

In the matter of:

Smt. Tanya Behl, C-26, Rashmi Apartments, Harsh Vihar, Pitampura, Delhi – 110034,
Email – neeta.behl@yahoo.com **....Complainant**

Versus

All India Institute of Medical Sciences [Through: The Addl. M.S., CNC], Cardio-Neuro
Centre, Ansari Nagar, Delhi – 110023 **.... Respondent No.1**

Bhagwan Mahavir Govt. Hospital, [Through: The Medical Superintendent], H-4/5, Guru
Harkishan Marg, Pitampura, Delhi-110034 **....Respondent No.2**

Dr. Baba Saheb Ambedkar Hospital, [Through: The Medical Superintendent], Rohini,
Sector-VI, North West District, Delhi – 110085 **....Respondent No.3**

Institute of Human Behaviour & Allied Sciences (IHBAS), [Through: The Medical
Superintendent], Dilshad Garden, Delhi – 110095 **....Respondent No.4**

Date of hearing: 08.11.2019

Present:

1. Smt. Tanya Behl, the complainant
2. Dr. I.B. Singh, AIIMS, Delhi for respondent No.1
3. Dr. Sanjay Kumar, Chairman, Disability Board, Bhagwan Mahavir Hospital for respondent No.2
4. Dr. Harsh Bala, MRO, Dr. B.S.A. Hospital, Delhi for respondent No.3
5. Dr. Kumar Abhinav, SR, Neurology, IHBAS, Delhi for respondent No.4

ORDER

The complainant filed her complaint dated 16.04.2018 regarding non-issuance of the Disability Certificate to her daughter, Ms. Sadhika Behl (case of Multiple Sclerosis). The complainant submitted that for the last one and half years she has been admitting her daughter in the various hospitals in Delhi, namely, Sir Ganga Ram Hospital, Janakpuri Super Speciality Hospital, Bhagwan Mahavir Govt. Hospital, Sanjay Gandhi Hospital, Dr. Baba Saheb Ambedkar Hospital, Institute of Human Behaviour & Allied Sciences (IHBAS), and All India Institute of Medical Sciences (AIIMS). She is struggling from one government hospital to another and they have been telling that the case is not in their area and/or the department is not in their hospital. Others are telling that since she is not being treated in their hospital, they cannot issue disability certificate.

2. Initially the matter was taken up with AIIMS (respondent No.1) and Bhagwan Mahavir Govt. Hospital, Delhi (respondent No.2).

3. Respondent No.1 filed their reply and submitted that the patient was getting regular treatment at Sir Ganga Ram Hospital and recently attended AIIMS with the sole aim of getting a certificate of disability. It would be appropriate under Rule 17(a) of the Rights of Persons with Disabilities Rules, 2017 to obtain the certificate of disability from the notified hospital of her own district i.e. Dr. Baba Saheb Ambedkar Hospital, Rohini, Delhi (respondent No.3).

4. Respondent No.2 filed their reply dated 02.06.2018 and submitted that the case of Ms. Sadhika Behl was taken. But her case was referred to Institute of Human Behaviour and Allied Sciences (IHBAS) [respondent No.4]. As per Gazette Notification dated 12.02.2014, IHBAS has been authorized for North West District Delhi for Mental Retardation/Illness and other Neurological Disorders/Cerebral Palsy etc.

5. Upon considering the replies filed by the respondents and rejoinder of the complainant the case was listed for personal hearing on 11.09.2019, vide Notice of Hearing dated 26.07.2019.

6. During the hearing on 11.09.2019, the representative of respondent No.3, submitted that as per Circular F No.24/Misc Policy/Disability/DHS/NHC dated 02.05.2019 Dr. Baba Saheb Ambedkar Hospital, North West Delhi has been designated for issue of Intellectual/Mental/Neurological Disability Certificates for residents of North West District Delhi, but as per Gazette Notification, the Medical Board requires clinical/rehabilitation psychologist as a member and there is no clinical/rehabilitation psychologist at the hospital at present. So respondent No.3 is not in a position to issue disability certificate to Ms. Sadhika Behl.

7. After hearing the parties, this Court observed that as per the Rule 18 of the Rights of Persons with Disabilities Rules, 2017, issued by Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disabilities (Divyangjan) on 15.06.2017, the certificate of disability needs to be issued within a maximum period of one month from the date of receipt of the application. In case, "If an applicant is found ineligible for issue of certificate of disability, the medical authority shall convey the reasons to him in writing under Form VIII within a period of one month from the date of receipt of the application." In the instant case, the issuance of certificate of disability has been delayed which is in violation of the provision of the RPwD Rules, 2017. It is the responsibility of each medical authority to ensure that the medical board is appropriately constituted for issuance of certificate of disability for all categories. Accordingly, the respondent No.3 is advised to take immediate steps to arrange for Clinical Psychologist and other experts for completion of the medical board required for certification of disability caused due to Multiple Sclerosis and issue certificate of disability to the complainant's daughter Ms. Sadhika Behl as per the guidelines at the earliest.

8. The case is accordingly disposed of.

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

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Case No: 9504/1023/2018

Dated : 17.01.2020

Dispatch No.

In the matter of :h

Shri Ravi Karar,
RZ-31, Street No.1,
West Krishna Vihar,
Main Khaira Road,
Najafgarh,
Delhi - 110043

.....Complainant

Versus

Department of Science & Technology,
(Through the Secretary),
Ministry of Science & Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi – 110 016

.....Respondent

Dates of Hearing : 22.11.2019 and 18.10.2019

22.11.2019

Present :

1. Shri Ravi Karar, Complainant.
2. Shri Milind R. Kulkarni, Scientist 'G', Shri B.K.P. Angam, Under Secretary and Shri Praveen Singh, ASO, on behalf of Respondent

18.10.2019

Present :

3. Shri Ravi Karar, Complainant.
4. Shri Vishwajeet Singh, ASO, Department of Science & Technology, on behalf of Respondent

ORDER

The above named complainant, a 40% visually impaired person has filed a complaint dated 07.03.2018 under the Rights of Persons with Disabilities Act, 2016, regarding favouritism and discrimination towards him in TMD (Nano Mission), Deptt. of Science and Technology.

2. Shri Ravi Karar submitted that he was working as Project Assistant in Nano Mission Division of Deptt. of Science and Technology (DST). On 05.09.2017, he made a representation to DST regarding continuation of his services and absorption and regularization of his post to Junior Technical Assistant (JTA). Through reliable sources and through RTI dated 02.02.2018 he came

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to know that Nano Mission has been approved till 31.03.2020. The Nano Mission officials show discrimination towards him. Shri Mohd Javed was appointed in Nano Mission beyond 31.10.2017 whereas the complainant was removed from service as he was told that the Nano Mission is ending on 31.10.2017. He had been working in Nano Mission since 04.02.2010. He was removed without any intimation and he was not given any relieving orders. He has not yet received the salary for October 2017. Dr. Rajiv Sharma, Scientist-G, Mission Director, Nano Mission uses his office of profit and placed two Attendants namely Shri Krishna Gopal and Shri Rakesh Kumar and Shri Rohit Dadwal in SERB and offered appointments in Science and Engineering Research Board (SERB). He is the only bread earner in his family consisting of five members, namely his aged parents, younger sister, 1 year old daughter and spouse. He submitted that he is a Scheduled Caste.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 07.03.2019.

4. The Under Secretary, Ministry of Science and Technology, Deptt. of Science and Technology vide letter no. A-12024/03/2008-Admn.I(B) dated 18.04.2019 has submitted that Shri Ravi Karar, the complainant, was not a regular employee of the Deptt. of Science & Technology (DST). He was engaged as Project Assistant on contractual basis in 'Nano Mission' project (upto 31.10.2017) under DST w.e.f. 04.02.2010. It was made clear to him in the initial engagement that his engagement as Project Assistant would be on purely temporary contract basis and that contractual service would not bestow any right on the incumbent to seek permanent appointment or seek extension of tenure. The Standing Finance Committee did not recommend continuation of the post of Project Assistant under the Nano Mission of the complainant beyond 31.10.2017 and upto 31.03.2020. In view of this no extension in respect of any Project Assistant for the 'Nano Mission' project was initiated. The complainant has also approached the Hon'ble CAT, Principal Bench and filed an O.A. No.786/2018 seeking direction to continue his service as Project Assistant in the 'Nano Mission' project. The Hon'ble CAT had dismissed the O.A. at admission stage itself with the direction to the DST to consider the representation dated 30.11.2017 made by the Petitioner. In accordance with the direction of Hon'ble CAT, Principal Bench, New Delhi dated 20.02.2018, their Department had passed a speaking order No. C-18011/01/2018-Admn.I(B) dated 07.05.2018 with regard to status of engagement of the complainant. The complainant had not furnished any document of being a visually impaired person at the time of his initial engagement in the Deptt. He had subsequently furnished the Disability Certificate of 40% visual impairment on 22.05.2014 and his engagement with them was continued till 31.10.2017.

5. The complainant vide his rejoinder dated 29.04.2019 has submitted his appointment was done by DST on direct contract basis and the post was approved by the Union Cabinet and Deptt. of Expenditure under Ministry of Finance during the first phase of Nano Mission 2007-12 and posts were advertised in leading newspapers and DST's website during the month of October 2009. Skill test and personal interviews were conducted on 15-16 December, 2009. The complainant submitted that after putting in such a long period, i.e. more than 7 ½ years, he made a representation to the department on 05.09.2017 for continuation of his service and also absorption and regularization of his post to Junior Technical Assistant (JTA). He submitted that at the time of initial engagement to DST, he was recruited and appointed under Scheduled Caste (SC) category on 04.02.2010. During the course of his service in DST, he gradually lost his vision of his eyes due to strain of Computer System and retinal detachment of his right eye and subsequently lost significant vision of his left eye during the year 2013-14. He had his treatment in AIIMS, New Delhi. The doctors were unable to save his right eye but the vision in his left eye was restored and he was declared 40% visually impaired person. He came to know through reliable sources and reply received from RIT dated 02.02.2018 that Nano Mission has been approved upto 31.03.2020 and the Nano Mission officials have shown discrimination towards him by not renewing his contract but engaging Shri Mohd. Javed, Dr. Poonam Yadav, Smt. Rupashree Dash and Shri Devender after his discontinuation of services by DST.

6. During the hearing the Complainant submitted that he was working as Project Assistant in Nano Mission Division of Deptt. of Science and Technology (DST) since 04.02.2010. On 05.09.2017, he made a representation to DST regarding continuation of his services and absorption and regularization of his post to Junior Technical Assistant (JTA). The complainant was removed from service as he was told that the Nano Mission was ending on 31.10.2017. He submitted that he is the only bread earner in his family consisting of five members, namely his aged parents, younger sister, one year old daughter and spouse.

7. During the hearing the Respondent submitted that the Complainant was engaged as Project Assistant on contractual basis in 'Nano Mission' project under DST w.e.f. 04.02.2010. His engagement was purely on contractual basis and therefore does not bestow any right on the Complainant to seek permanent appointment or seek extension of tenure. The extension in respect of any Project Assistant for the 'Nano Mission' project was discontinued after 31.10.2017. The complainant had not furnished any document of his being a visually impaired person at the time of his initial engagement. He had submitted his Disability Certificate of 40% visual impairment on 22.05.2014.

8. The next hearing was fixed on 22.11.2019.

9. During the hearing the complainant submitted that he was working as Project Assistant in Nano Mission Division of Deptt. of Science and Technology (DST) since 04.02.2010. He was removed from service without any intimation and also was not given any relieving orders whereas the contract of one Shri Mohd Javed was renewed beyond 31.10.2017. He submitted that he has not received the October 2017 month's salary yet.

10. The Respondent submitted that the complainant was engaged as Project Assistant on contractual basis in 'Nano Mission' project (upto 31.10.2017) under DST w.e.f. 04.02.2010. He was appointed as Project Assistant which is purely a temporary job on contract basis. Hence no extension in respect of any Project Assistant for the 'Nano Mission' project was initiated.

11. The Court observed that since the complainant has put in eight years of his service in 'Nano Mission' project' as a contractual employee and since he acquired disability during the service, the Respondent is recommended to consider giving employment to the complainant by outsourcing as per their requirement.

12. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 2664/1024/2014

Dated : 29.01.2020

Dispatch No.

In the matter of :

Shri C. John Maliam,
C/o. C. Prakash,
C.C.B. Church,
East Arundathiya Wada,
14th Ward,
Musunuru,
Kavali,
SPSR Nellore (Dt.),
Andhra Pradesh – 524 201

.....Complainant

Versus

Corporation Bank,
(Thru General Manager)
Mangaladevi Temple Road,
Pandeshwar
Mangalore,
Karnataka – 575 001

.....Respondent

Date of Hearing : 20.11.2019 and 23.08.2019

20.11.2019

Present :

1. Shri C. John Maliam, Complainant.
2. Shri Umesh Chandra Tripathi, Senior Manager (Law) and Shri Rajat Arora, Advocate, for Respondent.

