 76 of the Act, as there is nothing in the said allegation, which shows any discrimination against the disabled or anything inconsistent with the Act or anything, which is depriving the rights of a person with disability. The Respondent submitted that the service regulations of respondent bank are enacted by the Govt. of India, in consultation with NABARD (National Bank for Agriculture and Rural Development) and sponsor bank. It is submitted that since the complainant in his original complaint as well as in the present application for review has failed to demonstrate as to how the alleged Regulation 16 to 37 of the service regulations of the bank are inconsistent with the Act, no case for inviting the jurisdiction of this Hon'ble Court as per the provision of the Act is made out by the complainant. This Hon'ble Court has therefore no jurisdiction to examine. The original complaint / application dated 16.04.2018 of the complainant was in connection with the challenge to the said order of penalty and ratification of the same. The said penalty, i.e. reduction of three stages in basic pay with cumulative effect was imposed upon the complainant after conducting the departmental inquiry. The appellate authority of the bank had thereafter in the appeal filed by the complainant has reduced the said punishment to reduction of two stages instead of three stages in the basic pay of subordinate cadre with cumulative effect on future increments. The complainant had thereafter filed the writ petition being Special Civil Application No. 2123 of 2014 before the Hon'ble High Court of Gujarat against the order of the disciplinary authority and appellate authority imposing the aforesaid punishment. The Hon'ble Court by order dated 18.04.2017 had dismissed the petition filed by the complainant and had upheld the penalty imposed by the disciplinary authority as reduced by the appellate authority against him. The complainant had, therefore, preferred Letters patent Appeal No. 952 of 2017 before the Division Bench of the Hon'ble High Court of Gujarat, which also came to be dismissed by Order dated 29.11.2017. On the basis of proved misconduct of Shri Pandeya, the aforesaid punishment of reduction of increments with cumulative effect imposed against him which has been upheld by the Hon'ble High Court of Gujarat in writ petition and LPA, the contention of Shri Pandeya regarding the alleged discrimination in imposing the punishment against him are therefore, not tenable in law and deserves to be rejected by the Hon'ble Court.

10. After hearing both the Complainant and the Respondent, the Court observed that there is a need for change. The penal provisions contained in the Dena Gujarat Grameen Bank (Officers and Employees) Services Regulations, 2010 should be framed as per the Rights of Persons with Disabilities Act 2016 so that it is applicable equally to all the Staff and Officers of the Bank including persons with disabilities and should be impartial. The Court directed the Respondent to incorporate the provisions of Rights of Persons with Disabilities Act, 2016 in the Baroda Gujarat Gramin Bank. (Officers and Employees) Service Regulations.

11. The case is accordingly disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 9411/1023/2018

Dated : 09.10.2019
Dispatch No.

In the matter of :

Shri Sandeep Goyal,
Sr. Manager (IB),
Indian Oil Corporation Limited (Marketing Division),
Panipat Marketing Complex,
Panipat – 132 140

.....Complainant

Versus

Indian Oil Corporation,
(Through Managing Director)
3079/3, Sadiq Nagar,
J.B. Tito Marg,
New Delhi – 110 049

.....Respondent

Date of Hearing : 28.08.2019

Present :

1. Shri Sandeep Goyal, Complainant and Dr. K.C. Goyal, father of Complainant.
2. Shri Anil Kumar, CGM (HRD) and Shri Nishant Prasad, DGM (HRD) – Hearing could not be held due to unavoidable circumstances.

Date of Hearing : 20.06.2019

Present :

1. Shri Sandeep Goyal, complainant and Shri Subhash C. Vashishth, Advocate for the complainant.
2. Shri S.K. Bose, ED(HR), Shri Anil Kumar, CGM(HRD), Shri Nishant Prasad, DGM(HRD), on behalf of Respondent.

ORDER

The above named complainant, a person with 55% locomotor disability has filed a complaint dated 20.02.2018 under the Rights of Persons with Disabilities Act, 2016 against non implementation of DoP&T Guidelines for persons with disabilities leading to discriminatory work environment and adverse effect on job performance.

2. Shri Sandeep Goyal, the Complainant submitted that he is presently holding the position of Senior Manager (IB) in the Marketing Division of Indian Oil Corporation (IOL) at their Panipat Division. He submitted that IOL has failed to implement the various guidelines for persons with disabilities and provide enabling environment for efficient discharge of his duties. He was made to compete with 'other able bodied' officers for APAR without any 'relaxation' as provided in various guidelines of Central Government.

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3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 19.04.2018.

4. The Executive Director (HRD), Indian Oil Corporation Limited vide letter no. HRD/28 dated 07.01.2019 submitted that Shri Sandeep Goyal joined at Panipat Consumer Sales Area in May 2016. He applied for a quarter and was allotted residential quarter on 26.05.2016. There was no delay in allotment as he had applied for the allotment against circular 19.05.2016. He submitted that employees with disability are posted in respective locations based on the official requirements and the suitability of the officer with disability to deliver the services. He submitted that as per the extant Transfer Policy 2013, officers joining the services of the Corporation under persons with disabilities category may be posted at a location of the allocated division which is near to their hometown as far as possible. Regarding relaxation in standard of for evaluation system (APAR), the Presidential Directives on reservation do not provide for any concession/relaxation in standard of evaluation under Annual Performance Appraisal Report (APAR) for Officers with disabilities. The employees with disabilities who have not availed any relaxation and are selected on own merit is treated as unreserved.

5. The complainant vide his rejoinder dated 25.01.2019 has submitted that regarding guidelines for conducting written test, IOCL Conduct written test/online test called 'Leadership Centre' which carries a weightage of 20% in DPC decisions. No additional time or scribe was provided in conducting the test. Denial of Level Playing field in online 'leadership centre' test resulted in negative effect on test thus affected career progress of the employees with disabilities. He submitted that his APAR have been downgraded despite outstanding rating by controller officer with excellent remarks and high scores. He submitted that he has been appreciated on record for exemplary performance many times by the top management. He always worked in challenging conditions including 'hardship locations'. He submitted that a small value of relaxation of even 5% in eligibility would make a difference and restores 'Equalization' and providing relaxation to a person with disability would not disturb merit. The complainant requested for re-valuation/reassessment of APAR from Assessment Year 2009-10 to Assessment Year 2016-17 after providing 5% relaxation in evaluation system/scoring method and then deciding the final rating for the respective years.

6. After considering Respondent's replies dated 10.05.2018 & 07.01.2019 and complainant's rejoinders dated 19.01.2019 & 25.01.2019, a personal hearing was scheduled on 20.06.2019.

7. The hearing scheduled on 20.06.2019 could not be held due to unavoidable circumstances. The next hearing has been fixed on 28.08.2019 at 11:00 Hrs.

8. During the hearing on 28.08.2019, the Complainant reiterated that his APAR have been downgraded despite outstanding rating by Controlling Officer with excellent remarks and high scores. The Controlling Officer rating scores for 2017-19 were 4.73 out of 5. Rating for 2017-18 downgraded to VG with scores of 4.34 out of 5, without assigning any reasons. The cut off for OS rating is 4.35 out of 5. The OS rating downgraded to VG with a difference of just 0.001 score. Reducing scores to just below 4.35 despite excellent remarks in the Appraisal proves biased against a person with disability. Almost same pattern is repeated for each year starting 2009-10. He submitted that not assigning any reasons for down gradation is denial of natural justice. He submitted that he has been appreciated on record for exemplary performance many times by Top Management. He has requested for re-evaluation / Re-assessment of APAR from Assessment year 2009-10 to Assessment year 2016-17 after providing 5% relaxations in evaluation system/scoring method and then deciding the final rating for the respective years.

9. During the hearing, the Respondent submitted that the complainant has secured fewer scores in APAR which is necessary for his promotion to the higher grade. Presidential Directives on reservation do not provide for any concession / relaxation in standard of evaluation under Annual Performance Appraisal Report (APAR) for Officers with disabilities. The employees with disabilities who have not availed any relaxation and are selected on own merit is treated as unreserved. They submitted that there is no reservation / concession for reservation with respect to promotions within Group 'A'.

10. On hearing of both the Complainant and Respondent, the Court observed that there is a denial of justice to the complainant's promotion. The complainant was pulled down by a margin of 0.001 in his APAR. All these years the complainant has been downgraded by a very small margin of marks. The Court felt that the Respondent has not been fair throughout all these years and he has been denied his promotion. The Court directed the Respondent to revisit the Complainant's case once again and reevaluate/re-assess complainant's APAR from the Assessment Year 2009-10 to Assessment Year 2016-17 and consider promotion to the next higher grade. The compliance report in this regard to be sent to this Court within 60 days from the date of issuance of this Order.

11. The complaint is accordingly disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10889/1022/2019

Dated : 16.10.2019

Dispatch No.

In the matter of :

Shri Gaurav Kumar,
Inspector of GST & Central Excise,
Thiru Vi Ka Nagar Range I,
Chennai North Commissionerate,
Chennai – 600 040
Email<gaurav588814@gmail.com>

.....Complainant

Versus

Central Board of Indirect Taxes and Customs,
(Thru the Chairman),
Ministry of Finance,
North Block,
New Delhi-110001

...Respondent 1

The Principal Chief Commissioner of –
GST and Central Excise,
Tamil Nadu and Puducherry Zone,
26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034

...Respondent 2

Date of Hearing : 25.09.2019

Present :

1. Shri Gaurav Kumar, Complainant along with Shri Gautam Banerjee, Advocate.
2. Mohammad Ashif, Under Secretary, Deptt. of Revenue – Respondent 1.
3. Dr. K. Venkat Ram Reddy, Additional Commissioner of GST & Central Excise – Respondent 2.