23.08.2019

Present :

1. Shri C. John Maliam, Complainant.
2. Shri Umesh Chandra Tripathi, Senior Manager (Law) and Shri Rajat Arora, Advocate, for Respondent.

ORDER

The above named complainant, a person with 89% locomotor disability has filed a Complaint dated 30.08.2014 under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding withdrawal of the option opted by him for Voluntary Retirement Scheme (VRS).

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3. Shri C. John Maliam submitted that he joined the Corporation Bank in 1987. He became bed ridden due to Ankylosing Spondylitis in 2006. Due to the persistent persuasion of the Bank Worker's Union, he took voluntary retirement. He was not aware of the Persons with Disabilities Act 1995. Now he wants to join his service and therefore wants to withdraw back the option given by him for VRS.

4. The matter was taken up under Section 59 of the Rights of Persons with Disabilities Act, 1995 vide letter dated 08.04.2015.

5. The General Manager, Corporation Bank vide his reply dated 04.05.2015 has submitted that the complainant had been working as Single Window Operator (Clerk) at Chirala Branch in Andhra Pradesh. He was absent from duty since 30.01.2006. He sought Voluntary Retirement under invalid pension scheme on the ground of his Neurological problem as he is no longer fit to work in the Bank. The Bank accepted his VRS. Eventhough the complainant opted for VRS, he was not relieved from his duty and had been still working with the bank. The complainant submitted his application for considering his case under Persons with Disabilities Act 1995 and payment of salary for the entire period of his absence as per the Act. In the meanwhile the Govt. has re-introduced the scheme for compassionate appointment on medical grounds. Therefore, the complainant applied for VRS on medical grounds and sought compassionate appointment for his son. The bank submitted that since the complainant's request for voluntary retirement under invalid pension has been already considered, they advised the complainant to apply for compassionate appointment as per the scheme guidelines. It is further stated therein that the bank has received the application from the complainant on 07.01.2015 for compassionate appointment of his son and the same is under process.

6. The complainant vide his rejoinder date 04.02.2016 has submitted that he was working as Clerk-cum-Cashier in the Corporation Bank. He was bed ridden since 30.01.2006. Due to Ankylosing Spondylitis he has been under pressure of dysfunction resulting in loss of control over passing of urine. He received the proposals of employment to his eldest son on compassionate grounds from the Corporation Bank, but not received any positive reply from the bank authorities. He was getting a meager pension of Rs.7,820/- from 01.06.2015. Due to burden of the family and debts on him, the complainant accepted the invalid pension. The invalid pension is a meager amount and is sufficient only for sustenance. Then he opted for commutation also. He further submitted that under Sec 47, of Persons with Disabilities Act, 1995, he is eligible for full amount of salary upto the age of 60 years, i.e. upto his date of retirement 30.06.2020.

7. And whereas, after considering Respondent's reply dated 04.05.2015 and complainant's letters dated 28.09.2015, 28.11.2015, 04.02.2016, 22.07.2016, 22.08.2016, 16.09.2016, 21.11.2016, 07.02.2017 and 07.03.2019, a personal hearing in the matter was scheduled on 23.08.2019.

8. During the hearing the Complainant submitted that he is 54 years old and is suffering from 89% locomotor disability. He is financially very poor. He joined the Corporation Bank on 27.06.1987. He served the Bank till 29.01.2006. He became bed ridden due to Ankylosing Spondylitis in the year 2006. He took V.R.S. under pressure from the Union Members at that time. The Bank management told him that they cannot implement the Section 47 of Persons with Disabilities Act, 1995. He has requested for cancellation of V.R.S. took by him and give compassionate appointment to his son Shri Chevuri Harsha in the Bank.

9. During the hearing, the representative of Respondent submitted a written reply dated 19.08.2019 which is attached as Annexure I. The copy of the reply was also handed over to the complainant. The Complainant was directed to submit the parawise comments on the Respondent's letter dated 19.08.2019 to this Court well before the next date of hearing.

10. The next hearing was scheduled on 23.10.2019. The said hearing was later rescheduled to 20.11.2019 due to administrative exigencies.

11. During the hearing the complainant submitted that he was posted at Chirala Branch in Andhra Pradesh since 14.08.2000. On 30.01.2006 he felt severe pain in his legs and gradually lost the sensation in his legs. He has been limited to bed for the past 14 years with 89% severe disability. He has no control over his motion, urinary systems and he is completely bedridden. He is in severe distress about his health condition and his family's economic conditions and the future of his wife and children. He submitted that he did not request for VRS. The Corporation Bank employees Union Vice President spoiled him and his family with his fraudulent words by distracting him from getting the benefits.

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12. During the hearing, the representatives of Respondent reiterated that the complainant sought Voluntary Retirement under invalid pension scheme on the ground of his Neurological problem and it was accepted by the Bank. The complainant requested the Bank to consider his case under Persons with Disabilities Act 1995 and pay him salary for the entire period of his absence as per the Act. The complainant applied for VRS on medical grounds and sought compassionate appointment of his son. The bank submitted that since the complainant's request for voluntary retirement under invalid pension has been already considered, they advised the complainant to apply for compassionate appointment as per the scheme guidelines. It is further stated therein that the bank has received the application from the complainant on 07.01.2015 for compassionate appointment of his son and the same is under process.

13. The Court noted that as per Section 47 of repealed Persons with Disabilities Act, 1995 (which was in force until 18.04.2017) in case an employee acquires disability during his service no establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service;

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits;

Provided further that if it is not possible to adjust the employee against any post, he may be kept on supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

Therefore, an employee who acquires disability during his service should have been dealt by the concerned organisation appropriately in terms of provisions of law.

14. After hearing both the parties and keeping in view of the provisions of the law, the Court is of the view that the complainant was not properly guided by the Respondent organisation on dealing with the VRS application of the complainant. However, keeping in view of the disability status of the Complainant, Respondent Bank could have properly guided Complainant to rethink about his request before processing the same for approval of VRS.

15. Therefore, it is recommended that the Respondent must revisit their decision of granting VRS and allow the Complainant to rejoin the Bank with full pension after superannuation.

The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10890/1022/2019

Dated : 29.01.2020

Dispatch No.

In the matter of :

Shri Vivek Kumar Singh,
Inspector of GST & Central Excise,
Parrys Division,
Chennai North Commissionerate,
12th Main Road,
Anna Road,
Chennai – 600 040

.....Complainant

Versus

Central Board of Indirect Taxes and Customs,
(Thru the Chairman),
Ministry of Finance,
North Block,
New Delhi – 110 001

.....Respondent

Date of Hearing : 13.12.2019

Present :

1. Shri Vivek Kumar Singh, Complainant.
2. Shri K.V. Muralidher, Asstt. Commissioner, Shri Nirbhai Singh, US, Ad IIIA and Shri Subodh Malhotra, SO (Ad. IIIA).

ORDER

The above named complainant, a person with 55% locomotor disability had filed a complaint dated 22.01.2019 under the Rights of Persons with Disabilities Act, 2016, regarding Inter-Commissionerate Transfer (ICT) in the cadre of Inspector from CCA Chennai Zone to CCA Lucknow by Central Board of Indirect Taxes and Customs.

2. Shri Vivek Kumar Singh submitted that he is working as Inspector in GST & Central Excise in Chennai North Commissionerate since 14.12.2015. His native place is Allahabad and being posted at Chennai he is facing lot of difficulties. He had requested his establishment for his transfer from CCA Chennai Zone to CCA Lucknow vide letter dated 20.11.2017.

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 26.03.2019.

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4. The Additional Commissioner, O/o of the Principal Chief Commissioner of GST and Central Excise, Tamil Nadu and Puducherry Zone vide letter no. II/39/15/2018-CCA (East) dated 02.07.2019 has submitted that Shri Vivek Kumar Singh was selected through SSC CGLE 2013 and was allocated Chennai Zone by CBIC. He joined the department on 14.12.2015; as per the Policy (guidelines) dated 13.01.2016 and the partial modification and guidelines dated 12.01.2018, issued by the Cadre Controlling Authority, Chennai Zone for considering the representations of the Officers who had applied for Inter-Commissionerate Transfer, Shri Vivek Kumar Singh, Inspector, having completed two years of service, was issued No Objection Certificate for ICT to Lucknow Zone vide letter dated 26.02.2018 but no Posting Order was issued by Lucknow Zone. He submitted that the Board vide Circular 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 coming into force of the New Recruitment Rules, 2016. He submitted that henceforth, in view of the above Circular issued by Board, Shri Vivek Kumar Singh, Inspector is not eligible for ICT to any other Zone, but in exceptional circumstances depending upon the merit of each case such as extreme compassionate grounds, such transfers may be allowed on case to case and on loan basis, alone, keeping in view the administrative requirements of transferee and transferred Cadre Controlling Authority. He submitted that on administrative ground, their Zone is facing acute shortage of staff of 46% in the cadre of Inspectors and has not been in a position to send officers outside the Zone. However, the complainant can be transferred on loan basis if he applies for the same subject to the vacancies on loan basis in the Zone in which he applies for the same, subject to the vacancies on loan basis in the Zone in which he is applying for.

5. The complainant vide his rejoinder dated 26.08.2019 submitted that the Circular No. Addl.CIT(HQ) Pers/Inter-charge transfer / 2018-19 dated 05/09/2018 issued by the Chief Commissioner of Income Tax (Personal) stated in 1(i) that for being eligible for seeking inter charge transfer in certain category of cases which is 'Officials recruited into the Government in the physically handicapped quota, but have been posted to a place other than the state/CCA region of his/her domicile/residence', the department under same Ministry which is Ministry of Finance Department of Revenue (Income Tax) followed the instruction issued in Section 20(5) of the Rights of Persons with Disabilities Act, 2016, whereas Central Board of Indirect Taxes has not followed the same. He submitted that the Inter Commissionerate Transfer came into effect in the cadre of Inspectors on physically handicapped ground vide letter No.A/22015/14/2010/Ad.III.A dated 09.02.2011 after this Court gave direction to CBEC in case No. 120/1022/10-11 filed by Shri Ashok M. Shrimali on 07.06.2010. CBED vide circular dated 27.10.2011 lifted the ban for Inter Commissionerate Transfer for all groups B.C and erstwhile group D employees. 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.

6. After considering Respondent's reply dated 02.07.2019 and Complainant's rejoinder dated 26.08.2019, a personal hearing was scheduled on 13.12.2019.

7. During the hearing the Complainant reiterated that due to his disability he is facing difficulty to manage day to day life in Chennai alone and requested for his transfer to CCA Lucknow.

8. The representatives of Respondent submitted that the transfer of the Complainant can be considered on loan basis initially for a period of 3 years to his native place. However, after this duration, the posting of the complainant can be extended for another 2 years with the approval of the Board.

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 and also recommended the Respondent to consider relocating the complainant to his native place, i.e. Allahabad on loan basis for a total period of five years (Initially for 3 years + 2 years). If he has already served in his hometown, the previous transfer tenure, may also be taken into account.

10. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 11158/1022/2019

Dated : 31.01.2020

Dispatch No.

In the matter of :

Shri Kamal Kumar Dhuppar,
30-A, RPS LIG Flats,
Mayakunj,
Mayapuri,
New Delhi – 110 064

.....Complainant

Versus

Syndicate Bank,
(Thru Chairman)
Manipal,
Udupi District,
Karnataka – 576 104

.....Respondent

Date of Hearing : 27.12.2019

Present :

1. Shri Kamal Kumar Dhuppar, Complainant, Ms. Sakshi Dhuppar and Shri Arvind Kumar Sharma, Advocate.
2. Shri Abhay Kumar, GM, Syndicate Bank, Zonal Office, Delhi and Shri Ashish Saxena, Sr. Manager, Syndicate Bank, Zonal Office, Delhi.

ORDER

The above named complainant, a person with 50% Ataxic Cerebral Palsy has filed a complaint dated 21.05.2019 under the Rights of Persons with Disabilities Act, 2016 against his transfer to Bijwasan Branch instead near to his place of residence, i.e. Mayapuri, Delhi.

2. Shri Kamal Kumar Dhuppar submitted that he is working as Senior Manager in Syndicate Bank and was posted in Mayapuri Branch in Delhi. He was appointed under PH quota in 1988. He is getting conveyance allowance as admissible to a person with disability. His wife, who is also a person with disability, is working in Indian Oil Corporation in New Delhi. He was transferred to Hyderabad and subsequently the orders were changed and he was directed to join Bijwasan Branch, Delhi. He submitted that the transport system to Bijwasan is not convenient and it is impossible for him to commute to Bijwasan branch daily as it requires changing modes of transport thrice in a single journey from his residence. He gave two representations for his posting near to his place of residence vide letters dated 30.04.2019 and 17.05.2019, but did not receive any reply. He has requested for his transfer to any branch near to his place of residence.

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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 13.06.2018.

4. The Dy. General Manager (HR), Syndicate Bank vide letter no. CO/HRD/PAD/2946/4631 dated 06.07.2019 has submitted that the complainant was promoted from MMGS II to MMGS III on 01.04.2019. As per Bank's promotion policy, general officers in MMGS-II must have completed three years of total service in Rural/Semi-Urban areas (including Rural service rendered in JMGS-I) to become eligible for promotion to MMGS-III. The stipulation is relaxed with the condition that such candidates shall be posted in Rural/Semi-Urban areas, as the case may be, immediately on promotion, to complete the remaining tenure. Failure to complete the Rural/Semi-Urban service shall make the officer ineligible for promotion to the next higher scale. Therefore, the complainant was posted to the nearest possible semi urban branch to complete the mandatory rural/semi urban service. He submitted that the posting of Shri Kamal Kumar Dhuppar to Delhi Bijwasan Branch for completing mandatory rural/semi urban service is as per the policy of the bank.

5. The complainant vide his rejoinder dated 12.09.2019 submitted that the reply given by the Syndicate Bank vide letter dated 06.07.2019 is not satisfactory because as per the Rights of Persons with Disabilities Act, 2016 the Government and Public Sector employees with disabilities are to be exempted from the routine transfer on promotion.

6. After considering Respondent's reply dated 06.07.2019 and complainant's rejoinder dated 12.09.2019, a personal hearing was scheduled on 27.12.2019.

7. During the hearing the complainant submitted that no convenient transport is available directly to Bijwasan where he is presently posted as he has to change three modes of transport to reach the Branch. He has requested for his posting near to his place of residence.

8. The representatives of Respondent submitted that the complainant was transferred to Bijwasan Branch after his promotion to MMGS-III. The complainant was posted to the nearest possible semi urban branch to complete the mandatory rural/semi urban service. Failure to complete the Rural/Semi-Urban service shall make the officer ineligible for promotion to the next higher scale.

9. Considering the disability of the Complainant, the Court recommended the Respondent Bank to consider posting the complainant to any branch where the mode of transport is convenient to the Complainant. Respondent may take note of the provisions of the Rights of Persons with Disabilities Act, 2016 in particular Section 20 so as to avoid any perceived discrimination on the ground of disability.

10. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 9216/1021/2018

Dated : 31.01.2020

Dispatch No.

In the matter of :

Shri Sudhir Kumar Singh, SSSA,
EPFO, Regional Office,
Bhavishya Nidhi Bhawan
R Block, Road No. 06,
Serpentine Road,
(Near MLA Flats)
Patna,
Bihar-800001

.....Complainant

Versus

Employees Provident Fund Organisation,
(Thru the Chief Executive Officer),
Bhavishya Nidhi Bhawan,
14, Bhikaji Cama Place,
New Delhi – 110 066

.....Respondent

Dates of Hearing : 13.11.2019 and 27.09.2019

Present on 13.11.2019 :

1. Shri Sudhir Kumar Singh, Complainant.
2. Shri Rajesh Pandey, Regional P.F. Commissioner-I, Shri Suresh Kumar Singh, A.O., R.O.- Patna, Shri Sanjay Krishna, A.O., Patna and Shri S.C. Sharma, RPFC-I, H.O.: Delhi.

Present on 27.09.2019 :

3. Shri Sudhir Kumar Singh, Complainant.
4. Respondent – Absent

ORDER

The above named complainant, a person with more than 40% locomotor disability filed a complaint dated 12.01.2018 under Rights of Persons with Disabilities Act, 2016 regarding denial of his promotion to the post of EO/AO by EPFO.

2. Shri Sudhir Kumar Singh, the complainant submitted that he was working as SSSA at Regional Office of Employees Provident Fund Organisation, Patna. He submitted that the Union of India should issue instructions to all the departments declaring that non observance of the
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scheme of reservation for PwDs should be considered as an act of non obedience. The number of vacancies notified for Bihar region for the post of EO/AO Departmental examination was 3 for General & 1 for SC/ST. There was no reservation in earlier examinations. The complainant passed in all the subjects in the said exam with the highest marks amongst the PH candidates.

He submitted that one post of EO/AO in this case should have been reserved for PH candidate and he should be promoted to the post of EO/AO from Bihar Region under the said category, as per the Govt of India policy.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 19.02.2018 followed by reminders dated 10.05.2018, 16.08.2018, 26.11.2018 and 03.01.2019.

4. The Regional P.F. Commissioner-I(HRM), EPFC vide letter no. HRM-III/5/2018/EO-AO/PH Reservation dated 12.04.2019 submitted that on examination of the representation of Shri Sudhir Kumar Singh, Sr. SSA dated 12.01.2018 and on verification of the roster of EO/AO Cadre, they had found that there was no vacancy under PH category under Examination Quota. He enclosed a copy of the statement indicating the calculation of vacancies in the cadre of Enforcement Officer/Accounts Officer from the year 1996-97 to 31.03.2017 alongwith details of the vacancy allotted to PH category yearwise under the Head of OH & HH and photocopy of the roster of Enforcement Officer/Accounts cadre from 03.03.1990 upto 2017-18.

5. The complainant vide his reply dated 04.06.2019 submitted that from the year 1996-1997 to 31.03.2017 not even a single employee with disabilities was given promotion in the vacancy in PH category under Examination Quota which was a violation of the rule/provisions framed by the Government of India. He submitted that GOI vide its notification dated 28.12.2016 had extended reservation to persons with disabilities in all the groups of A, B, C and D posts in an identical manner viz computing 4% reservation on the total number of vacancies in the cadre strength. He submitted that the Hon'ble Court of Kerala at Ernakulam in its order dated 20.10.2014 in WP(C) No.27234 of 2011 (D) had clearly stated that the "Act which is passed by the Parliament will prevail over the State acts or regulations as envisaged by Article 254 of the Constitution of India. Hence any repugnance in the State Act or regulations shall not stand in the way of implementing the mandate in the Act and the State is duty bound to implement Sections 33 and 36 of the Act and no contentions would lie against its implementation". As per the judgement, reservation has to take effect from 1996 which is the year of enactment of the legislation'. He further submitted that in tune with the judgment of Hon'ble CAT Bench, Jaipur dated 20.05.2011 in Case OA No.18/2008 with MA nos. 333/2010 & 137/2011, the Employees Provident Fund Organisation, Head Office, New
...3/-

Delhi had extended regular promotion in respect of Mr. R.N. Saraswat to the post of Assistant Provident Fund Commissioner under PH quota. He submitted that as per rule/provisions, one post

of EO/AO should have been reserved for PH candidate and he should have been promoted to the post of Enforcement Officer/Accounts Officer from Bihar Region.

6. And whereas, after considering Respondent's reply dated 12.04.2019 and complainant's rejoinder dated 04.06.2019, a personal hearing was scheduled on 27.09.2019.

7. During the hearing the Complainant vide his written submission dated 27.09.2019 submitted that he was appointed as Lower Division Clerk in the year 2001 in the EPFO under PH quota. After the post of Section Supervisor, the next post in promotion was of Enforcement Officer/Accounts Officer. The mode of recruitment of Enforcement Officer / Accounts Officer was 75% by promotion (50% through promotion on the basis of seniority cum fitness from the post of Section Supervisor with five years of regular service in the Grade and serving in the respective zone + 25% by promotion through limited departmental competitive examination to be participated by Section Supervisors with three years of regular service or Social Security Assistant who were placed in Level-6 and having put in six years of regular service in Level – 6. Rest 25% of the post is to be filled up through direct recruitment). The complainant submitted that in Writ Petition (Civil) No. 521/2008 in the case of Rajiv Kumar Gupta and others Vs. the Union of India and Others, the Hon'ble Supreme Court considered the issue of reservation to the persons with disabilities in promotion quota with particular reference to the Persons with Disabilities Act, 1995 and directed the Government to identify the posts in Group –A and Group –B and grant reservation in terms of the Act to the disabled persons irrespective of the mode of filling up of such posts. The complainant further submitted that EPFO was violating the provisions of reservation for persons with disabilities and it was also not following any roster in reservation for the persons with disabilities in the post of EO/AO.

8. During the hearing no one represented the Respondent. Therefore, Court fixed the next date of hearing on 13.11.2019.

9. During the hearing, the Complainant reiterated his earlier submissions alongwith his written submission dated 13.11.2019 (attached Annexure 1).

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11. The representatives of the Respondent submitted that there was no reservation in promotion in Group 'A' and 'B' posts in the offices of Central Government and its departments.

12. After hearing both the parties and records available, this Court is of the view that the Respondent should follow the 4% reservation in direct recruitment. So far as reservation in promotion in Group 'A' and 'B' is concerned, the matter is sub-judice in the Hon'ble Supreme Court. Therefore, no recommendation can be given at this stage.

13. Accordingly, the case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 11256/1022/2019

Dated : 31.01.2020

Dispatch No.

In the matter of :

Shri Shiv Kumar Lakhera,
34/1, Sunarkua,
Devtal Road,
Virendra Puri Ward,
Garha,
Jabalpur,
Madhya Pradesh – 482 003

.....Complainant

Versus

Life Insurance Corporation of India,
(Thru Chairman & Managing Director)
Central Office,
1st Floor, Yogakshema,
Jeevan Bima Marg,
Nariman Point,
Mumbai – 400 021

.....Respondent

Date of Hearing : 27.12.2019

Present :

1. Shri Shiv Kumar Lakhera, Complainant along with Shri R.K. Chandrashekhar and Shri Burjis Shabir, Advocate.
2. Shri Amit Kumar Shrivastava, Admn. Officer, LIC of India, Divi. Office, Jabalpur, M.P., on behalf of Respondent.

ORDER

The above named complainant, a person with 55% locomotor disability has filed a complaint dated 20.06.2019 under the Rights of Persons with Disabilities Act, 2016 against his transfer to Narsinghpur Branch on promotion.

2. Shri Shiv Kumar Lakhera submitted that he was promoted from the post of Assistant to the post of Higher Grade Assistant (HGA)(Admn) and was transferred to Narsinghpur. Narsinghpur is a far flung remote area. He is 55 years of age. Presently he is under treatment at Medical College in Jabalpur and having physiotherapy daily to overcome his disability. These facilities are not available at Narsinghpur. He submitted that in Jabalpur there are vacant posts which are being filled by transfers from other places. He has requested for his posting at Jabalpur.

.....2/-

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 02.07.2019.

4. The Executive Director (Personnel), LIC of India vide letter no. PER ADM/PWD/1920 dated 20.08.2019 submitted that Shri Shiv Kumar Lakhera is an Assistant posted at CBO 1, Jabalpur. He was allotted Narsinghpur Branch under Jabalpur Division on promotion to the cadre of Higher Grade Assistant. In the year 2018-19, Jabalpur Divisional Office had received 22 transfer applications from existing employees in the cadre of HGA. These employees were posted to other locations on promotion earlier and are now being transferred to Jabalpur local from different places. There were adequate transfer applications for Jabalpur local, hence this place could not be notified as place of posting on promotion. During the current transfer round, only six employees who had earlier been posted out of Jabalpur could be considered for local posting at Jabalpur and rest of 16 employees are still awaiting their turn for transfer back to Jabalpur. At present he was allotted Narsinghpur Branch Office. The place is situated on the main train route and has adequate medical facilities, being the District Headquarter. He further submitted that the posting given to Shri Lakhera is as per the vacancies available in the Division and all the rules and procedures of the Corporation have been followed while allotting the posting.

5. The complainant vide his rejoinder dated 18.09.2019 submitted that in the promotion list, he was placed at the last position and that too in the General category in the promotion list of Higher Grade Assistant (HGA-Admn.). Nowhere against his name is mentioned that he is a person with disability. He submitted that separate list was made for SC and ST but nothing was done for persons with disabilities. He submitted that when six employees were transferred in the post of HGA to Jabalpur, provision could have been made for him too and he could have been given the local posting. One Shri Sanjay Tiwari who is a person with disability was earlier given local posting without any notification by the competent authority. Over the years his disability and problem related to it has increased and now he is 55 years of age and is under the continuous treatment of Jabalpur Medical College. Narsinghpur is a very small district place and has no appropriate rehabilitation medical facility and does not have any Occupational Physiotherapist. He submitted that LIC has not made any provision for the person with disabilities inspite of its Equal Opportunity Policy dated 22.02.2019.

6. After considering Respondent's replies dated 20.08.2019 and complainant's rejoinder dated 18.09.2019, a personal hearing was scheduled on 27.12.2019.

7. During the hearing the complainant along with his representatives reiterated that the complainant was transferred to Narsinghpur on his promotion to the post of Higher Grade Assistant (HGA)(Admn). He submitted that he is the General Secretary of the Employees' Union due to which he has been targeted by the management for raising the voice against them. He submitted that there are vacant posts in Jabalpur that are being filled by transfers from other places while he has been ignored. He has requested for his posting at Jabalpur.

8. The representative of Respondent submitted that the complainant was working at Jabalpur since the year 2012. He had worked at Katni for four years before his transfer to Jabalpur. On his promotion to the post of Higher Grade Assistant (HGA)(Admn)., the complainant was transferred to Narsinghpur. Narsinghpur is almost equal distance as Katni. The Respondent submitted that posting given to the complainant is as per the vacancies available in the Division and all the rules and procedures of the Corporation have been followed while allotting posting.