ORDER

The above named complainant, a person with 40% locomotor disability has filed complaint dated 22.01.2019 under Rights of Persons with Disabilities Act, 2016 regarding his Inter Commissionerate Transfer from Chennai to Bihar.

2. Shri Gaurav Kumar has submitted that he joined as Inspector in Central Excise as direct recruit in the CCA Chennai Zone on 18.12.2015 after qualifying SSC Combined Graduate Level Exam 2013. He is presently working as Inspector of Central Goods and Service Tax & Central Excise, Chennai North Commissionerate under the Cadre Controlling Authority (CCA), Chennai Zone. He submitted that he is facing lot of difficulties in living alone with no family member to help

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him in day to day activities in Chennai. His native place is Shekhpura in Bihar. He communicated his grievance and requested the Pr. Chief Commissioner CGST & Central Excise, Chennai for his Inter Commissionerate transfer to Patna vide his letter dated 12.11.2017, but nothing fruitful has come up. He has spent 3 years in Chennai. He also made representations vide letters dated 14.12.2018 and 18.01.2019 to the Chairman, Central Board of Indirect Taxes and Customs, New Delhi to lift ban on Inter Commissionerate transfer in the cadre of Inspectors for persons with disabilities.

3. The matter was taken up with the Respondent no. 1 and Respondent no.2 under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letters dated 14.03.2019 & 04.04.2019 respectively.

4. The Additional Commissioner, Office of the Principal Chief Commissioner of GST and Central Excise, Tamil Nadu and Puducherry Zone vide letter no. II/39/15/20188-CCA(East) dated 04.04.2019 submitted that Shri Gaurav Kumar joined the department on 18.12.2015. Having completed two years of service, the complainant, was issued with No Objection Certificate for Inter Commissionerate Transfer (ICT) to Patna Zone. Meanwhile Board vide Circular F.No. A-22015/117/2016-Ad.IIIA dated 20.09.2018 had issued instructions citing that 'Central Excise and Customs Commissionerate Inspector (Central Excise, Preventive Officer and Examiner) Group B posts Recruitment Rules 2016 issued on 26.12.2016 does not have any provision for recruitment by absorption and accordingly, no Inter Commissionerate Transfer application can be considered after implementation of the New Recruitment Rules 2016. Henceforth, he submitted, that in view of the above Circular issued by Board, Shri Gaurav Kumar, Inspector is not eligible for Inter-Commissionerate Transfer to any other Zone.

5. The complainant vide his rejoinder dated 06.05.2019 has submitted that he was recruited through Staff Selection Commission, Combined Graduate Level Exam 2013 and joined the department on 18.12.2015 under Recruitment Rules, 2002 which was in effect at that time. Hence, Recruitment Rules, 2016 dated 26.12.2016 will not apply to candidates who are recruited under Recruitment Rule, 2002. He submitted that ICT is the only remedy for his genuine problem, but all these decision making and policy framing process caused delay in processing his representation which is adversely affecting his personal relationships, duties and official efficiency.

6. After considering Respondent's no.1's reply dated 24.05.2019 and Respondent no. 2's replies dated 04.04.2019 and 20.06.2019 and complainant's rejoinder dated 06.05.2019, it has been decided to hold a personal hearing in the matter.

7. During the hearing the Complainant submitted that he was directly recruited as Inspector and posted in the Chennai Zone (CCA) of the Commissionerate on 18.12.2015 after he was selected by the Staff Selection Commission. He has passed the Departmental Confirmation Examination and has completed his 2 years probation. On 12.11.2017, the Complainant submitted his request for Inter-Commissionerate Transfer for transfer from Chennai to Ranchi Zone, Patna near his native place as a person with disability and stated his difficulties in living alone and working in Chennai without any help of relatives. The Chennai Zone vide letter dated 16.02.2018 issued No Objection Certificate in favour of the complainant for his ICT from Chennai to Patna. There was a ban placed on ICT by CBEC, Ministry of Finance vide Notification dated 19.02.2004. This ban was lifted in phases by Circulars dated 27.03.2009, 29.07.2009 and 09.02.2011. Further by Circular dated 27.10.2011, the CBEC lifted the ban on ICT and advised all Commissionerates to act accordingly. The complainant submitted that he is entitled to ICT on grounds of his disability and the above Circulars. The complainant submitted that it is not open to the CBEC to impose the ban on ICT, then lift the ban and again re-impose it affecting the rights of persons with disabilities. The act of placing the bank on ICT, lifting the ban and again re-imposing the ban is opposed to the doctrine of 'promissory estoppel'. The complainant submitted that when an employee is already recruited to a Cadre, he can be transferred to another zone as a transferee while being in the same service. He cannot be 'recruited' again for purposes of being absorbed in the place where he is transferred. It would be wrong to link transfer with absorption which may or may not occur. He submitted that in the past the CBEC had given the benefit of ICT to two employees (Inspectors) as per directions issued by the Court of the Chief Commissioner for Persons with Disabilities. One case was of Shri A.K. Shrimali (Case No. 120/1022/10-11 dated 07.06.2010) and the other case was of Shri Sohan Kumar (Case No. 5938/1022/2016 dated 20.10.2017). He submitted that the Income Tax Department under the same Ministry of Finance has vide Circular dated 05.09.2018 stated that 'Officials recruited into the Government in the PH quota, but have been posted to a place other than the State/CCA region of his/her domicile/residence are eligible for seeking Inter charge transfer'. He submitted that it is not understood how two departments of the same Ministry are having different approaches towards persons with disabilities.

8. During the hearing, the Respondent No.2 submitted that Shri Gaurav Kumar got selected through SSC CGLE 2013 and was allocated Chennai Zone by CBIC. He joined the department on 18.12.2015. As per the policy (guidelines) dated 13.01.2016 and the partial modification of the guidelines dated 12.01.2018, Shri Gaurav Kumar was issued with No Objection Certificate for ICT to Patna Zone vide C.No. II/3/69/2017-CCA(ESTT)-ICT dated 16.02.2018. Meanwhile Board vide Circular F.No.A-22015/117/2016-Ad.IIIA dated 20.09.2018 has issued instructions citing that 'Central Excise and Customs Commissionerate Inspector (Central Excise, Preventive Officer and Examiner) Group B Posts Recruitment Rules 2016 issued on 26.12.2016 does not have any provision for recruitment by absorption and accordingly, no Inter Commissionerate Transfer application was considered after coming into force of the New Recruitment Rules, 2016. The Respondent submitted that in view of the above Circular issued by the Board, Shri Gaurav Kumar, Inspector is not eligible for ICT to any other Zone. However, the Respondent submitted that in exceptional circumstances depending upon the merit of each case such as extreme compassionate grounds, such transfers is allowed on case to case basis alone keeping in view the administrative requirements of transferee and transferred Cadre Controlling Authority. The Respondent submitted that the Complainant can be transferred on loan basis if he applied for the same, subject to the vacancies on loan basis in the Zone in which he is applying for, as the applicant is suffering from 40% locomotor disability.

9. After hearing both the complainant and Respondent, the Court advised the Complainant to apply for Inter-Commissionerate Transfer on loan basis from Chennai to his native place in Bihar for a total period of five years.

10. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 8050/1021/2017

Dated : 09.10.2019
Dispatch No.

In the matter of :

Shri Pradeep Kumar,
H/o. Smt. Madhulika,
H.No. 1117/A,
Sector -24B,
Chandigarh - 160023

.....Complainant

Versus

Navodaya Vidyalaya Samiti,
(Through Commissioner),
B-15, Institutional Area,
Sector 62,
Noida,
Uttar Pradesh – 201 307

.....Respondent

Date of Hearing : 30.08.2019.

Present :

1. Shri Pradeep Kumar, Complainant.
2. Shri Vikram Joshi, Deputy Commissioner and Shri Kishan Gaur, S.O., on behalf of Respondent.

ORDER

The above named complainant, has filed a complaint dated 22.05.2017 under the Rights of Persons with Disabilities Act, 2016, against not transferring his wife Smt. Madhulika either to JNV Chandigarh, JNV Mohali or JNV Ropar for giving regular care, treatment and rehabilitation of their son Master Kartik Kumar Kaushal, aged 5 years suffering from 60% Intellectual Disability (Autism).

2. Shri Pradeep Kumar, Complainant has submitted that he is working as an O.T. Technician in PGIMER, Chandigarh. His wife is working in Jawahar Navodaya Vidyalaya as a TGT Science in Bhatinda since 2009. Their elder son Master Kartik Kumar Kaushal aged about 5 years is suffering from Autism (60%) since past 2.5 years. His condition requires regular caring and continuous treatment in the form of various kinds of therapies which is undergoing from Government Rehabilitation Institute for Intellectual Disabilities (GRIID), Chandigarh, PGIMER and PRAYAAS. His therapy session includes Speech Therapy, Behavioral Therapy, Psychological Therapy, Occupational Therapy and Special Education. The child requires regular parental support and care for adjusting to new environment. As the child is residing with his mother who is

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working at JNV, Bathinda, the child is not getting the continuous and regular therapies. The lack of therapy session further deteriorates mental and behavioral condition of his child. He even approached Navodaya Vidyalaya Samiti for the past two years to get his wife's transfer to Chandigarh, but nothing materialised in their favour.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 07.11.2017.