9. Reasonable accommodation has been defined under Section 2(y) of the Rights of Persons with Disabilities Act, 2016 as necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights of equally with others;

Further Section 20(2) of the said Act mandates that every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

Rule 3 (4) of Rights of Persons with Disability Rules 2017 states that no establishment shall compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation.

10. After hearing both the complainant and Respondent and perusing the available documents, the Court recommended the Respondent to consider posting the complainant near his place of residence, after he completes his tenure at Narsinghpur and to provide reasonable accommodation as prescribed under the above mentioned provisions of the Rights of Persons with Disabilities Act, 2016.

11. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

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3- ekeys dks fn0; kxtu vf/kdkj vf/kfu; e] 2016 dh /kjk 75 ds vlxr i = fnukad 31-07-2018 }kjk ifronh ds l kfk mBk; k x; kA

4- ifr mRrj ea l fpo] Hkkjrh; okfudh vuq dku , oa f"kk i fj'kn] ngjknw us vU; ckrka ds l kfk vi us i = fnukad 24-08-2018 ea crk; k fd MKD uhy'sk ; kno] oKkfud&Mh dk LFkkukUrj.k ou vuq dku l LFkku] ngjknw l s muds xg i kUr e/; ins'k ea m'.kdfVcdkh; ou vuq dku l LFkku] tcyij ea fd; k tkuk fu; e ds rgr gS rFkk Jh uhy'sk ; kno dks vU; oKkfudka dh rjg gh vi uh i l n dh i kSLVax ds fy, nks i kFkfedrkvka dks 0; Dr djus dk vol j fn; k x; k Fkk i jUrq mlgkaus dkbz tokc ugha fn; kA

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7- ifronh ds vf/koDrk us fnukad 09-04-2019 dks vfrfjDr nLrkostka ds l kfk vi us fVli.k i Lrq fd, A ftl dk l fklr o.kU gS fd Shri Neelesh Yadav, Scientist E, was transferred from FRI Dehradun to TFRI, Jabalpur in the same capacity vide ICFRE order dated 14.05.2018 along with 18 other scientists. Shri Neelesh Yadav was posted at FRI, Dehradun for last 15 years since his initial appointment as Scientist-B in ICFRE and he has been transferred as per Transfer Policy for Group 'A' Scientists of ICFRE. He further submitted that Shri Yadav is M. Tech (Information Technology) and was working in the Information Technology Cell of FRI, Dehradun. His transfer will not adversely affect the research projects of FRI on which he was working. His transfer to TFRI Jabalpur will also not affect his pay/performance/promotion prospects etc. As he was officially transferred, hence he has been allowed transfer TA etc as per rules.

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6- l qukbz fnuad 29-01-2020 ds fnu f"kd; rdrkz fQj l s mi fLFkr ugha jgs vkš u gh dkbz l puk Hksth rFkk ifroknh dh vkj l s vk, i fruf/k; ka us vius fyf [kr dFkuka dks nkęjk; k vkš l gk; d LV'sku ekLVj , oa xM+ xM+ l ds in fn0; ka %vLFk ckf/kr½ mEehnokj ka ds fy, fpflgr ugha gš

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fnukad 26-12-2018 }kj ifroknh ds I kFk mBk; k x; kA

4- dyl fpo] fgekpy ins'k dshh; fo"ofok;] dkaMk dk vius i= fnukad 31-01-2019 eadguk gsfdf"kd; rdrkz }kjk mudh ; fuofl Vh ea ikQs'kuy vfl LVW ds in dsfy, vkonu fn;k Fk ftl ea ; g fofnr gsf d og Qkbu vkVZ 1/2 Fine Arts ea Lukrd gS , oa blgkaus Qkbu vkVZ ea gh Lukrdkrj dh gS rFk muds ikl rhu o'kz dk Qkbu vkVZ fo'k; ea v/; ki u dk vu'ko gS tcf d fo"ofok; }kjk ikQs'kuy vfl LVW ds in gsrq fu/kkZjr "k'f.kd ; k; rk M.Lib. or A.I.S./A.I.I.S. or PG with B.Lib information Science with three years experience ; k a Graduate with B.Lib information Science with 05 years experience Fk ftl sog ifjiwkz ugha djrh gsf tI dkj .k mudk p; u ugha gsk; kA

5- ifr mRrj ea f"kd; drkz dk vius i= fnukad 10-05-2019 eadguk Fk fd mDr tokc l s og l r'qV ugha gS p'f d mudh c'v h us Qkbu vkVZ ea l ukrd fd; k gS y'fdu ifroknh us l kFk ea ; g Hkh fy[kk Fk fd "k'f.kd ; k; rk PGDCA Hkh gsk l drh gA PGDCA rks ml dh c'v h us fd; k gA f"kd; rdrkz dk vkxs dguk gsf d ; fn "k'f.kd ; k; rk ij h ugha Fk rks mudh c'v h dks j'k s uEcj D; ka fn; k x; k ml s ij h'kk ea c'Bus dh vu'fr D; ka nhA

6- ifroknh ds i= fnukad 31-01-2019 , oa oknh ds i= fnukad 10-05-2019 ds en'utj] fnukad 18-09-2019 dks l quokbz j[kh xbA ijUrq ifroknh us vius i= fnukad 22-08-2019 }kjk voxr djok; k fd fgekpy ins'k dshh; fo"ofok;] dk nh'kar l ekj'g fnukad 20-09-2019 dks fu/kkZjr gsf tI dkj .k mlgkaus l e; dh ekax dhA l quokbz dh frfFk 25-10-2019 fu/kkZjr dh xbz l ijUrq vij'gk; l dkj .kka l s i'q fu/kkZjr dh xbz A

7- l quokbz fnukad 22-11-2019 ds fnu f"kd; rdrkz vuq'fLFkr Fks rFk ifroknh us vius fyf[kr dFkuka dk n'g'j; k fd fo"ofok;] }kjk ikQs'kuy vfl LVW ds in gsrq fu/kkZjr "k'f.kd ; k; rk M.Lib. or A.I.S./A.I.I.S. or PG with B.Lib information Science with three years experience ; k a Graduate with B.Lib information Science with 05 years experience Fk ftl sog ifjiwkz ugha djrh gsf tI dkj .k mudk p; u ugha gsk; kA

8- nLrkostka , oa ifroknh dks l quus ds mi j'kar] ifroknh ds rjQ l s fn0; kaxtu vf/kdkj vf/kfu; e] 2016 dh fd l h /kkjk] fu; e ; k l jdkjh fn"kk fun'ka dk mYy'ku i'hr ugha gsk'k bl fy, ds dks can fd; k tkrk gA

1/4'kd'ryk Mh- xkefyu 1/2
e'f; vk; q' r 1/4fn0; kaxtu 1/2

dl I 0% 9433@1024@2018

fnukad% 29-01-2020

ds ekeys e% &

Jherh unk I fuy dlus
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/kkj koh] epbz & 400017

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½}kjk eMy jsy izakd&dkfed½
dkfed "kk[kk] I h-, I -Vh-] epbz

ifroknh

I ukobz dh frfFk; kj % 19-06-2019] 16-10-2019 , oa 13-12-2019

fnukad 13-12-2019 dks mi fLFkr %

§ ikFkhz & vuifLFkr

§ Jh , -dse.My] I gk; d dkfed vf/kdkjh , oa Jh ftrdnj depkjh , oa dY; k.k
fujh{kd ifroknh dh vkj I s

vkns'k

mijkDr f"kd; rdkz Jhefr unk I fuy olus 92 ifr"kr vLFkckf/kr fn0; kax us
ekrk&firk ds ngkr ds ckn jsyos i'ku ugha fey ikus I s I af/kr f"kd; r & i=
fn0; kaxtu vf/kdkj vf/kfu; ej 2016 ds vllrxz bl U; k; ky; ea iLrq dhA

2- f"kd; rdkz dk I {klr fooj.k ; g gsfid muds firk jsyos foHkx I s I u-1983
ea fjVk; MZ gq Fks vkj muds ngkr ds ckn mudh i'ku ekrkth dks feyrh Fkh ijUrq
ekrkth ds ngkr ds ckn ikFkhz dks jsyos i'ku ugha feyhA

3- ekeys dks fn0; kaxtu vf/kdkj vf/kfu; ej 2016 dh /kkjk 75 ds vllrxz i=
fnukad 25-05-2018 }kjk ifroknh ds I kFk mBk; k x; kA

4- eMy jsy izakd] e/; jsy dk vius i= fnukad 11-06-2018 ea dguk Fkk fd
fd f"kd; rdkz Jhefr unk I fuy olus us vllkh rd viuk vk; iek.k i= iLrq ugha
fd; kA

5- f"kd; drkz us vius ifr mRrj fnukd 24-04-2019 ea crk; k fd og l Hkh nLrkost ,oa vk; iek.k i= ns pph gs ijUrq vHkh rd mudks i'ku ugha feyhA

6- ifroknh ds i=ka ,oa oknh ds i=ka ds ennutj] fnukd 19-06-2019 dks l qokbz j[kh xbA ijUrq vijgk; l dkj.kka ds dkj.k i% 16-10-2019 dks j[kh xbA l qokbz ds fnu f"kd; drkz ds vuq fLFkr gkus ds dkj.k vxyh l qokbz fnukd 13-12-2019 dks fu/Wjr dh xbA

7- l qokbz fnukd 13-12-2019 ds fnu f"kd; rdrkz vuq fLFkr jgh ,oa ifroknh dh vkj l s vk, ifrfuf/k us crk; k fd f"kd; rdrkz dks Qfeyh i'ku tkjh dj nh xbz gs rFkk l af/kr nLrkost iLrq fd; A

8- mijDr ds e;/ utj] f"kd; rdrkz fd f"kd; r dk fuokj.k gks ppk gs bl fy, ds dks dln fd; k tkrk gA

¼kdtryk Mh- xkefyu½
ed; vk; Dr ¼n0; ka tu½

dl I 0% 11003@1021@2019

fnukad% 29-01-2020

ds ekeys e%&

Jh feffkys'k d'ekj
duh; vfhk; Urk ¼, l & 3½
i kojfxM] eqt QQj ij midbnz
fcgkjA
<m_kumar@powergridindia.com>

oknh

cuke

i kojfxM d'ekj's'ku v'k'k b'fM; k fyfeVM
¼}kjk fun'skd & dkfeZ½
ch&9] d'ekj I LFkkr {ks=
dVokfj; k I jk;] ubZ fnYyh & 110016

i froknh

I ukobz dh frfFk % 06-11-2019 , oa 20-12-2019

mi fLFkr fnukad 20-12-2019 %

- vuq fLFkr & f"kd; rdrkA
- Jh oh-i-hfI g] Mh-t-h, e- ¼, p0vkj0¼ Jh vjfcM] Mh-t-h, e- ¼, p0vkj0½ , oa Jh I nhi] Mh-t-h, e- ¼, p0vkj0½ i froknh dh vkj I A

vkns'k

mij'kDr f"kd; rdrkz Jh feffkys'k d'ekj] 45 i fr"kr vLFk ckf/kr us ink'ufur I s I ckf/kr f"kd; r & i = fn0; k'xtu vf/kdkj vf/kfu; e] 2016 ds v'lxr bl U; k; ky; ea i Lr' dhA

2- f"kd; rdrkz dk viuh f"kd; r fnukad 26-02-2019 ea dguk Fk mudh 25 tu 2009 dks i kojfxM ea fMlykek V'uh ds : lk ea fu; qDr g'pA i kojfxM Non-executive oxZ I s executive oxZ ea ink'urh g'sq , -I h-t-h, I - (Accelerated Career Growth Scheme) Exam dk i ko/kku gS tks i fr nks o'kk' ea , d ckj g'krk gS i j'urq o'kz 2010 ds mij'kDr , d ckj Hkh ugha g'p/kA

3- ekeys dks fn0; k'xtu vf/kdkj vf/kfu; e] 2016 dh /kkj 75 ds v'lxr i = fnukad 15-03-2019 }kjk i frokfn; ka ds I kFk mBk; k x; kA