4. The Assistant Commissioner (Estt.II), Navodaya Vidyalaya Samiti vide letter no. 11-2/2017-NVS(Estt.II)/16869 dated 27.12.2017 has submitted that tenure of 10 years at a station is prescribed in the Transfer Policy for teachers posted in plain areas to become eligible to seek request transfer. However, they follow the GOI instructions in cases of transfer of persons with disabilities or in cases where spouse or children of the employees are suffering from disability and accord first priority to such transfer requests in Annual Transfer Drive. As per available records, Smt. Madhulika is serving as TGT (Science) in the Samiti and posted at JNV Bhatinda (Punjab) since 18.12.2009. Her home district is Chandigarh. Post of TGT (Science) at JNV Chandigarh / JNV Mohali/ JNV Ropar is neither actually vacant nor deemed vacant. Incumbents presently posted there have not completed the prescribed tenure of 10 years at the station and therefore not liable to displaced. It is, therefore, administratively not feasible to displace them from their present place of posting to accommodate Smt. Madhulika. For want to actual as well as deemed vacancy at these stations, it is not feasible to accede to the request of the complainant at present. However, the respondent has advised the complainant to widen option for choice stations and opt for stations where post of TGT (Science) is available vacant actual as well as deemed. However, the request of the complainant will be considered and efforts will be made to effect the transfer of his wife to such actual as well as deemed vacancy.

5. The complainant vide his rejoinder dated 13.04.2019 has submitted that he along with his wife met the Commissioner, Navodaya Vidyalaya Samiti during the month of Dec'2017. After going through the whole situation, NVS has temporarily attached his wife to Navodaya Leadership Institute, Chandigarh (Now Navodaya Leadership Institute, Amritsar, Sub Campus-Chandigarh) since 16.01.2018 to till further orders. The complainant submitted that this attachment gave them little relief to their family, but he says that this is not a permanent solution. His wife's transfer to Chandigarh alone can make situation better for their disabled son.

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6. After considering Respondent's reply dated 27.12.2017 and Complainant's rejoinder dated 15.04.2019, a personal hearing was scheduled on 26.06.2019.

7. The hearing scheduled on 26.06.2019 has been cancelled due to unavoidable circumstances vide letter dated 18.06.2019.

8. The next hearing in the matter was scheduled to 30.08.2019 at 11:00 Hrs.

9. During the hearing the complainant submitted that his son Master Kartik Kumar Kaushal, aged 6 ½ years old is suffering from 60% Autism. His wife Smt. Madhulika is working as TGT Science at Navodaya Vidyalaya Samiti (JNV) Bathinda. JNV temporarily attached his wife to Navodaya Leadership Institute, Amritsar, Sub Campus-Chandigarh since 16.01.2018 till date. This arrangement gave them little relief to their family as it is only a temporary solution to their problem. The complainant submitted that his wife's transfer to JNV Chandigarh alone can make the situation better for them as well for their disabled child. It is not possible for them to make daily up and down from JNV Ropal or JNV Mohali for both of us as she is working in fully residential School where duties are 24x7. The complainant submitted that he being an employee of PGIMER, his duties are shift basis. He further submitted that his wife has changed her home town to Saharanpur (U.P.) from Chandigarh. Hence, his wife's transfer to Chandigarh can be made possible on humanitarian ground to take care of their disabled child.

10. The representative of Respondent vide his written submission dated 30.08.2019 submitted that Smt. Madhulika, wife of complainant, has been serving as TGT (Science) in the Samiti at JNV Bhatinda, Punjab since 18.12.2009. She is desirous of her transfer to JNV Ropar/Chandigarh/Mohali to enable her to take regular care, treatment and rehabilitation of her son Master Kartik Kumar Kaushal who is suffering from Autism. Transfers of employees of the Samiti are being effected through Annual Transfer Drive through process of automation from 2017 onwards. Online applications for transfer are invited from employees interested for transfer online Transfer Portal vacancies (Actual and Deemed) are displayed on the portal for information of employees concerned to seek transfer against these vacancies. Priority categories have been classified in the Transfer Module/Transfer guidelines, viz, PH/Medical Case/Hard & Very Hard Station/Spouse Unification/Normal. For priority categories of PH/Medical/Spouse Unification, tenure is not prescribed except that atleast 02 years stay at present station. PH category is highest in the order of priority. The request of transfer to JNV Ropar/Chandigarh/Mohali of Smt. Madhulika is covered under priority category of PH. However, for want of vacancy either actual or

deemed at choice station, her transfer request did not materialize. However, sympathetically considering the case, she has been temporarily attached to NLI Chandigarh vide Office Order dated 11.01.2018 to enable her to take proper care of her son. In ongoing Annual Transfer Drive 2019, post of TGT (Science) at JNV Ropar, Punjab has become deemed vacant and Smt. Madhulika has opted for transfer against the deemed vacancy of TGT (Science) at JNV Ropar (Punjab). In Annual Transfer Drive 2019, Smt. Madhulika has got transfer to JNV Ropar on request basis under the priority category of 'PH' as can be ascertained from the final list of transfer – ATD 2019. Transfer Orders to this effect are under process of issuance. The Respondent submitted that it is pertinent to mention here that Samiti duly follows the GOI instructions in cases of transfer of employees with disabilities or in cases where spouse or children of the employees are suffering from disability by according top priority to such transfer requests in Annual Transfer DRIVE. Such requests for transfer are considered against actual and deemed vacancies at the choice stations opted. In PH cases, even transfer to home district is considered by the Samiti though as per the Transfer Policy of the Samiti, no one can be posted or transferred to his / her home district.

11. The Court advised the complainant to continue working at JNV, Ropar. However, the Respondent may consider posting the complainant in Chandigarh, if any vacancy arises in future.

12. The case is disposed off.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 9368/1022/2018

Dated : 09.10.2019
Dispatch No.

In the matter of :

Shri Ram Prasad Dash,
Blast Furnace (O) Office,
Steel Authority of India Limited-ISP,
Burnpur,
West Bengal - 713325

.....Complainant

Versus

Steel Authority of India Limited,
(Thru Chairman),
ISPAT Bhawan,
Lodhi Road,
New Delhi – 110 003

.....Respondent

Date of Hearing : 21.08.2019

Present :

1. Shri Ram Prasad Dash, Complainant.
2. Shri Harsh Singal, Assistant Manager-Personnel, SAIL Corporate Office, Delhi.

ORDER

The above named complainant, a person suffering from 60% locomotor disability has filed a complaint dated 14.02.2018 under the Rights of Persons with Disabilities Act, 2016 regarding his transfer from SAIL-ISP, Burnpur, Asansol, West Bengal to Rourkela.

2. Shri Ram Prasad Dash has submitted that he is an employee of SAIL-ISP, Burnpur, Asansol, West Bengal since 2013. He is posted at Blast Furnace (O) Deptt. His native place is Chadeigaon, Bargarh Distt. Odisha. His wife is also a person with disability and she is employed in State Bank of India and posted at Bargarh Branch. Her native place is Bargarh. His mother is no more. His father is very old. They are facing lot of difficulties due to their disabilities and also staying apart. He wants his transfer to Rourkela and his wife's transfer to Rourkela.

3. The matter has been taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 15.02.2019.

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4. The DGM (Personnel), SAIL vide letter no. PER/IR&W/A-206/19 dated 20.03.2019 has submitted that Shri Ram Prasad Dash, Attendant-cum-Technician, Blast Furnace Deptt., IISCO Steel Plant has applied for transfer on mutual basis with an employee of Rourkela Steel Plant. ISP has agreed to release him on transfer on mutual basis. The request of the complainant has been noted and will be placed to Compassionate Transfer Committee for consideration in terms of the Guidelines in vogue at SAIL.

5. The complainant vide his email dated 14.05.2019 submitted that after completion of more than one month of his application for mutual transfer, he has yet to receive a communication regarding his transfer to SAIL-RSP, Rourkela. He submitted that SAIL-ISP is in the advanced stage of stabilization of its new plant since 2014. Many employees have been transferred except him. He has enclosed a list of employees who were transferred from ISP to other units of SAIL and the order issued from SAIL Corporate office. He submitted that he has applied for transfer on mutual basis with an employee of SAIL-RSP, Rourkela. He has requested to expedite his transfer at the earliest.

6. After considering Respondent's reply dated 20.03.2019 and complainant's rejoinder dated 14.05.2019, a personal hearing has been scheduled on 21.08.2019.

7. During the hearing the Complainant reiterated that presently he is posted at SAIL-ISP, Burnpur, Asansol, West Bengal. He has applied for transfer on mutual basis with an employee of SAIL-RSP, Rourkela. He has not yet received any confirmation from the Respondent.

8. The representative of Respondent during the hearing submitted that the mutual transfer of Shri Ram Prasad Das with an employee of SAIL-Rourkela Steel Plant has been agreed upon by both the concerned units of SAIL and the proposal was put up for consideration in the meeting of the Compassionate Transfer Committee held on 20.07.2019 and the same has been recommended by the Committee and transfer orders are likely to be issued by SAIL, Corporate Office shortly after completion of necessary formalities.

9. After hearing both the parties and perusal of the records available, the Court directed to the Respondent to consider posting of the complainant at SAIL-Rourkela Steel Plant and the compliance report to be sent to this Court within 45 days of issuance of this Order.

10. The case is accordingly disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10687/1023/2018

Dated : 08.10.2019
Dispatch No.

In the matter of :

Shri Sunil Kumar,
9B/167, Vrindavan Colony,
Raibareli Road,
Dist. : Lucknow
Uttar Pradesh – 226 002

.....Complainant

Versus

Hindustan Petroleum Corporation Limited,
(Thru Chairman & Managing Director),
Petroleum House,
17, Jamshedji Tata Road,
Mumbai – 400 020

.....Respondent

Date of Hearing : 14.08.2019

Present :

1. Shri Sunil Kumar, Complainant, Shri Baban Singh and Smt. Jyoti Kumari.
2. Shri S.H. Mehdi, GH-HR, Shri R.B. Singh Sr. Manager Legal-HR and Shri Shinesh Tripathi, Officer HR Legal.

ORDER

The above named complainant, a person with 40% locomotor disability has filed a complaint dated 12.11.2018 under the Rights of Persons with Disabilities Act, 2016 against denial of a copy of his Service Appraisal Report by HPCL.

2. Shri Sunil Kumar, the Complainant has submitted that he worked as an Officer Trainee in HPCL from 10.09.2006 to Dec. 2007. He was not given the appraisal report by his employer. The CAT vide its Order dated 12.01.2017 has directed HPCL to provide him a copy of the said appraisal report. The HPCL had submitted an affidavit dated 24.01.2017 saying that they could not locate the appraisal. He submitted that since his disability was not considered while giving him on job training and therefore a copy of his appraisal report was not given to him. The complainant has requested to provide him a copy of appraisal report from HPCL at the earliest.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 29.01.2019.

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4. The Executive Director–HR, Hindustan Petroleum Corporation Limited vide letter no. HRD/Sunil Kumar dated 11.02.2019 has submitted that Shri Sunil Kumar was appointed as Officer Trainee vide letter no. HRD:RECT:OT:Engr-06 Dated 04.09.2006 and was assigned as Officer Trainee at Chakan LPG Plant effective from 10.09.2006. Since from the date of joining, the performance of the Trainee was not found to be satisfactory. His Supervisors repeatedly advised him to formulate time bound action plans for improving his knowledge on the areas of his assigned activities to which the complainant did not pay any heed. Further incidence of dereliction of duties, insubordination, misbehavior with distributors / transporters and Tank Truck crews has also reported against the complainant.

In view of the above, the training period of the complainant was extended by 6 months ending March 09, 2008. The complainant reported at Chakan LPG Plant on 25.12.2007 but did not perform his normal duties which were assigned to him. Accordingly, he was marked as unauthorized absence effective 12.12.2007. The complainant was absent for 7 ½ months on various pretexts which was not justified.

5. The complainant vide his rejoinder dated 15.04.2019 has submitted that his disability was not considered while giving him on the job training and hence copy of Appraisal Report was not given to him. The case No. 7/1026/08-09 which HPCL referring to was heard in absence of service Appraisal Report. He submitted that Appraisal Report was not provided to him by the HPCL since last 9 years.

6. After considering Respondent's reply dated 11.02.2019 and complainant's rejoinder dated 15.04.2019, a personal hearing has been scheduled on 14.08.2019.

7. During the hearing the complainant reiterated that he was recruited as Officer Trainee in Hindustan Petroleum Corporation Limited (HPCL). He was assigned Chakan LPG Plant vide Assignment Letter dated 13.09.2006 of the Corporation. He became sick and therefore remained absent from duties from 12.12.2007 to 19.07.2008 and could not attend the training and duties. His services were terminated vide letter dated 13.08.2008. It is more than nine years, but still he HPCL has not given him his Appraisal Report. The report was being deliberately denied to him as his physical disability was not taken into account while assigning work to him and he has been assessed at par with other candidates. He submitted that he has changed his job and is presently working for NTPC successfully.

8. During the hearing, the representatives of Respondent submitted that they could not locate the Appraisal Report of the complainant.

9. After hearing both the parties and perusal of records available, the Court observed that prejudice is still persisting among the Respondent. The Court directed the Respondent to revisit the exercise and provide the Complainant a proper Appraisal Report.

10. The case is accordingly disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10091/1022/2018

Dated : 09.10.2019
Dispatch No.

In the matter of :

Shri Suresh Inaniya,
76, Vijay Nagar,
Khasra No.28,
Kudi Bhagtasni,
Jodhpur – 342 005

.....Complainant

Versus

Allahabad Bank,
(Thru Managing Director & CEO)
2, N.S. Road,
Kolkata – 700 001

.....Respondent

Date of Hearing : 09.08.2019

Present :

1. Shri Suresh Inaniya, complainant and Shri Ramesh Bajiya, Advocate
2. Shri B.P. Meena, AGM., representative of Respondent.

ORDER

The above named complainant, a person with more than 40% locomotor disability has filed a complaint dated 20.07.2018 under the Rights of Persons with Disabilities Act, 2016 against his transfer to Nagpur Zone instead to retain him near to his place of residence, i.e. Jodhpur.

2. Shri Suresh Inaniya, the complainant, has submitted that he joined Allahabad Bank as Probationary Officer on 17.11.2012. His initial posting was Barmer where he worked till 05.04.2014. After that he was transferred to his home town Jodhpur. After a short period of almost four months, on 16.09.2014, he was again transferred to extreme rural posting in a Village Sihra, Teh Baap, Dist. Jodhpur where there is no medical facilities available at all. He requested the management of his bank to retain him at his home town Jodhpur, but no response was received from the other side. After completing four years in the rigorous rural area, he was again transferred to Barmer branch on 26.08.2017. He was promoted from JMG Scale I Officer to MMG Scale II Officer Cadre. After promotion he was transferred to Nagpur Zone in Maharashtra which is 1200 km away from his home town Jodhpur. He gave representations to his bank to retain him at Jaipur Zone. He submitted that Allahabad Bank has three branches in his home town.

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3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 07.09.2018.

4. The General Manager (HR), Allahabad Bank vide letter no. PA/Prom/IR/SC-II/442 dated 27.02.2019 has submitted that Shri Suresh Inaniya, the complainant joined the Bank on 17.11.2012 in Officer's cadre in JMG, Scale-I as Probationary Officer. He was promoted to the rank of Manager in MMG, Scale -II on 02.07.2018. On promotion to the rank of Manager in MMG, Scale-II, he was transferred under FGMO, Mumbai with other newly promoted Managers. The complainant has requested for his posting under Zonal Office, Jaipur on humanitarian ground. In consideration of his request, he was retained under Zonal Office, Jaipur. At present the complainant is posted at Sihara Branch under Zonal Office, Jaipur since 23.07.2018.

5. The complainant vide his rejoinder dated 02.04.2019 has submitted he had mentioned in his complaint that he has joined the Barmar branch of Allahabad Bank as Probationary Officer on 17.11.2012 and this branch is about 200 Km away from his residence. He was transferred from Barmar Branch to the main branch in Jodhpur on 05.04.2014. After serving the branch only for five months, he was again transferred to the Sihara branch, which is 220 Km away in a village from his residence. There was no transport facility either by train or bus from Jodhpur to reach the bank in Sihara. After three years, he was transferred on 25.08.2017 to Barmar. During the year 2018-19, he passed the examination from JMG-Scale 1 to MMG Scale -2 and his waiting list was at serial no.10. On 30.06.2018, he was transferred to Nagpur which is 1200 Km from his residence. On 19.07.2018 he was informed through email by the bank about his transfer to Sihara. Earlier a manager, who is a person with disability, was transferred to Sihara on 05.07.2018 and was then transferred to Jodhpur on 27.07.2018. The complainant submitted that he has always been transferred to branches far away from his residence. He submitted that there are four branches of Allahabad near his place of residence, but was always kept in branches away from his residence.

6. After considering Respondent's replies dated 27.02.2019 and complainant's rejoinder dated 02.04.2019, a personal hearing was scheduled on 09.08.2019.

7. During the hearing the complainant reiterated that he was always been kept away from his native place by the management of Bank. He submitted that he was promoted from JMG Scale I Officer to MMG Scale II Officer Cadre and was transferred to Nagpur Zone in Maharashtra which is 1200 km away from his home town Jodhpur. He submitted that Allahabad Bank has three branches in his home town.

8. The representative of Respondent reiterated that the complainant transfer / posting of officers is done keeping in view of mobility of officers for grooming them for shouldering higher responsibility by way of exposing them to different work culture/functional areas/environment and to meet administrative exigencies of the Bank. The complainant was promoted to the rank of

Manager in MMG, Scale-II on 02.07.2018 and transferred to CGMO, Mumbai, but he never reported at CGMO Mumbai. Instead he submitted a request for his transfer/posting under Zonal Office, Jaipur on humanitarian ground. In consideration to the request, the complainant was retained under Zonal Office, Jaipur, and he was again posted at Sihara Branch under Jodhpur district as Branch Head. The complainant has been posted under Jodhpur district once in Jodhpur Branch and twice in Sihara Branch under Jodhpur district. However, considering the difficulties faced by Shri Suresh Inaniya, his request for transfer to his domicile place is under consideration.

9. After hearing both the complainant and the representative of Respondent, the Court directed the Respondent to consider posting the complainant near to his place of residence, i.e. Jodhpur and the compliance report in this regard to be submitted to this Court within 45 days from the date of issuance of this Order,

10. The case is accordingly disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10941/1022/2019

Dated : 09.10.2019
Dispatch No.