4- mi egki zalkd 1/2k0l 0 1/2 ikoj fxM dkj i kj'sku vkld bfm; k fyfeVM us vius i= fnukad 16-05-2019 ea crk; k fd , -l h-th, l- i klyl h , d fo"ksk iko/kku gS ; g ifO; k i zalku ds fu.kz , oa fuxe dh vko"; drk dks ns[krs gq iz kx dh tkrh gA ; g dkbZ l keU; inkufir dh i klyl h ugha gS tks fuf"pr vof/k ij djuk vfuok; Zjgrk gA bl i klyl h ds Dyknt l a 40 1/2 ds rgr , -l h-th, l- dh ifO; k dsoy nks o'kz ea , d ckj l s vf/kd ugha vf/kl fipr fd; k tk l drk gA ikojfxM ea , -l h-th, l- 2008] 2010] 2015 , oa 2018 ea vf/kl fipr fd; k x; kA chp ea dN o'kka ea l okp U; k; ky; ds fnukad 25-04-2013 ds i=kpkj f"kk dh ekU; rk ds l aak ea fu.kz ds dkj .k , -l h-th, l- dh vf/kl puk tkjh ugha dh xba o'kz 2015 dh vf/kl puk dsoy l h, - , oa vkbZl h-MCY; w 1/2kbuy 1/2 vkgrkz i klr deplkj; ka ds fy, dh xbz Fkh ftuds l aak ea f"kk dh ekU; rk ds l aak ea dkbZ fookn ugha Fkka Jh feffkys'k deplkj us vfhlk; ark 1/2 f"kk in ds fy, vkonu fd; k gS tks fd l eng *d* ds Lrj dk in gSftl ea fn0; kax vH; kffkz; ka ds i eks'ku ds fy, vkj {k.k dk i ko/kku ugha gA Jh feffkys'k deplkj ds fyf [kr ij h {kk ea mrh.kz gkus ij] mlga xij fMLd"ku vkj l k {kkrdkj ds fy, cgyk; k tk, xka

5- i kfkz dk vius fvli .k fnukad 19-07-2019 ea l i {klr ea dguk Fk fd o'kz 2010 ds ckn o'kz uoaj 2018 ea , l hth, l ij h {kk dh vf/kl puk tkjh gqk fQj ml s jnn- dj fn; k x; k fcuk fd l h l puk dA o'kz 2015 ea dsoy forrh; foHkx ds fy, vf/kl puk tkjh gqk Fk uk fd AMIE/Degree in Engineering xM ds deplkj; ka ds fy, A

6- i froknh , oa oknh ds i=ka ds enasutj] fnukad 06-11-2019 dks l ukobz j [kh xba ijUrq nksuka i {kka dh rjQ l s dkbZ Hkh mi fLFkr ugha gq bl fy, fnukad 20-12-2019 dks l fuf"pr gA

7- l ukobz fnukad 20-12-2019 dks i kfkz vuq fLFkr jgs , oa i froknh dh vkj l s vk, i frfuf/k; ka us crk; k fd Jh feffkys'k deplkj us vfhlk; ark 1/2 f"kk in ds fy, vkonu fd; k gS tks fd l eng *d* ds Lrj dk in gSftl ea fn0; kax vH; kffkz; ka ds i eks'ku ds fy, vkj {k.k dk i ko/kku ugha gA Jh feffkys'k deplkj ds fyf [kr ij h {kk ea mrh.kz gkus ij] mlga xij fMLd"ku vkj l k {kkrdkj ds fy, cgyk; k tk, xka

8- nksuka i {kka dks l qus , oa nLrkostka dh tkp ds ckn] ekeys ea fn0; kax tu vf/kdkj vf/kfu; e] 2016 fd fd l h /kkj] fu; e ; k l jdkjh fn"kk fun'kka dk mYyaku i rhr ugha gsrk bl fy, d dks cn fd; k tkrk gA

1/2kdtiryk Mh- xkefyu 1/2 eq; vk; Dr 1/2n0; kax tu 1/2

dl I 0%7980@1013@2017

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irk & ifyl ykb] ghjki g
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ubZ fnYyhA

ifroknh

I ukobZ dh frfFk; kj % 17-06-2019] 04-09-2019] 16-10-2019 , oa 27-11-2019

fnukad 27-11-2019 dks mi fLFkr %

- § Jh vfer dækj fl g & ikFkhZ
- § Jh dsVh- fl g] l hfuf; j v/kh{kd] ifroknh dh vkj l s

vkns'k

mijkdR f"kd; rdrkZ Jh vfer dækj] 85 ifr"kr vfLFckf/kr fn0; kax us ed[; Mkd?kj] jkph }kjk gkus okys fu; qDr l s l af/kr f"kd; r & i= fn0; kax tu vf/kdkj vf/kfu; e] 2016 ds vUrxr bl U; k; ky; ea iLrq dhA

2- f"kd; rdrkZ dk viuh f"kd; r ea dguk Fkk fd >kj [k.M jkT; us foHkkUu ftyka ea ikkVeSu ds in ds fy, o'kz 2014 ea fu; qDr ds fy, vkonu ekax x; k Fkk] ftl ds fy, ikFkhZ us fnukad 06-03-2014 dks vkuu ykbZ vkonu Hkj k Fkk vkj] fnukad 20-07-2014 dks ijh{kk nh] ijUrq fdl h dkj.ko" k foHkkxh; xyrh ds dkj.k fj tYV ugha fudkyk x; k rFkk i q% 02 o'kz ckn fnukad 07-02-2016 dks ijh{kk yh xbZ ijUrq vHkh Hkh foHkkxh; xyrh ds dkj.k ijh{kkQy idkf"kr ugha fd; k x; kA ikFkhZ dk vkxs dguk gS fd mlugkus vkonu djus ds le; 100@& : 0 dk MRQV Hkh fy; k x; k Fkk vkj] vc ikFkhZ dh vkonu nus dh vk; qHkh l ektr gksjgh gA

3- ekeys dks fn0; kax tu vf/kdkj vf/kfu; e] 2016 dh /kkj 75 ds vUrxr i= fnukad 15-09-2017 }kjk ifroknh ds l kFk mBk; k x; kA

4- Dy. Director General (P), Department of Posts, New Delhi vide letter dated 19.12.2017 had informed that Jharkhand Circle, Department of Posts had issued a Notification for filling up the vacancy of Postman for the year 2011 & 2012. The total vacancy was 91 and out of 91, there were 02 vacancies reserved for person with disabilities but afore-said exam was cancelled by the Competent Authority due to unavoidable reasons. The afore-said exam was re-conducted and held on 07.02.2016, however, the re-exam was again cancelled by the Competent Authority due to compelling circumstances. Since the examination for Postman cadre in Jharkhand Circle had already been cancelled by the Competent Authority, the request of Shri Amit Kumar Singh for declaring the result may not be accepted.

5- i kFkhZ dk vius ifr mRrj ea dguk gS fd fu; ekuq kj fdl h Hkh foHkkx ea vkonu yus ds ckn rFkk fdl h Hkh izdkj dk fyf[kr ijh{kk ; k "kkjhfd ijh{kk ds ckn fu; fDr jnñ ugha fd tk l drh gA i kFkhZ dk vkxs dguk gS fd bl rjg ds epñs mPp U; k; ky; , oa l qhe dksZ ea dbZ ckj gq gA

6- ifroknh ds i= fnukad 19-12-2017 ,oa oknh ds i=ka ds enñsutj] fnukad 17-06-2019 dks l qokbz j[kh xbA ijUrq ifroknh dh vkj l s mi fLFkr ifrfuf/k; ka us l e; dh ekx dhA l qokbz dh frfFk 04-09-2019 fu/kkZjr fd xbZ ijUrq vijgk; Z dkj.k ka l s i qfu/kkZjr fnukad 16-10-2019 ckn ea 27-11-2019 dks fu/kkZjr dh xbA

7- l qokbz fnukad 27-11-2019 ds fnu f"kd; rdriZ us viuh fyf[kr f"kd; r dks nkqjk; k ,oa ifroknh dh vkj l s mi fLFkr ifrfuf/k us crk; k fd fnukad 20-07-2014 dks vkÅVI kd Z , tñ h ds ek/; e l s >kj [k.M l dÿ ea i k. Veu dh l h/kh HkrhZ ijh{kk vk; kFtr dh xbZ FkhA yfdu vijgk; Z dkj.k l s ijh{kk fnukad 07-02-2016 jnñ dj nhA fQj l s vU; vkÅVI kd Z , tñ h ds ek/; e l s ijh{kk vk; kFtr dh xbZ ijUrq mudks Hkh jnñ dj fn; k x; kA vc] >kj [kM l dÿ u, fl js l s ijh{kk vk; kFtr djus ds fy, fufonk vkeñ=r djus dh ifO; k ea gA

8- nLrkostka ,oa nksuka i {kka dks l qus ds i "pkr} ifroknh dks vuqka k fn; k tkrk gS fd%

- dlfebl vkj if"kk.k foHkkx ds dk; kÿ; Kki u l 36035@02@2017&LFkki uk ¼vkj {k.k½ fnukad 15-01-2018 ds vuq kj fn0; kark l s xLr 0; fDr; ka ds fy, vkj {k.k fu/kkZjr dju@ykw djus ds fy, 100 fclnq/ka okyk vkj {k.k jk.Vj cuk, A

- jklVj ds fgl kc l s fjfDr; ka dh x.kuk dja vks; ; fn cdykk gs rks fo"ksk HkrhZ vfhk; ku ds rgr fjfDr; ka dks Hkja
- i gys l s vkonu dj pps l Hkh fn0; ka tuka fd mEehnokjh ij fopkj fd; k tk,] c"krZ mlgkaus u, fl js l s vkonu fd; k gk; D; ka id igyh HkrhZ if0; ka ds nks ku mlgkaus vkonu fd; k Fkk

¼:kdtryk Mh- xkefyu½
ed; vk; Dr ¼fn0; ka tu½

cd I 0%9924@1022@2018

fnukad% 29-01-2020

ds ekeys e% &

MKW nhi d dekj "kekZ
<deepak51ar@gmail.com>

oknh

cuke

depkjh jkT; chek fuxe
}kj egkfun'skd½
ipnhi Hkou] I h-vkbZth- ekx] ubZfnYyh

ifroknh

I ukobZ dh frfFk; kj % 19-06-2019] 18-10-2019 , oa 13-12-2019

fnukad 13-12-2019 dks mi fLFkr %

§ MKW nhi d dekj "kekZ & oknh

§ Jherh jhuk ghkj I gk; d fun'skd & ifroknh dh vkj I s

vkns'k

mijkdR f"kdk; rdrkZ MKW nhi d dekj "kekZ us fnYyh I s t; ij LFkkukarj.k I s
I af/kr f"kdk; r & i= fn0; kx tu vf/kdkj vf/kfu; e] 2016 ds vUrxZ bl U; k; ky; ea
iLrq dhA

2- f"kdk; rdrkZ dk dguk gSfd og depkh jkT; chek fuxe vksk/kky;] vks[kyk]
fnYyh ea dk; jr gS, oa mudh i Ruh jkT LFkkU I jdkj ea vk; Ø pfd0 ds in ij t; ij ea
dk; jr gS rFkk mudk 12 o'khZ i e] 40 ifr"kr I s vf/kd ekufI d jks vktVTe I s xfl r
gS vkj ml dh ns[kHky ds fy, muds ifjokj dks vR; r dfBukb; ka dk I keuk djuk i Mk
jgk gA mlghaus vugjksk fd; k gSfd mudk LFkkukarj.k ea t; ij djok; k tk, A

3- ekeys dks fn0; kx tu vf/kdkj vf/kfu; e] 2016 dh /kkj 75 ds vUrxZ i=
fnukad 26-08-2018 }kj ifroknh ds I kFk mBk; k x; kA

4- Assistant Director (MA), ESIC, New Delhi vide letter dated 12.12.2018 informed that
transfer request of Dr. Deepak Kumar was placed before the transfer committee for
consideration and on examining all the facts transfer committee recommended that the officer
may be transferred to ESIC Hospital, Bhiwadi of ESIC Hospital, Jaipur as there existed no

vacancy at ESIC Hospital, Jaipur. She further submitted that there is only one post sanctioned in Ayurveda department, which is occupied by Dr. Shyam Narayan Sharma, who is an absorbed doctor from the State Govt. of Rajasthan and enjoys institutional seniority as per the terms of absorption. Thus, he can not be transferred out of his current institution i.e. ESIC Hospital Jaipur.