In the matter of :

Shri Syed Sekandar Ali,
Village : Belun,
P.O. : Panskura RS,
Purba Medinipur,
West Bengal – 721 152

.....Complainant

Versus

State Bank of India,
(Thru the Chairman),
State Bank Bhavan,
Madame Cama Road,
Nariman Point,
Mumbai 400 021

.....Respondent

Date of Hearing : 09.08.2019

Present :

1. Shri Syed Sekandar Ali, complainant and Shri Asoke Bhattacharjee, brother of complainant.
2. Shri Debadarshi Tripathy, DGM & CDO and Shri Jayant Mani, Regional Manager, on behalf of Respondent.

ORDER

The above named complainant, a person with 45% locomotor disability has filed a complaint dated 14.02.2019 under the Rights of Persons with Disabilities Act, 2016 against his transfer to SBI, Haur Branch instead of posting him near to his place of residence.

2. Shri Syed Sekandar Ali, complainant has submitted that he is working in a remote branch of State Bank of India at Haur in West Bengal. This branch is 35 Kms away from his residence. He submitted an application vide letters dated 31.12.2014 and 05.09.2018 to his branch for his transfer near to his place of residence.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 25.03.2019.

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4. The General Manager, Network-III, SBI vide letter no. PER/255 dated 04.05.2019 has submitted that Shri Syed Sekandar Ali, Senior Associate is posted at SBI Haur Branch since 05.09.2016. The transfer/posting was made by the Bank vide letter no. CM/58/170 dated 03.09.2016 pursuant to his representation dated 21.09.2015 for mutual posting at SBI Haur Branch.

5. The complainant vide his rejoinder dated 31.05.2019 has submitted that he is not satisfied with the reply of SBI. The initial transfer was made by the Bank from Panskura Station Bazar Branch (which was near to his residence) to Basudebpur Branch within a period of 2 years and 8 months which was a clear violation of SBI Transfer Policy and also inhuman treatment towards a person with disability. Basudebpur Branch is about 80 Kms away from his home. During a span of few years he has been transferred to different places which are far away from his place of residence. He submitted that he has been posted to a branch which is nearly 35 Kms away from his residence for the past three years which cannot be a comfortable place of posting to a person with disabilities like him.

6. After considering Respondent's replies dated 04.05.2019 and complainant's rejoinder dated 31.05.2019, a personal hearing was scheduled on 09.08.2019.

7. During the hearing, the complainant submitted that presently he is posted at Haur Branch of SBI. It is remote branch which is about 35 Kms away from his residence, i.e. Medinipur, West Bengal. This is violation of the Bank's extant rules as well as Govt. Guidelines in regard to transfer of persons with disabilities. Regarding complaint against him for non updation of passbook of customer, he submitted that the printer given to him was not working for quite a long time which he had conveyed to the Branch Manager. He submitted that he has been harassed by the Bank in the name of transfer.

8. The Respondent submitted that the present branch where the complainant is posted is only 17 Kms from his residence and not 35 Kms as mentioned by the complainant. There is local train connectivity from his residence to Haur Branch, where he is posted. The complainant has still two more years for his transfer. The Respondent submitted that there are also complaints of customers against the complainant for not updating their Passbook.

9. Taking into account the disability of the Complainant the Court advised the Respondent to consider to post the complainant near to his place of residence as he has already completed three years of service in SBI, Haur Branch.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

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Jh d'.k xk&M] vutkkx vf/kdkjh & ifroknh dh rjQ l s

vkns'k

Jh epl'sk dækj iztkifr] 60 ifr''kr vLFkfn0; kax us mudk LFkkukarj.k fujLr djokus l s
l æf/kr f''kdk; r fnukad 28-09-2018 fn0; kaxtu vf/kdkj vf/kfu; e] 2016 ds varxh bl U; k; ky; ea
nk; j dh A

2- ekeys dks vf/kfu; e dh /kjk 75 ds varxh U; k; ky; ds i= fnukad 26-11-2018 }kjk ifroknh
ds l kFk mBk; k x; k A

3- l gk; d vk; Ør½ LFkk-AA½ uokn; fo | ky; l febr us i= fnukad 30-01-2019 }kjk l fpr
fd; k fd Jh epl'sk iztkifr ts uoh] tcyij %e/; ins'k½ ea dyk f''k{k d ds : lk ea rñkr Fks A
mlga 04 vU; f''k{k.k vkj xj & f''k{k.k deplfj; ka ds l kFk ts uoh] tcyij l s iz'kkl fud Lrj ij
LFkkukarfjr fd; k x; k vkj l febr ds {ks=h; dk; kzy; } y[kuÅ ea l Ec) fd; k x; k A mudh
l ca) rk ij] {ks=h; dk; kzy; } y[kuÅ us mlga ts uoh dki xat] mRrj ins'k½ ea vLFkk; h : lk l s
rñkr fd; k A mlgaus ts uoh dki xat l s ts uoh jkeij ea iksLVax ds LFkku dks cnyus dk
vujksk fd; k FkkA muds vujksk ij fof/kor fopkj djrs gq mudh inLFkki uk dks vkns'k fnukad
16-11-2018 nekjk ts uoh] dki xat l s l ãkks/kr djrs gq ts uoh jkeij ea fd; k tk pppk gA
bl ds vykok] ; g l Ø; gS fd l febr ds vf/kdkfj; ka ds rcknyka dks ipfyr LFkkukarj.k uhr ds
iko/kkuka ds vuq kj i ãkkoh fd; k tk jgk gA LFkkukarj.k uhr ds [kM 2½ ds vuq kj] iz'kkl fud
vk/kkj ij LFkkukarfjr fd, x, deplfj; ka dks oki l ml h LVs'ku ij LFkkukarfjr ugha fd; k tk
l drk gS tgka l s mlga iz'kkl fud vk/kkj ij LFkkukarfjr fd; k x; k Fkk A bl ds /; ku ea j [krs gq
ts uoh] tcyij l s gq LFkkukarj.k dks jnn djus ds fy, Jh epl'sk iztkifr ds vujksk ij fopkj
djuk iz'kkl fud : i l s l ãko ugha gA gkykfid] i ãbrhiz jsk ea of.kr dFku vuq kj] i kSLVax ds

LFkku ea ifjorðu@l ákkáku ds fy, muds vugiðsk dls igys gh fof/kor ekuk x; k gS vks muds vugiðsk ij i kSLVax ds LFkku dls tsuoh jkeig ea l ákká/kr fd; k tk pplk gA l febr fn0; kak deþkfj; ka ds fy, ykxw **vkj{k.k vks fj; k; rã* fo'k; ij fof/kor fu; eka vks funðkka dk ikyu djrh gA LFkkukarj.k eþ "kh'kz vf/kdká k i kFkfedrkj LV'sku ij l kekk; dk; Zky ij k djus dh "krkð dsfcukj v{ke deþkfj; ka dks LFkkukarj.k dh ekax djus ds fy, nh tk jgh gA fn0; kak deþkfj; ka dks ekfur fjDr LFkku ?kká'kr gkus ds mi jkar Hkh l jf{kr fjDr LFkku ekudj mlga foLFkki u l s Hkh cpk; k tk jgk gA

4- oknh us vi us ifrmýkj ea vi uh ey f"kd; r dks T; ka dk R; ka nksj;k; kj dksZu; k rF; i Lr; ugha fd; k A

5- ifroknh ds i= fnukad 15-04-2019 , oa oknh ds ifrmýkj fnukad 30-05-2019 ds ennatj ekeys eafnukad 13-09-2019 dks , d 0; fDrxr l quokbz fu/kkZjr dh x; h A

6- mi jkDr l quokbz ds nksku oknh ds ifrfuf/k us i kpk; Z }kjk muds i {k ij >Bs vkjki yxkdj mudk LFkkukarj.k 1000 fdeh nj dj fn; k x; k gSA mDr inLFkki uk rnLFk in ij gþz u dh oknh dks lknkbur fd; k x; k gA

7- l quokbz ds nksku ifroknh ds ifrfuf/k us dgk fd oknh o'kz 1996 l syxkrkj 15 o'kz l s , d gh LFkku ij l ok ns jgs Fks A dþy oknh dks gh LFkkukarj r ugha fd; k x; k gS cfYd buds l Fk 06 vl; deþkfj; ka ds LFkkukarj.k Hkh fd, x, gA ifroknh dk ; g Hkh vkjki Fkk fd oknh dh otg l s 550 fo | kFkz; ka ds Hkfo'; l k i Hkko i M+jgk Fkk A oknh ds vugiðskkuð kj jkeig inLFk fd; k x; k gA ifroknh ds vuð kj oknh mDr LFkku ij 02 o'kz i wlk gkus ij fu; ekud kj LFkkukarj.k gsrq i q% vkonu ns l drs gA

8- nkska i {kka dks l qus ds ckn ; g Kkr gkerk gS fd oknh 15 o'kz l s xg uxj inLFk Fkð vr% mlga vc LFkkukarj.k ij , rjkt ugha gkuk pfg, vks u gh , d h dksZ ck/; rk gS fd xguxj ij gh inLFkki uk inku dh tk, a rFkfi ifroknh dks l ykg nh tkrh gS fd tgka rd l Hko gks l da oknh dks muds xg uxj ds utnhd inLFk djus dh l Hkkouk ryk"kuh pfg, A ekeys ea vkxs dk; Zkgh vi f{kr ugha gA ekeys dks ckn fd; k tkrk gA

9- l Hkh i {k rnkud kj voxr gkwa A

¼'kdþryk Mh- xkefyu½
e[; vk; þr fn0; kxtu

dd I 0% 11270@1014@2018

fnuka d% 25-10-2019

ds ekeys e%&

Jh I k\$Hk d%kj
Tkh & 8] unu Vkoj d%k%k%h
ekM+d% dMekx] i Vuk & fcgkj

oknh

cuke

jyos ckMZ
%}kjk I fpo%
jy e%ky;] jy Hkou
ubl fnYyh & 110001

i froknh u% 01

jyos HkrhZ d{k
%}kjk v/; {k%
yktir uxj & 1] ubl fnYyh

i froknh u% 02

I qokbz dh frfFk% 23-10-2019 , oa 25-10-2019

cBd dh frfFk % 24-10-2019

- Jh I k\$Hk d%kj & i kFkhZ , oa vU; Jh ekeu fl g] Jh fodk" k] Jh I Unhi] Jh uohu ehuk A
- Jh vkj-dseYgk=k] v/; {k] Jh v%jkt] bZMh-] Jh , I - ckykpank] bZMh-bZ , oa I φh d% e] i h-I h-i h-vks foi {kh dh vkj I s

vkns'k

mi jkDr f"kd; rdrkZ Jh I k\$Hk d%kj us jyos HkrhZ ckMZ ds }kjk i zdkf"kr foKki u I a I h-bZ, u 02@2018 ds I nHkZ ea fn0; kxka ds I kFk gks jgh vf; ferrk I s I c%kr f"kd; r fn0; k%tu vf/kdkj vf/kfu; e 2016 ds vUrxZr bl U; k; ky; ea i Lr% dhA

2- f"kd; rdrkZ dk vi uh f"kd; r ea dguk gS fd jyos HkrhZ ckMZ-us vi us foKki u I 0 I h-bZ, u 02@2018 }kjk xij *Mh* dh HkrhZ ds fy, fnuka d 10-02-2018 dks foKki u fn; k rFk vkonu I ekflr I s i wZ fn0; k%ka dks 4 i fr"kr vkj {k.k dk ykHk ugha i nku fd; k Fkk i kFkhZ us fuEufyf[kr i e%k vf; ferrk, a crkb%

- vgenkckn ckMZ ea vks, y- fn0; kacka dh I hvA 95 Fkh tks ?kVkdj 61 dj nh x; hA tcfD fn0; kacka dh vks, y- fodYi ea I cl s T; knk I hvA vgenkckn ea FkhA ftI dks ns[kdj T; knkrj fn0; kax Nk=ka us vgenkckn ckMZ ea QkeZ Hkj k FkA
- jsyos HkrhZ ckMZ us vi us foKki u I d; k 02@2018 fnukad 10-02-2018 ds rgr xij *Mh* inka dh HkrhZ ea eYVhi y fML, cfyVh (, e-Mh-) dk dkbZ mYys[k ugha fd; k Fk vkj u gh vkonu ds I e; eYVhi y fML, cfyVh (, e-Mh-), ckFk yx 1/2h, y-1/2 ckFk gSM 1/2h, -1/2 dk fodYi fn; k x; k Fk rks vc mudh I hv c<kdj ml dk fj tYV dS s fn[kk; k tk jgk gA
- fn0; kacka dks ifr ?ka/k 15 feuV T; knk I e; nsus dk i ko/kku gS ijUrq ugha fn; k x; kA
- tc I Hkh jsyos tku us , d I kFk ijh{kk vk; kstr dh] vkj , d I kFk ifj.kke ?kks'kr fd; k rks I cdk , d I kFk dVvkkD ekDI Z D; ka ugha fn[kk; k x; kA
- jsyos }kjk fn0; kacka dk fodYi i ek.k i = jsyos ds QkeZ/ ea D; ka ekack x; k tcfD Lo; a I q he dkMZ us ; g vkn'sk fn; k Fk fd fn0; kacka dk i ek.k i = fdl h Hkh QkeZ/ ea gks rks og dlnz ea ekU; gkskA
- jsyos ds iR; d tku ; k ckMZ ds foHkkx ea , I -I h-] , I -Vh-] vksch-I h- dk , d dk; kzy; gsrk gS ijUrq fn0; kacka dh I quokbz ds fy, dkbZ dk; kzy; ugha gA
- QkeZ vkonu djus ds I e; jkph ckMZ ea dkbZ fodYi ugha Fk yfdu ckn ea 100 I hvA ns fn; k x; k rFk 100 I hvka ea I s 83 I hvka ea gh fn0; kacka dh fu; qDr gpZ , oa 17 I hvka ij fu; qDr ugha gpZ vkj fodYi ea i r h{kk ea ek= 03 yMelka dks j [kk x; kA

3- ekeyk fn0; kaxtu vf/kdkj vf/kfu; e 2016 dh /kkjk 75 ds vUrxr i = fnukad 10-07-2019 }kjk ifroknh ds I kFk mBk; k x; kA ijUrq Lej.k i = fnukad 19-10-2019 ds i "pkr~Hkh ifroknh I s dkbZ mRrj ugha vk; kA bl fy, fnukad 23-10-2019 dks I quokbz j [kh xbA

4- bl l mHkZ ea dN iz'kkl fud dkj .kka l s l uokbz fnuka d 23-10-2019 dks ugha gks i k, xh bl dkj.k l uokbz fnuka d 20-11-2019 dks i ufu/kkZjr fd; k x; kA ftl dh l uok oknh , oa ifroknh dks i = fnuka d 18-10-2019 , oa b&esy }kjk l uopr fd; k x; kA ijUrq Jh l kS Hk dekj fnuka d 23-10-2019 vius l kFk yxHkx 500 & 600 ykxka ds l kFk vk, vkSj ml h fnu l uokbz grrq ekax dh vkSj /kjuk in"ku fd; kA l kFk gh vius l kFk; ka ds l kFk eMh gkAl ij ; krk; kr vojksk mRi Uu fd; kA

5- flFkr dh xHkhjrk dks ns[krs gq bl U; k; ky; ea fnuka d 23-10-2019 dks l uokbz dh xbA l uokbz ds nks[ku] i kFkhz us vfrfjDr fyf[kr nLrkost i Lrqr fd; s rFk viuh f"kd; r dks nkgjkrsgq dgk fd ftl ckMZ ea yxkrkj jksy uEcj okyka dks nLrkost l R; ki u ds fy, cgyk; k x; k gS mul s ijk Li'Vhdj.k ekax tk, , oa mPpLrjh; tkp dh ekax dhA f"kd; r drkZka us , d vkSj mnkgj.k fn; k fd , d Nk= dks tMj 1/2 yx 1/2 ds fy, jsyos HkrhZ ckMZ fcykl ij us nLrkost l R; ki u ds fy, cgyk; k vkSj ckn ea l uok ea l s mudk uke fu'dkfl r fd; k tcf d jsyos us ml mEehnokj dks i hbVh ds fy, cgyk; k Fkk D; kfid i hbVh ea iq 'k dk vyx fu; e gkrk gS vkSj L=h dk vyx nkM+dk fu; e gS vxj yMek tMj L=h ppu j [kk Fkk rks i hbVh ea gh ml s fu'dkfl r dj nsuk pfg, A i kFkhz dk dguk gS fd jsyos HkrhZ ckMZ }kjk cgr vfu; ferk, j gpZ gA

6- bl U; k; ky; us l uokbz ds i "pkr- i kFkhz vkSj muds l kFk vk, gq l kFk; ka dks vk"okl u fn; k fd ge jsyos ckMZ l s l kjh tkudkfj; k; ekaxs vkSj fopkj djrs gq viuh fl Qkfj "k djaxA

7- fnuka d 24-10-2019 dks l qg 10-30 cts , d cBd fn0; kxtu l "kfDrdj.k foHkkx] i mfr nhu n; ky varkn; Hkou] l h-th-vks dkWlyDI] yksh jkMf- ubZ fnYyh ea foHkkx dh l fpo dh v/; {krk ea gpZ ftl ea i kFkhz , oa muds vU; l kFk; ka us viuh mDr f"kd; r dks nkgjkr; k vkSj eq; f"kd; rka ij dkjZkbZ dh ekax dh A jsyos HkrhZ ckMZ us vius foKki u l ; k 02@2018 fnuka d 10-02-2018 ds rgr xij *Mh* inka dh HkrhZ ea eYVhi y fML, cfyVh (, e-Mh-) dk dkBZ mYys[k ugha fd; k Fkk vkSj u gh vkonu ds l e; , e-Mh-] ckFk yx] ckFk gSM dk fodYi fn; k x; k Fkk rks vc mudh l hv c<kdj ml dk fj tYV ds s fn[kk; k tk jgk gA mlugkaus fyf[kr ea crk; k fd xpkgvh ea yxHkx 21 inka dk cdykk fn0; kxka ds fy, , oa iVuk ea 46] pMhx<+ea 76 bR; kfn gA mlugkaus vugksk fd; k fd fn0; kxka ds ftrus Hkh fjDr in gSmudks Hkj tk, A