5- f"kd; drk us vi us ifr mRrj fnukad 07-02-2019 ea crk; k fd mudk LFkkurjak fHkokMh tks fd 220 fdyks eh- t; ij l s nj gS, oa muds cPps ds fy, dkbz l fo/kk mi yC/k ugha gA

6- ifroknh ds i=ka, oa oknh ds i=ka ds ennsutj] fnukad 19-06-2019 dks l qokbz j [kh xbA ijUrq vi fjk; l dkj.k ds dkj.k i% 06-09-2019, oa fQj 18-10-2019, oa 13-12-2019 dks j [kh xbA

7- l qokbz fnukad 13-12-2019 ds fnu f"kd; rdrkz dk dguk Fkk fd og depkjh jkT; chek fuxe vLirky] fHkokMh ea dk; jr gS rFkk mudk p; u d-jk-ch-fu- vLirky] t; ij ea vDVqj 2009 dks gq/k Fkk yfdu vk; qn fpdfRI d dk in fjDr ugha gksus ds dkj.k mlga join ugha dk; k x; k rFkk cgr l e; ckn vLirky] f>yfey ubz fnYyh ea fnukad 15-09-2010 dks fu; qDr nh xbz bl ds i"pr- fnukad 07-06-2018 dks mudk LFkkurj.k fHkokMh ea dj fn; ka f"kd; rdrkz dk vkxs dguk gS fd d-jk-ch-fu- e[; ky; ds i= fnukad 06-08-2018 ds vuq kj fuxe }kjk Vd vkqj fd, x; s fofHku vLirkyka ea l efi/kr jkT; l jdkj depkj; ka ds institutional seniority ds state seniority vFkok doctors ds fy, all India seniority ekuk tk, A bl fu; e ds vuq kj d-jk-ch-fu- ea dk; jr l Hkh absorbed depkj; ka fnukad 01-06-2018 l s all India transfer ds gdnkj gS bl fu; e l s t; ij ea dk; jr vk; qn fpdfRI d dk LFkkurjak fdl h Hkh LFkku ij fd; k tk l drk gA ifroknh dh vkj l s vk, i fruf/k us vi us fyf[kr dFkuka dks nksj k; ka

8- dkfeZl vkj if"kk.k fofHkx ds dk; ky; Kki u fnukad 17-11-2014 ds vuq kj vKLVTe LiDVe fMI vMj l s i hfMf cPps dh ns[kHky djus okys 0; fDr dks ml s yxkrkj l gk; rk dh vko"; drk iMfh gA bl fy, fn0; kx cPps dh ns[kHky djus okys l jdkjh depkjh dks i'kkl fud ck/kk; ka ds v/khu useh LFkkurj.k@pouofed LFkukarj.k l s NW nh xbz gS

9- mijkDr dkfeZl vkj if"kk.k fofHkx ds ifji= dks /; ku ea j [krs gq vkj nksuka i {kka dks l qus ds i"pr} ifroknh dks ; g l ykg nh trh gS fd og f"kd; rdrkz dh ; kfpdk ij mudk LFkkurj.k fHkokMh l s t; ij vxys rcknyk l = ea fd; k tk, rFkk vuqkyu fji kZ/03 ekg ds Hkhrj Hksth tk, A

1/4 kdttryk Mh- xkefyu 1/2 e[; vk; qn 1/4 n0; kx tu 1/2

Case No: 11088/1014/2019

Dated: 31.01.2019

In the matter of:-

Dr. Balasankar Athinarayanan
<balphd1987@gmail.com>

Complainant

Versus

Motilal Nehru National Institute of Technology
(Through the Registrar)
Allahabad, Prayagraj -211004

Respondent

Date of Hearings: 18.09.2019, 25.10.2019 & 22.11.2019

Present 22.11.2019:

1. Dr. Balasankar - Complainant
2. Shri Pramod Dwivedi, Legal Assistant, Dr. Animesh Ojha, Associate Professor, Shri Manas Agarwal on behalf of respondent

ORDER

Dr. Balasankar, a person with 75% visual impairment filed a complaint dated 12.04.2019 under the Rights of Persons with Disabilities Act, 2016, hereafter referred to as the RPwD Act, 2016 regarding cancellation of candidature for the post of Assistant Professor.

2. Complainant had submitted that he had applied for the post of Assistant Professor AGP 7000 vacancy (advt. 01/2019) in the Department of Physics at Motilal Nehru National institute of Technology (MNNIT), Allahabad on Jan., 2019 and the MNNIT notified provisionally eligible and not eligible list in the institute website on 11 Mar., 2019. According to the list, he was not eligible due to less credit points (<10) only. So, he wrote a letter to MNNIT on 16/03/2019 along with all solid evidence, web of source and contact details. All of those showed, he had 25.28 credit points. On April 11-2019 he had received an email from MNNIT, which was contained he was not eligible, less experience, it's not included below NIRF rank 100. He further submitted that he worked as a

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postdoctoral researcher in Korea Advanced Institute of Science and Technology (KAIST QS rank 40 – World Level University ranking) from March 2016 to December 2016. Moreover, he worked as a Senior Researcher in Korea Electrotechnology Research Institute (KERI) from April 2017 to December 2017 and the KERI is a leading and reputed Korean Government Research Institutes like CSIR institutes (in India). However his total research experience is 18 months (post Ph.D. experience).

3. After perusal of the complainant, the matter was taken up with the Motilal Nehru National Institute of Technology, Allahabad vide letter dated 30.04.2019.

4. In response, Registrar, Motilal Nehru National Institute of Technology vide letter dated 28.05.2019 had inter-alia submitted that the petitioner had submitted his representation through e-mail on 16.03.2019 along with the supporting documents required for credit points, as he claimed. Based on the enclosed documents, the Screening Committee reviewed his application and the Committee found that he fulfils the required credit points. However while reviewing his application the Committee found that the petitioner does not fulfil the required experience for the post applied for as the postdoctoral experience of the candidates was only for 9.5 months against one year as required and therefore his candidates was not considered. The experience claimed and the experience taken into consideration was as follow:

Sl. No.	Organization	Duration Claimed	Nature of Work	Considered/Not considered (with reason)
1.	First Bench Educational Private Ltd, Chennai	07.04.2018 to 24.01.2019 (09 months)	Hours basis, 1000 per hour, total 42 hours per month	Not considered (not from first 100 NIRF)
2.	Korea Electro Technology Research Instt. South Korea	25.04.2017 to 31.12.2017 (8.2 months)	Commissioned Senior Research	Not considered not from first 500, QS/THE World ranking
3.	Korea Advanced Institute of Science and Technology (KAIST), South Korea	16.03.2016 to 31.12.2016 (9.5 months)	Postdoctoral Research	Considered
4.	Indian Institute of Technology, Kanpur	25.07.2011 to 08.08.2012 (01 year 04 months)	Project Associate	Not considered (experience gained before Ph.D)
5.	MEPCO Engineering College	09.06.2009 to 31.12.2009 (6.8 months)	Junior Research Fellow	Not considered (experience gained before Ph.D)
6.	TVS SBL Chennai	05.04.2010 – 12.07.2011	Engineer (Probation)	Not considered (experience gained before Ph.D)

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He further submitted that complainant has filed a Writ Petition No. 6832/2019 in the Hon'ble High Court of judicature at Allahabad and the same is pending

5. Complainant vide rejoinder dated 10.06.2019 has inter-alia submitted that his total post PhD experience is 18 months in abroad, among which the MNNIT accept his post PhD experience at KAIST for 9.5 months, the MNNIT not considered his 8.5 months post PhD work experience from Korea Electrotechnology Research Institute and respondent is saying KERI is not under 500 QS world University Rank.

6. After considering the respondent letter dated 28.05.2019 and the complainant's letter dated 10.06.2019, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 18.09.2019 but complainant was absent, therefore, hearing adjourned to 25.10.2019 later on 22.11.2019.

7. On the date of hearing complainant reiterated his written submissions. The representatives of the respondent informed that the Ministry of HRD vide letter F.No. 33-9/2011-TS III dated 31.11.2017 had notified Guidelines/Procedures related to the recruitment process for faculty of NITs and IEST and paragraph 15 of the Guidelines/Procedures provide that the Departments will make attempt to set short listing Criteria. Accordingly, the Institute has framed guidelines for Screening/Short listing of the applicants. He further submitted that no experience was required for the post of Assistant Professor with AGP 6`000/- but the complainant had applied for the post of Assistant Professor with AGP 7000/- which requires the relevant experience and the complainant does not fulfil the same. He further submitted that the complainant has also filed a Writ Petition No. 6832/2019 in the Hon'ble High Court of Judicature at Allahabad and the same is pending.

8. After hearing the respondent and material available on record, the case is closed as the matter is subjudice before the Hon'ble High Court of Allahabad.

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

Case No: 11194/1014/2019

Dated: 31.01.2020

In the matter of:-

Shri Pradeep Singh

<e-mail: pradeep13353@gmail.com>

Complainant

Versus

Railway Board

Through the Dy. Director Estt. (GR)

R. No. 305, 3rd Floor, Rail Bhawan

Railway Board, New Delhi – 110001

Respondent

Date of Hearing: 13.11.2019 & 11.12.2019

Present on 11.12.2019:

1. Complainant – absent
2. Dr. Vijay Kumar, ED, Shri Parvez, Director (E) & Shri S. Sridhar Rao on behalf of respondent.

ORDER

Shri Pradeep Singh, a person with 60% locomotor disability filed a complaint dated 24.05.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding allocation of Indian Railway Service of Engineers (IRSE);

2. Complainant in his complaint submitted that he had cleared Engineering Services Examination 2018 and seats were available for Indian Railway Service of Engineers (IRSE) but Railway had declared him unfit because of being a one Arm candidate. He further submitted that according to UPSC's guideline and Social Justice and Welfare's guidelines minimum functional requirements for PH is one arm.

3. The matter was taken up with the respondent vide letter dated 18.06.2019 under Section 75 of the RPwD Act, 2016.

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4. In response, Jt. Director/E (GC), Railway Board, New Delhi vide letter dated 17.07.2019 had informed that Shri Pradeep Singh was recommended by UPSC against a PwD vacancy in Civil Engineering Discipline. The first Medical Board held at North Western Railway on 26.11. 2018 declared him fit for CES (Roads), AEE/BRES, AEE (QS&C), IDSE, IOFS and ISDS on account of substandard physical requirement. Not being satisfied, Shri Pradeep Singh filed an appeal against the findings of 1st Medical Board. The Appellate Medical Board held at Eastern Railway on 25.02.2019 also declared him fit for CSE (Road), AEE (BRES), AEE (QS&C), IDSE, IOFS & ISDS. As per ESE-2018 vacancy statement, vacancies for PwD existed only in IRSE, CWES & BRES in Civil Engineering Discipline. Shri Pradeep Singh was thus eligible for being considered for BRES at his merit for allocation and was accordingly so allocated.

5. Complainant vide rejoinder dated 07.09.2019 submitted that he was not satisfied with the reply of the Railway and he had informed that other Railway Medical Board fit the PH (OA) candidate for IRSE and requested to hold his medical other Govt. Hospital under the Disability Act,

6. After considering the respondent letter dated 17.07.2019 and the complainant's letter dated 07.09.2019, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on 13.11.2019.

7. During the hearing on 13.11.2019, complainant had informed that there were vacancies in Indian Railway Service of Engineers (IRSE) and Central Water Engineering Service (CWES) but Railway Medical Board rejected his candidature for both services on the ground of finding him medically unfit. He had also informed that Shri Mohmmand Islam, person with one arm affected selected for IRSE in 2011 and he further informed that Shri Ankit Anand Upadhyay, person with one arm who also got selected for IRSE – 2018. Representatives of the respondent reiterated their written reply. After hearing both the parties, the respondent was directed to clarify the above on next date of hearing on 11.12.2019.

8. During the hearing on 11.12.2019, representatives of the respondent had informed that Shri Mohammad Islam was governed by ESE-2011 Rules and the Medical Board at Chennai, Southern Railway declared him 'Fit only for specified vacancy reserved for physically impaired. As per his merit and preference, he was allotted to IRSE against the existing vacancy. Whereas Shri Pradeep Singh was governed by ESE-2018 Rules and both First Medical Board at North Western Railway

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and Appellate Medical Board at Eastern Railway declared him Fit for CES (Roads), AEE (BRES), AEE (OS&C), IPSE, IOFS and ISDS' only. As per ESE Rules, the decision of the Appellate Medical Board is final. As per his merit and preference, Shri Pradeep Singh was allotted to Border Roads Engineering Service against an existing vacancy. No comparison can be made between allocation of service to Shri Mohammad Islam, governed by ESE -2011 Rules and allocation of service to Shri Pradeep Singh, governed by ESE – 2018 Rules.

9. Complainant was absent but he had submitted his comments through e-mail dated 09.12.2019 and stated that he got 2nd rank under PwD and Railway has accepted that they had allotted the seat to person with one arm affect in IRSE, therefore, on that basis same seat should be allotted to him.

10. The Indian Railway Service of Engineers is suitable for persons with locomotor disability for One Arm (OA) affected category. This category of PwDs is suitable to meet the job requirement of Indian Railway Services of Engineers as per the policy guidelines.

11. After hearing both parties and perusing the documents made available to this Court, it is observed that since a similarly placed person namely Shri Mohammad Islam under the same category has been declared fit by the Medical Board at Chennai Southern Railway's; so, the same cannot be denied to the applicant; therefore, Shri Pradeep being placed in the similar category should have been considered by the medical board based on same yardstick. In view of this, it is recommended that Railway Board may review the case of Shri Pradeep, at par with Shri Mohammad Islam as the post Indian Railway Service of Engineers has been identified for OA as per the existing guideline.

12. Case is disposed off.

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

Case No: 10514/1013/2018

Dated: 01.01.2020

In the matter of:-
Km. Neha Sharma
D/o Sri M.L. Sharma
House No. 2/334, Udai Vihar
Shanti Sarovar Colony, Ramghat Road, Aligarh

Complainant

Versus

Central Recruitment & Promotion Department
State Bank of India
(Through the General Manager)
Tulsiani Chambers, 1st Floor, West Wing
212, Free Press Journal Marg, Nariman Point, Mumbai – 400021

Respondent

Date of Hearings: 04.07.2019, 13.09.2019 & 20.11.2019

Present 20.11.2019:

1. Shri M.L. Sharma on behalf of Complainant
2. Respondent – absent

ORDER

Km. Neha Sharma filed a complaint dated 18.10.2018 under the Rights of Persons with Disabilities Act, 2016, (hereinafter referred to as the RPwD Act, 2016) regarding appointment to the post of Jr. Associate (Customer Support & Sales) in Clerical Cadre in State Bank of India.