8- jsyos ckMZ ds ofj 'B vf/kdkjh bl cBd ea "kkfey gq FkA mlGkaus crk; k fd foKki u l d; k 02@2018 fnukad 10-02-2018 ds rgr xij *Mh* inka dh HkrhZ ea eYVhi y fML, cfyVh (, e-Mh-) dk dkbZ mYys[k ugha Fkk] Jh : xBk] us'kuy QMj's'ku vkQD nk CykbM us ekuuh; mPp U; k; ky; ds l e{k , d fjV ; kfpdk nk; j dh Fkh] ftl ds rgr l xkks/kr foKki u ekpz 2019 ea izdkf"kr fd; k x; kA ftl ea eYVhi y fML, cfyVh dks "kkfey fd; k x; k vkj fn0; kx tu vf/kdkj vf/kfu; e] 2016 ds vuq kj 4 ifr"kr vkj{k.k dh 0; oLFkk dh xBA mlGkaus ; g Hkh crk; k fd HkrhZ ijh{kk ds vk/kkj ij p; u if0; k vHkh Hkh if0; k/khu gA+ mlGkaus vugjksk fd; k fd gj , d fn0; kx ftl us ijh{kk ikl dh gS og viuh ; kfpdk] vi us jksy uEcj l fgr mlga iLrnr dja rkd og gj , d fn0; kx dh f"kd; r dk fuiVkj dj l dA mlGkaus crk; k fd fn0; kxka dks ifr ?ka/k 20 feuV vrfjDr l e; nus dk Hkh iko/kku fd; k x; k FkA jsyos ckMZ us vi us dFku fnukad 04-10-2019 fyf[kr : lk l s fn; s gS tks fd l yXu gA

9- bl U; k; ky; us ; g ik; k fd ekuuh; mPp U; k; ky;] fnYyh us W.P. (C) 1855/2018 }kjk fuEu vkn'sk 29-01-2019 dks ikfjr fd; k gA

"in view of the Office Memorandum, issued by the Government of India, Ministry of Railway (Railway Board) on 16th/17th January, 2019 making provision of reservation in various categories in accordance to the statutory requirement as contemplated under Section 34 of the Rights of Persons with Disabilities Act, 2016, now all the grievances of the petitioner stand satisfied. The respondent should now proceed to make recruitment in accordance to the Office Memorandum dated 16th/17th January, 2019 and instructions in this regard issued from time to time by the Competent Authority."

mijkr ekuuh; mPp U; k; ky; ds vkn'sk l s ; g i rhr gkrk gS fd jsyos ckMZ dks fun'sk fn; k x; k Fk fd os muds dk; ky; Kki u fnukad 16 & 17 tuojh 2019 ds l anHkZ ea HkrhZ if0; k dks vkxs c<k, A jsyos ckMZ us fnukad 16 & 17 tuojh 2019 ds dk; ky; Kki u }kjk fn0; kx tu vf/kfu; e 2016 dh /kkjk 32 1/2 ds l anHkZ ea cpekdZ fn0; kxka ds fy, jsyos fd fjfDr; ka ea 4 ifr"kr ds vkj{k.k dks ykxw dj us dk mYys[k fd; k gA jsyos vf/kdkfj; ka us ; g crk; k fd ekuuh; mPp U; k; ky; ea muds vkn'sk dh voekuuk ; kfpdk vHkh yacr gA

10- bl U; k; ky; us i dkg% 25-10-2019 dks f"kd; r drkZ vkj muds pps gq l kFkh , oa jsyos ckMZ ds inkf/kdkfj; ka dks bl l anHkZ ea l qkA nksuka i {kka dks l qus ds mijkr vkj

ekuuh; mPp U; k; ky; ds vkn'sk fnukad 29-01-2019 , oa fn0; kaxtu vf/kdkj vf/kfu; e ds i ko/kkuka dks e/; utj fuEufyf[kr vuqka k ikfjr fd; A

- jsyos ckMZ us fn0; kaxtu vf/kdkj vf/kfu; e] 2016 ds vuq kj 4 ifr"kr vkj{k.k fn0; kaxtuka dks nus grw ekpZ 2019 ea vi us Qjoj 2018 ds foKki u ea nh xbZ Jskh okj fjfDr; ka dh l pph ea l a'kksku fd; k FkA
- fn0; kaxtu vf/kdkj vf/kfu; e 2016] fnukad 19-04-2017 l si Hkkoh gqvk gs vr% fnukad 19-04-2017 ds mijkar tks Hkh in fjDr ga mu ij fn0; kaxtu dks 4 ifr"kr vkj{k.k dkfeZd , oa if"kk{k.k foHkx ds dk; kzy; Kki u fnukad 15-01-2018 ds vuq kj ykxw gksckA fnukad 19-04-2017 l si ind ds fjDr inka ij fn0; kaxtu vf/kdkj vf/kfu; e] 1995 dh /kkjk 33 ds varxr rhu ifr"kr vkj{k.k nf'Vckf/kr] vlLFckf/kr , oa Jo.kckf/kr½ ds fy; s ykxw gksckA jsyos ckMZ }kjk 2018 ea tks in foKkfi r fd; s x; s gs muea fn0; kaxtuka ds l Hkh oxka dks , d l eku dgy inka dh x.kuk ds vk/kkj ij vkj{k.k inku dj fn; k x; k ga ikj fEHkd Lrj ij ; g ns[kk x; k gs fd jsyos ckMZ }kjk fn0; kaxtuka ds inka dh tks x.kuk dh xbZ gs og vkj{k.k ds eny/Hkr fl) kUr ij vk/kkfjr ugha ga vr% jsyos ckMZ dks tksu Lrj ij nf'Vckf/kr] vlLFckf/kr] Jo.kckf/kr] eYVhi y fML, cfyVh , oa vU; Jskh ts seYVhi y fML, cfyVh ds vkj{kr inka ij fu/kkZ .k djuk vko"; d ga
- f"kd; rdrkZ dh nh jh egROIwKz f"kd; r ; g gs fd jsyos ckMZ }kjk tks foKki u l [; k 02@2018 izdkf"kr fd; k x; k] ml ea eYVhi y fML, cfyVh dk dkbZ mYys[k ugha Fkk vks] u gh ii = %Qke½ ea eYVhi y fML, cfyVh dk fodYi fn; k FkA jsyos ckMZ dks bl l mHkZ ea l pko fn; k tkrk gs fd eYVhi y fML, cfyVh ds vkonu dh if0; k vks] p; u if0; k dh foLrr tkudkjh bl U; k; ky; dks mi yC/k djA
- tks Hkh U; ure vad ijh{kk ifj.kke ds fu/kkZ .k ea fuf"pr fd; s x; s gs mlga tksokj osl kbV ij o jsyos ckMZ dh osl kbV ij vke tuka dh l pukFkZ inf"kr djuk pfg, A
- tgi; rd ikFkZ p; u if0; k ea dV vKND ekDI l s de vad i kus okyka dk p; u djus ds l mHkZ ea f"kd; r g\$; g U; k; ky;] ikFkZ , oa muds l kFk; ka dks ; g l pko nrk gs fd og dV vKND ekDI l s de vad i kus okyka dk uke] jksy uEcj]

fn0; kark dh Jskh o tku ds uke dh lph jsyos ckMZ dks inku djā tks bl ij
Li 'V tkp djok, a, oamfpr dkjzkbz djā

• U; k; ky; us i kffkz ka dks ; g l pko fn; k fd os jsyos ckMZ ds l e{k mu
fn0; k mEehnokjka dh lph Hkh iLrē dja ftudks nLrkost l R; ki u ds fy,
i=@b&esy Hkst k x; k gS vks ckn ea l fEefyr gksus dk ekdk ugha fn; k x; kA jsyos
ckMZ bl l mHkz ea tkp djrs gq mfpr dkjokbz djā

• jsyos ckMZ bu fl Qkfj "kka ds vk/kkj ij viuh HkrhZ i fØ; k ; Fkk "kh?kz l ā Uu dja
rFkk ftl Jskh ea mi ; Ør i kFkhZ u feyus ds dkj.k in fjDr jg tkrs gS mlga vxyh
HkrhZ i fØ; k ea vxf'kr djrs gq "kkfey djā

• jsyos ckMZ ; g Hkh l fuf"pr djs fd fn0; kaktuka ds fy, ftrus Hkh fjDr in
mi yC/k gS mlga l e; c) rjhds l s Hkjus dh i fØ; k fØ; kflor djā

• jsyos ckMZ dks ; g l pko Hkh fn; k tkrk gS fd bu fl Qkfj "kka ij vxys nks
l lrg ds Hkrj dkjzkbz l fuf"pr dja vks dh xbz dkjzkbz vius oel kbV ij j [ks
vks i kFkhZ rFkk bl U; k; ky; dks Hkh l fpr djā

• ; g Hkh Li 'V fd; k tkrk gS fd ftu i kffkz ka dh p; u i fØ; k ijh gks xbz gS
mu i kffkz ka dh fu; ØDr; ka ds mi ksk fl Qkfj "kka dk dkbz i Hkko ugha gkskA

¼'kdqryk Mh- xkefyu½
eq; vk; Ør ¼fn0; kaktu½

Case No. 8810/1011/2017

Dated: 31.10.2019

In the matter of:-

Dr. Nitesh Kumar Tripathi
H.No. B – 241, B Block
Sant Nagar Burari, Delhi – 110084
<niteshtripathi85@gmail.com>

Complainant

Versus

Indian Institute of Technology
Through the Registrar
IITM Main Road, Near NH - 65
Sangareddy, Khandi, Telangana - 502285

Respondent

Date of Hearing: 07.08.2019

Present:

1. Complainant - absent
2. Shri V. Venkat Rao, Joint Registrar and Shri V.S. Sastry, Assistant Registrar on behalf of respondent

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi, a person with 65% locomotor disability filed an e-mail dated 01.10.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of the RPwD Act, 2016 by IIT, Hyderabad;

2. The complainant namely Dr. Nitesh Tripathi has submitted that Indian Institute of Technology, Hyderabad has published an advertisement for various posts and the advertisement is not showing exact number of seats reserved for PwDs. He further submitted that post qualification experience for the post of Medical Officer was 08 years while for the similar post at same pay scale the post qualification experience is one to two years by other Universities and Institutions. He has requested to direct the respondent to provide full exemption from the payment of application fee, 10 years age relaxation, extra time during examination, travel expenses to attend interview alongwith an escort,

disabled friendly environment during the interview and to also conduct the Special Recruitment Drive for filling up the backlog vacancies for PwDs.