2. The Complainant in her complaint inter-alia submitted that she had applied for the post of Jr. Associate (Customer Support & Sales) in Clerical Cadre in State Bank of India by opting reservation in Locomotor disability category specified under clause (c) of Section 34 (1) of the RPwD Act 2016. She further submitted that Regional Manager, SBI, Aligarh conducted the online preliminary examination on behalf of State Bank of India and just after 10 – 15 minutes of the beginning of the preliminary examination, the Incharge of the online preliminary examination along with his team comprising 05 – 06 members, distracted her and her scribe by saying that the scribe was violating the scribe rules. She further submitted that she secured 59.25% marks in the online preliminary examination held on 23.06.2018 under extremely adverse circumstances and that she was also fully hopeful of passing the online main examination held on 05.08.2018. The complainant alleged that she could not pass the online main examination only because of Shri Alok Sharma, who manifestly under prejudice took revenge on the complainant by depriving her of her legitimate right for separate or suitable seating arrangement during the online main examination on 05.08.2018 as a preplanning by terrorizing her since the beginning and lastly by wasting her crucial time of 53.33 minutes under the guise of second time biometric verification of the normal candidates in the Computer Lab No. 01 of the examination centre. She requested that the respondent be directed to declare her pass in the online main examination held on 05.08.2108 for appointment on the post of Jr. Associate (Customer Support & Sales) in Clerical Cadre in SBI.

3. After perusal of the complaint, the matter was taken up with the State Bank of India, Mumbai vide letter dated 15.11.2018.

4. In response, General Manager (CRPD), State Bank of India, Mumbai vide letter dated 19.12.2018 inter-alia submitted that they had already received the complaint from Kumari Neha Sharma earlier and an inquiry was conducted by the Chief Manager (CRM), State Bank of India, Administrative Office, Agra. The Inquiry Officer had concluded that on the basis of Statements of all the concerned officials, interaction with the complainant and after careful examination of CCTV footage of Computer Lab No. 01, there was no merit in the complaint and that there were no lapses on the part of officials in computer Lab No. 01 involved in the conduct of the recruitment test. He further submitted that the candidate was allowed scribe in the examination, and extra time, as per the extant instruction of the recruitment policy for PwD was allotted during the examination. No abnormality or deviation in the conduct of examination was observed as per the investigation report.

5. The Complainant vide e-mail dated 08.01.2019 inter-alia submitted that nobody had approached the complainant for interaction or for recording her statement in the matter of her complaint dated 13.08.2018 nor was any investigation report sent to her and the scribe (who is the father of the complainant) is the eye witness in the matter of the instant complaint. She further submitted that CCTV footage of the Computer Lab no. 1 are the sufficient evidence to prove the allegations of the complainant. Further, the complainant vide letters dated 05.01.2019 and 07.01.2019 reiterated her earlier views and inter-alia submitted that she had been a victim of Intentional harassment of the representative of the respondent Shri Alok Sharma who created an uproarious environment to distract the complainant during the Mains Examination for recruitment for Jr. Associates (Sales) in clerical cadre in State Bank of India. So the complainant could not pass the Main Examinations.

6. The Complainant vide letter dated 17.01.2019 submitted that respondent may be directed for discovery and production of the following documents in the Hon'ble Court under copy to the complainant to enable her to prove her allegations (i) the CCTV footage of the Computer Lab no.1 of 05.08.2018 (date of online Mains Examination) from 2 p.m. to 6.30 p.m. (ii) Chart of seating arrangement of the Computer Lab no. 1 of 05.08.2018 (date of online Mains Examination) with specification of each candidate as to the physically handicapped candidate or the normal candidate.

7. Keeping in view the reply submitted by the respondent and complainant's letters, it was held that there did not seem any violation of the RPwD Act, 2016 on the part of the respondent. Accordingly, the complainant was informed vide letter dated 01.05.2019.

8. The Complainant vide e-mail dated 06.05.2019 and letter dated 13.05.2019 inter-alia submitted that as per Rule 38 of RPwD Rules 2017, the Dy. Chief Commissioner for Persons with Disabilities was legally bound to fix the date of hearing and to provide the opportunity of hearing to the complainant before passing the impugned order dated 01.05.2019. She had requested the Dy. Chief Commissioner for Persons with Disabilities to recall the impugned order dated 01.05.2019 for rectification of procedural errors of omission and pass a fresh order.

9. Shri M.L. Sharma, father of Ms. Neha Sharma, vide letter dated 13.05.2019 requested to provide certified copies of all papers of the case file except noting and order sheets to enable her daughter to file a writ petition against the order dated 01.05.2019 latest by 18.05.2019.

10. Smt. Shashi Sharma, Advocate also sent a Legal Notice in the name of Shri Rakesh Kumar Rao, Dy. Chief Commissioner and submitted that after receiving e-mail, it became surprisingly active and under prejudice and knowingly with malafide intention dismissed the complaint case harshly against the provisions of Rule 38 of the Rights of Persons with Disabilities Rules 2017 without fixing the date of hearing and without providing an opportunity of hearing to her client. Further, from the entire episode, the intention and dishonesty from expecting to receive financial consideration from her client is undoubtedly proved because the reason told by Dy.CCD and his staff to the father of Ms. Neha Sharma for delaying the hearing of the complaint case was not real but it was a preplanning for pressurizing the father of Ms. Neha Sharma to unilaterally offer some financial consideration. She suggested fixing the date of hearing within 30 days; if hearing was not fixed, her client would file a Writ Petition in the Hon'ble Allahabad High Court.

11. Thereafter, in view of the above request, the hearing was fixed on 17.06.2019 but due to administrative reasons it was re-scheduled on 04.07.2019. On the date of hearing, the complainant's father appeared and reiterated his written submissions and submitted the following points in brief:

- a. In the beginning of the preliminary examination, SBI Staff members distracted the complainant and her scribe.
- b. In the main examination, she was the only disabled candidate and other candidates were normal candidates, which was a violation of the guidelines of M/o SJ&E contained in para XIII of the OM dated 26.02.2013 and therefore she made a request to the respondent for separate seating arrangement in the examination hall where the representatives of the Respondent made seating arrangement for other disabled candidates but refused to make any change in the seating arrangement for the complainant.
- c. After completion of the Main Examination of the normal candidates, the uproarious activities distracted the complainant for the entire 54-minute compensatory time and the entire compensatory time of 54 minutes got wasted because of the actions of the representative of the respondent.
- d. He had filed an RTI application for providing CCTV footage of 23.06.2018 on the examination hall but the respondent refused to provide the CCTV footage.
- e. He also submitted that under no circumstances was the respondent itself authorized to investigate the allegation levelled against them. He requested the Court to direct the respondent to declare the complainant pass in the Main Examination.

12. The Respondent also reiterated his written submission dated 19.12.2018 and submitted that the complainant was allowed scribe in the examination and extra time as per the recruitment policy of PwD was allotted during the examination. He further submitted that after careful examination of CCTV footage and inquiry report, there was no merit in the complaint and also informed that there was no provision of separate sitting arrangement for disabled persons.

13. After hearing the parties, the respondent was directed to submit a detailed reply within 15 days to this Court, with a copy to the complainant. The Respondent was further directed to submit the following documents to this Court:

- Marks obtained by the complainant during preliminary examination as well as main examination;
- CCTV Footage of both examinations;

- Whether there were separate arrangements for persons with disabilities;

14. General Manager (CRPD), State Bank of India vide letter dated 02.08.2019 submitted the Marks obtained by the complainant in the preliminary and main examinations and shared a pen drive containing the video recording/CCTV footage of the main examination. He also informed about the proper seating arrangement on the ground floor for main examination for the candidates belonging to PwD category.

15. The video footage provided by the State Bank of India was viewed by this Court. The contents of the footage do not support the claims made by the complainant Ms. Neha Sharma/her father Shri M.L. Sharma.

16. During the hearing on 13.09.2019, father of the complainant Shri M.L. Sharma informed that Ms. Neha Sharma was suffering from fever therefore, she was unable to attend the hearing and sought time; therefore, the hearing was adjourned to 11.10.2019 and subsequently to 23.10.2019 & 20.11.2019. Smt. Shashi Sharma, Advocate on behalf of the complainant sent a Legal Notice with the advice to provide the CCTV footage of 05.08.2018 i.e. of Main Examination to her client. In the meanwhile, the complainant vide letter dated 15.09.2019 informed that she has lost all faith in the O/o CCPD, hence, she was withdrawing her complaint to file a Writ Petition in the High Court for redressal of her grievance.

17. After hearing both the parties and perusing the documents and material on record, this Court could not find any merit in the allegation of the complainant regarding any act of discrimination during the main examination and the response of the respondent seems satisfactory. Accordingly, the complaint is dismissed.

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

Case No: 9819/1014//2018

Dated: 29.01.2020

In the matter of:-

Ms. Megha Kashyap
D/o Vinay Mohan Kumar
R/o Ram Krishna Nagar
Cantt. Road, Danapur, Patna – 801503

Complainant

Versus

Department of Personnel & Training
Through the Secretary
Ministry of Personnel, Public Grievance & Pension
North Block, New Delhi – 110001

Respondent No. 01

All India Institute of Medical Sciences
Through the Director
Ansari Nagar, New Delhi – 110029

Respondent No. 02

Date of Hearing: 11.12.2019

Present:

1. Shri D. Kashyap, Advocate on behalf of the complainant
2. Jagdish Kumar, Advocate on behalf of respondent no. 02.

ORDER

Ms. Megha Kashyap filed a complaint dated 15.05.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding medically unfit for Civil Services Examination 2017;

2. Complainant in her complaint inter-alia submitted that she was selected for Civil Services Mains Examination, thereafter, she appeared in mains examination wherein she was selected for Interview. After that, she was directed to appear before Medical Board, AIIMS, New Delhi where she was declared unfit against PH (HI) quota on account of disability percentage of 2.16% as recorded by the Medical Board as per result provided on 21.03.2018. Subsequently, she was selected in CSE 2017 in final result declared on 27.04.2018 with rank 983. She further submitted that she had a disability certificate with 66.25% and additionally it was provided that the medical condition is progressive and not likely to improve.

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3. The matter was taken up with the U.P.S.C. vide letter dated 14.06.2018 under Section 75 of the RPwD Act, 2016. In response, Under Secretary, U.P.S.C. vide letter dated 28.06.2018 has inter-alia submitted that the onus of verifying the actual claims regarding physical disability of the candidates rests with the Government i.e. Department of Personnel & Training and the Commission has no role in the matter. In view of the reply, the matter was taken up with the DOP&T and AIIMS vide letter dated 09.10.2018.

4. Associate Professor, Department of ENT and Head Neck Surgery, AIIMS vide letter dated 30.10.2018 had informed that all the members were permanent faculty members having considerable experience in the field of Otorhinolaryngology. The Board also had Mr. Mao Bhartiya as its member who has due qualification in Audiology and considerable experience in assessing subjects with hearing loss. The Board members worked in their best capacity to evaluate the subject clinically and interpreted all the results to come to the conclusion of qualification of candidate on disability parameters. He further submitted that Pure Tone Audiometry (PTA) alone may not be reliable to accurately assess the degree of hearing loss in subjects and exact assessment might require careful interpretation of clinical evaluation, audiometry, ABER, OAE and other tests on case to case basis.

5. Under Secretary, DOP&T vide letter dated 04.01.2019 had inter-alia submitted that all the candidate recommended by UPSC have to undergo medical examination test as per the provisions contained in the Civil Services Examination Rules. For this purpose, Central Standing Medical Board and Appellate Medical Board are constituted by Department at various hospitals in New Delhi as prescribed in applicable CSE Rules. Accordingly, Ms. Megha Kashyap was medically examined at Central Standing Medical Board, AIIMS, New Delhi and Safdarjung Hospital on 07.03.2018 and 06.03.2018 respectively as per CSE Rule – 2017. Central Standing Medical Board and Safdarjung Hospital and AIIMS, New Delhi declared her as unfit against HI (PH) post: disability 2.16%. He further submitted that based on the findings of Central Standing Medical Board (CSMB) & Appellate Medical Board (AMB), candidature of Ms. Megha Kashyap was duly examined and cancelled with the approval of the competent authority as per the provisions of CSE Rules – 2017 as she was found to be a non PwD candidate with disability less than benchmark disability of 40% and therefore, she could not be allocated to any service on the basis of CSE – 2017.

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6. Complainant vide letter dated 10.04.2019 has inter-alia submitted that the examination conducted by the Central Standing Medical Board on 06.03.2018 recorded its finding as disability percentage as 2.16% in complete disregard of the certificate of disability issued to the Petitioner by Competent Authority namely Civil Surgeon cum Chief Medical Officer, Patna and Asst. Professor and HOD, ENT Department, PMCH, Patna dated 28.09.2005 and 03.03.2017 respectively.

7. After considering the respondents letters and the complainant's letter, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on 11.12.2019.

8. During the hearing on 11.12.2019, Respondent No. 01 was absent. Counsel of the complainant reiterated the grievance of the complainant. Counsel of the Respondent no. 02 had informed that on specific request from Secretary, DoP&T, AIIMS constituted medical boards for CSE candidates for the year 2017- 18 and 2018-19 with a clear understanding that Court cases/legal ramifications/queries that may arise out of the matter will be dealt with by Respondent No. 01 alone and that AIIMS i.e. Respondent No. 02 in this case, will not be made to respond or appear before any court on any matter related to it.

9. After perusing the documents and material made available to this Court, there seems no discrimination on the ground of disability. Based on the response submitted by the respondent the Court does not find any merit to intervene in the matter. Accordingly, the case is disposed of.

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

Case No: 9419/1013/2018

Dated: 29.01.2020

In the matter of:-

Shri Naval Kishore Dubey

Village Berkheri, Bijawar

District-Chattarpur, Madhya Pradesh - 471405

Complainant No. 01

Shri Rizwan Khan

4 B Taj Nagar

Nipania Road, Khajrana, Indore

Complainant No. 02

Versus

Department of Posts

Through the Secretary

Dak Bhawan, Parliament Street

New Delhi

Respondent

Dates of Hearing: 11.09.2019, 09.10.2019, 15.11.2019 and 20.12.2019

Present on 20.12.2019:

1. Shri Naval Kishore Dubey - complainant
2. Shri S.K. Jhawar, APMG (Staff) on behalf of respondent

ORDER

Shri Naval Kishore Dubey and Shri Rizwan Khan filed a complaint dated nil under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding notification for the post of Gramin Dak Sahayaks in the Madhya Pradesh Circle;

2. Complainants had submitted that they had applied for the post of Gramin Dak Sahayak in the Postal Department under PwD quota of HH in Madhya Pradesh Circle. He further submitted that they applied for these vacancies but found difficulty in the online filling of form as the option of total marks obtained showed only options of either 600 or 500 marks grand total in 10th class matriculation exam. He further submitted that it seems Postal department is not aware of exemptions been given by the MP Board of Secondary Examination in class 10th matriculation exams. He further submitted that in Madhya Pradesh, a deaf student can pass matriculation exams with 04 subjects which contains total subject marks of 400 that means 04 subjects with 100 marks each.

3. The matter was taken up with the Department of Posts vide letter dated 24.04.2018 under Section 75 of the RPwD Act, 2016.

4. In response, Asstt. Postmaster General (Estt/Rectt.), Department of Post, Bhopal vide letter dated 18.07.2018 had inter-alia submitted that GDS online recruitment in M.P. Circle has been started from 17.01.2018 to 23.02.2018 but due to unavailability of boards in the GDS online Portal, PH (VH & HH) candidates could not apply in the portal during the above mentioned period. He further submitted that GDS online portal had been reopened from 02.07.2018 to 16.07.2018 only for PH (VH & HH) candidates who had debarred to apply during 17.01.2018 to 23.02.2018. A wide publicity was made at M.P. Circle level and a press notice was also published in the leading newspapers on 03.07.2018. The same information was given to both the complainants i.e. Shri Naval Kishore and Shri Rizwan Khan vide office letter of even number dated 03.07.2018.

5. Complainant vide rejoinder dated 13.03.2019 has inter-alia submitted that he and Shri Naval Kishore Dubey were allowed to fill online form for Gramin Sahayak by Postal Department but the result is still awaited for the selection of Gram Dak Sahayak Post.

6. After considering the respondent's reply and the complainant's letters, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on 11.09.2019 but due to administrative exigencies hearing postponed on 09.10.2019 but respondent was absent, therefore, hearing adjourned to 15.11.2019 and later on 20.12.2019.

7. During the hearing on 20.12.2019, complainant reiterated his written submission and representative of the respondent informed that the selection criteria was made as per automatic generated merit list. No weightage was given for Higher Educational Qualification, only marks obtained in 10th standard of approved boards aggregated to percentage was prescribed for finalizing the selection. Shri Rizwan Khan scored 42.75% marks, whereas Shri Naval Kishore Dubey scored 54% marks in the 10th Board examination, therefore, they were not selected.-

8. After perusing the documents and material on record made available to this Court it is found that there is no discrimination against the petitioner on the ground of disability, the court does not find any merit for its intervention. Accordingly, the case is disposed of.

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

Case No: 10602/1013/2018

Dated: 15.01.2020

In the matter of:-

Shri Shubham Sharma
Flat No. 303, Atharva Apartment
Lord Krishna Estate, Chokabetu Cross
Mangaluru, Karnataka – 575014

Complainant

Versus

Oil and Natural Gas Corporation Ltd
(Through the Director)
Registered Office: 5, Nelson Mandela Marg
Vasant Kunj, New Delhi – 110070

Respondent

Date of Hearings: 13.09.2019, 23.10.2019 and 20.11.2019

Present 22.11.2019:

1. Complainant - absent
2. Shri Ajay Chauhan, Chief Manager on behalf of respondent

ORDER

Shri Shubham Sharma, a person with 75% visual impairment filed a complaint dated 15.11.2019 under the Rights of Persons with Disabilities Act, 2016, hereafter referred to as the RPwD Act, 2016 regarding recruitment to the post of Material Management Officer in ONGC.

2. The complainant in his complaint submitted that he had applied in ONGC Ltd for the post of Material Management Officer against Advt. No. 3/2018 through GATE 2018 exam score conducted by Indian Institute of Technology, Guwahati & appeared in interview on 11.07.2018 and result of which was declared on 31.07.2018 on website portal of ONGC Ltd in which he was not empanelled for recruitment as he was given 04 marks out of 15 marks and minimum 06 marks out of 15 was needed to qualify in interview round to be eligible for empanelment in final merit list. He further submitted that he had also given GATE 2017 exam conducted by IIT Roorkee through which he got selected in ONGC MRPL as Engineer/Officer 'A' of which interview happened on 13.02.2018

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and he joined ONGC MRPL on 19.06.2018 in which he was given 09 marks out of 15 in interview round by ONGC interviewing panel and he was already in service for ONGC Ltd at time of interview. He further submitted that there were 19 vacancies of MM Officer posts in PwD and only 11 were filled & 08 vacancies of PwD category were kept vacant intentionally as interviewing panel of ONGC Ltd does not want PwD with higher degree of disability to work in ONGC parent company.

3. After perusal of the complainant, the matter was taken up with the Oil and Natural Gas Corporation Ltd vide letter dated 06.02.2019.

4. In response, GM (HR) – Head Corp. R&P, ONGC vide letter dated 13.03.2019 has inter-alia submitted that candidate was not found suitable by Selection Committee after assessment in Interview. The requirement to qualify in interview was clearly mentioned in Clause 3 (d) of Advt. No. 03/2018 (R&P). Qualifying criteria in interview had already been relaxed in respect of PwD candidates since a PwD candidate was required to obtain only 06 marks out of 15 whereas General candidates required 09 marks in interview. Selection Committee interviewed all eligible candidates and it was only after assessment that marks had been awarded. Only 11 candidates qualified at interview Stage and they were empanelled accordingly. Unfilled 08 posts have been carried forward as backlog for next recruitment exercise.

5. Complainant vide rejoinder dated 20.05.2019 has inter-alia submitted that he is working in ONGC subsidiary and his appointment includes the role of Material Management officer. He further submitted that ONGC is creating backdoor path of giving these post reserved for PwD candidates to non-PwD candidates if suitable PwD candidates are not available in carry forward recruitment exercise, same has been advertised in current carry forward recruitment advertisement.

6. After considering the respondent letter dated 13.03.2019 and the complainant's letter dated 20.05.2019, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 13.09.2019 but respondent was absent, therefore, hearing adjourned to 23.10.2019 and later on 20.11.2019.

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7. On the date of hearing complainant was absent and representatives of the respondent informed that 11 visually impaired candidates had been selected for the post of MM Officer, unfilled 08 posts have been carried forward as backlog for next recruitment exercise. He further informed that Shri Shubham Sharma was not found suitable by Selection Committee after assessment in Interview. The requirement to qualify in interview was clearly mentioned in Clause 3 (d) of Advt. No. 03/2018 (R&P). Qualifying criteria in interview had already been relaxed in respect of PwD candidates since a PwD candidate was required to obtain only 06 marks out of 15 whereas General candidates required 09 marks in interview.

8. After perusing the documents and material on record made available to this Court it is found that there is no discrimination against the petitioner on the ground of disability. The response of the respondent in the matter is found to be satisfactory and this court does not find any merit for its intervention. Accordingly, the case is disposed of.

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

Case No. 11067/1014/2019

Dated: 31.10.2019

In the matter of:-

Shri Debabrata Das

Complainant

<debd143@gmail.com>

Versus

Central Pollution Control Board

Through the Director

Parivesh Bhawan, East Arjun Nagar

Shahdara, Delhi – 110032

Respondent

Dates of Hearing: 13.09.2019

Present:

1. Shri Vikram Singh, Advocate on behalf of complainant

2. Shri R.D. Pandey, Sr. AO, Shri Ramesh, SO and Shri Amit Kumar, Assistant on behalf of respondent

ORDER

The above named complainant Shri Debabrata Das filed a complaint dated 23.03.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding appointment to the post of Scientist 'B' in the Central Pollution Control Board;

2. The complainant in his complaint submitted that he had applied for the Post of Scientist "B" in Central Pollution Control Board as per Advertisement No. 01/2017-Admin.(R), dated 18-24 November, 2017. In the notification, they mentioned 1(one) vacancy reserved for UR PwD (HH) category. He further submitted that he appeared in the Written Examination of Scientist B on 08/09/2018 and he had been selected for interview and got the highest Marks among the Hearing Handicapped category candidates in the written examination as well as in Interview. In written test, he got 35.5% and in interview 4.5% of Marks but in the main result, no HH category candidate has been selected and the vacancy was filled by the other category candidate.

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3. The matter was taken up with the respondent vide letter dated 29.04.2019 under Section 75 of the RPwD Act, 2016.

4. In response, Sr. Administrative Officer, Central Pollution Control Board vide letter 14.05.2019 has submitted that in the written examination held on 08.09.2018 for the post of Scientist 'B' in Central Pollution Control Board, only three candidates from UR-PwD (HH) category scored more than 33 marks out of 100 (33 marks were qualifying marks to be called for interview). All the three candidates including Shri Debabrata Das were called for interview for one post of Scientist 'B' reserved for UR-PwD (HH) category. Shri Debabrata Das got 35.50 marks out of 100 in written examination and 4.50 marks out of 15 in the interview. Selection Committee for the post of Scientist 'B' assessed the performance of the candidates in terms of their performance in the written test and interview and did not recommend any candidate from UR-PwD (HH) category for appointment to the one post of Scientist 'B'. The Competent Authority accorded approval to re-advertise the one post of Scientist 'B' reserved for UR-PwD (HH) category. Hence, the allegation made by the complainant that one post of Scientist 'B' reserved for UR-PwD (HH) category was filled by the other candidate is not substantiated with proper evidence.

5. Complainant in his rejoinder dated 22.05.2019 has inter-alia submitted that respondent has explicitly mentioned that 33 marks were qualifying marks to be called for Interview and he got 35.5 out of 100 in written Examination and 4.50 marks out of 15 in Interview and they also mentioned that the final selection has been made with sum of total Written and Interview and ratio of weightage is 85:15.

6. After considering the respondent letter dated 14.05.2019 and complainant's e-mail dated 22.05.2019, it was decided to hold a personal hearing in the matter, therefore the case was listed for personal hearing on 13.09.2019.

7. During personal hearing on 13.09.2019 Counsel of the complainant reiterated his written submission and stated that respondent has ignored para 22 of DOP&T's OM No. 36035/3/2004-Estt. (Res) dated 29.12.2005 which provides relaxation of standard of suitability, if sufficient

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number of persons with disabilities are not available on the basis of the general standard to fill all the vacancies reserved for them. The representative of the respondent reiterated his written submission and informed that Selection Committee for the post of Scientist 'B' assessed the performance of the candidates in terms of their performance in the written test and interview and did not recommend any candidate from UR-PwD (HH) category for appointment to the one post of Scientist 'B'. The Competent Authority has accorded approval to re-advertise the post of Scientist 'B' reserved for UR-PwD (HH) category.

8. After the hearing and perusing the material available on record, it is held that the respondent cannot ignore para 11 of DOP&T's OM No. 36035/2/2017-Estt. (Res) dated 15.01.2018 that provides "*relaxation of standard of suitability, if sufficient number of candidates with benchmark disabilities are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts*". Shri Debabrata Das got 35.50 marks out of 100 in the written examination and 4.50 marks out of 15 in the interview. Therefore, it is recommended that respondent may consider his case, if vacancies are available, in view of the fact that the cut off marks was 33% for the persons with benchmark disabilities i.e. 40 out of 115 (Total).

9. The case is disposed of accordingly.

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