3. The matter was taken up with the respondent vide letter dated 17.01.2019 under Section 75 of the RPwD Act, 2016.

4. In response, Liaison Officer, Indian Institute of Technology, Hyderabad maintains 100 point reservation roster for Group 'A', 'B' and 'C' posts separately. They have also clearly specified that relaxation in age for PwD will be admissible as per Govt. of India guidelines and under Sl. 01 application fee of General Instructions to candidates; it is clearly provided that PwD candidates are exempt from application fee, as per instructions of Govt. of India. He further submitted that in connection with complaint of Dr. Nitesh Tripathi regarding the post qualification experience of 08 years for the post of Medical Officer II (with GP of 6600/-), experience requirement has been prescribed keeping in mind the needs of IIT, Hyderabad. All other points raised by Dr. Nitesh Tripathi, in his letter are being implemented at IIT, Hyderabad.

5. Complainant vide rejoinder dated 19.05.2018 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised by him. He has requested to fix a hearing in the matter.

6. After considering the respondent letter dated 27.02.2018 and complainant's e-mail dated 19.05.2018, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 07.08.2019.

7. During personal hearing complainant was absent and representative of the respondent has submitted additional reply and stated that application of Dr. Nitesh Kumar Tripathi was received by IITH on 11.11.2017 with deficiencies: (1) Post number not mentioned (2) Column No. 8, 9, 10, 11 & 12 not filled as per general instructions to candidates (3) Column No. 15 & 18 not filled (4) Column

No. 13 not filled fully (reflect only 10th & 12th qualification) (5) MBBS Degree certificate not attached (6) Holding experience of only 03 years 02 months 14 days. He further informed that as per terms of SI No. 02 of General Instructions to the candidature's status that will get modified if the application is found incomplete/invalid. No deficiency will be ignored or relaxed. If any column is not applicable or nil information is furnished it will be treated as column not being filled, thus, the application of Dr. Nitesh Kumar Tripathi being incomplete/invalid, his candidature was not considered.

8. In the light of the above and material available on record, response of the respondent found satisfactory, therefore, case is disposed off without any direction.

9. The Case is accordingly disposed off.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

Case No: 8404/1011/2017

Dated: 21.10.2019

In the matter of:-
Dr. Himanshu Dadlani
C2 – B, 39 A, Janakpuri
New Delhi -110058

Complainant

Versus

Bhabha Atomic Research Centre
(Through the Director)
CC, Trombay BARC, Mumbai - 400085

Respondent

Date of Hearing: 14.08.2019

Present:

1. Complainant - absent
2. Shri K. Venkat Subramanian, Dy. Establishment Officer on behalf of respondent

ORDER

The above named complainant, a person with 47% locomotor disability filed a complaint dated 19.07.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding recruitment to the post of Medical Officer (Dental Surgeon) in BARC.

2. Complainant in his complaint has submitted that Bhabha Atomic Research Centre had published an advertisement for various posts and he was eligible to apply for the post of Medical Officer (Dental Surgeon) in the Grade of Medical Officer (E) for MDS peridontology and during the submission of the online application, there was an error being shown at the end that he cannot apply for the post as this post is not identified for Physically Handicapped category.

3. The matter was taken up with the respondent vide letter dated 09.11.2017 under Section 75 of the RPwD Act, 2016.

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4. In response, Bhabha Atomic Research Centre vide letter dated 19.12.2017 has submitted that the Centre has examined the case and the Trombay Council which is the Apex Body of BARC is responsible for taking policy decisions related to recruitment & promotion norms for the Scientific & Technical employees of BARC and DAE as a whole. Apex Body has identified Architecture, Library, Horticulture and Medical disciplines in the Grade of Scientific Officer/C (SO/C) in the category of OL, OA & PD. The post of Scientific Officer/E (SO/E) is not one of the posts identified for PwDs. The position has already been explained to complainant in reply to RTI. In spite of this, complainant has submitted on-line application, by suppressing the fact. In the online application No. G000143-000227, complainant has declared that he is not physically handicapped. Thus, the candidate has furnished false information while submitting on-line application. Application of complainant was screened out, in terms of para 14 of General conditions enumerated in advertisement.

5. Complainant in his rejoinder dated 25.03.2018 has inter-alia submitted that name of the post advertised by BARC is Medical Officer/Scientific Officer (E) Dental Surgeon and not just Scientific Officer/E SO/E and as per the Ministry of Social Justice & Empowerment's Notification No. 16-15/2010-DD-III dated 29.07.2013, the post of Dentist is an identified for OL & HH categories of disabilities. He further submitted that during the submission of the online application, there was an error being shown at the end that he cannot apply for the post as post is not identified. He further submitted that Chief Administrative Officer (P) stated that complainant has suppressed the information that he is not a person with disability. In case, he wanted to suppress the information, then would not have attached the PwD certificate with the application.

6. After considering the respondent letter dated 19.12.2017 and complainant's rejoinder dated 25.03.2018, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 14.08.2019.

7. During personal hearing complainant was absent and representative of the respondent reiterated his written submission and submitted additional documents.

8. After hearing of the representative of Respondent and perusal of the record available, Court directed to respondent to provide reservation to persons with disabilities as per the Ministry of Social Justice & Empowerment's Notification No. 16-15/2010-DD-III dated 29.07.2013 as the post of Dentist is an identified for OL & HH categories of disabilities. The grant of exemption from the purview of Section 34 of the RPwD Act, 2016 shall be considered by an Inter-Departmental Committee set up by the Ministry of Social Justice and Empowerment. Till such exemption is granted, persons with disabilities cannot be denied the benefit of appointment/reservation/relaxation against advertised posts.

9. The Case is accordingly disposed of.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

Case No. 6975/1011/2016

Dated: 31.10.2019

In the matter of:-

Dr. Nitesh Kumar Tripathi
H.No. B – 241, B Block
Sant Nagar Burari, Delhi – 110084
<niteshtripathi85@gmail.com>

Complainant

Versus

Office of the Cantonment Board
Through the Chief Executive Officer
Cantonment Board, Clement Town, Dehradun

Respondent

Dates of Hearing: 29.07.2019 & 25.09.2019

Present:

1. Complainant - absent
2. Respondent – Ms. Isha, Advocate on behalf of respondent

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi, a person with 65% locomotor disability filed a complaint dated 13.09.2016 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of the Persons with Disabilities Act, 1995 by Cantonment Board, Dehradun;

2. The complainant had inter-alia submitted that respondent had not provided the reservation to PwDs candidates and they are not maintaining reservation roster. He further submitted that he had applied for the post of Resident Medical Officer and appeared in interview on 30.05.2016 but he had neither provided disabled friendly venue nor TA bill paid to him. He further submitted that he had given answers to almost all questions during interview but has not been selected only because he demanded for disabled friendly Interview venue that have accessibility features.

3. The matter was taken up with the respondent vide letter dated 04.10.2016 under Section 75 of the RPwD Act, 2016.

4. In response, Chief Executive Officer, Cantonment Board, Clement town vide letter dated 13.12.2016 has inter-alia submitted that the Board has followed the Rule of PwDs Act, 1995 and so far as about the roster that is not applicable on the single post which was clarified by the Board through their reply 26th May, 2016 to Dr. Nitesh Kumar Tripathi as the post of RMO is not a cadre post under Central Government but is a single isolated post where employment is made by local body being a single post no roster is applicable. They further submitted that Board constituted a panel for conducting the interview on the basis of merit; the panel has selected the candidate who has resumed their duties in Hospital. They further submitted that Dr. Nitesh Kumar Tripathi has submitted a bill for T.A. to the Board of the payment and Bill states total journey of nearly 2000 Kms but distance between Delhi to Dehradun is hardly 500 Km to and fro. Therefore, they call for further information as to the details of journey and his DA, the office has already paid to the Hotel. Further, the respondent submitted that a disabled friendly facilities like earmarked seating, water, tea, snacks arrangement were provided.

5. Complainant vide rejoinder dated 03.11.2017 has inter-alia submitted that respondent has not replied as per the grievance. He has requested to fix a hearing in the matter.

6. After considering the respondent letter dated 13.12.2016 and complainant's e-mail dated 03.11.2017, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 29.07.2019.

7. During the hearing, complainant was absent and representative of the respondents reiterated his written submissions and informed that all facilities were provided to the complainant. After hearing and documents available on record, the respondent was directed to submit the photographs which show Cantonment Board have Barrier Free Environment. The case was adjourned to 25.09.2019.

8. During personal hearing on 25.09.2019 complainant was absent and representative of the respondent submitted photographs of the Conference Hall of Cantonment Board Office only, however, the case is disposed of with the direction to the respondent to submit an Action Taken Report with full layout and pictures of the Cantonment Board that would be testimony a Barrier Free Environment.

(Shakuntala D. Gamlin)
Chief Commissioner for
Persons with Disabilities

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4- Asst. General Manager, Reserve Bank of India vide letter dated 02.11.2018 has submitted that the biometric data verification of the candidates was one of the mandatory criteria in the selection process. As Shri Vikas Gupta's biometric data could not be verified, therefore, he was not considered for further selection.

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