

Case Number No. 10950/1024/2019

Complainant : Smt. Pratibha Gaur, Associate Professor,
Sri Venkateswar College, University of Delhi

Date of Complaint : 13/02/2019

Respondent : Sri Venkateswara College and Registrar,
University of Delhi

Gist of Complaint :

Smt. Pratibha Gaur, Associate Professor is a mother of Ms. Tanya Gaur, child with intellectual disability. Her complaint is regarding discrimination & harassment in allotment of staff quarter and denial/not sanctioning of child care leave.

The complainant was residing at Adarsh Nagar, New Delhi with her family. So it was stressful for the child with intellectual disability to commute between Adarsh Nagar and Paschim Vihar. There was no proper school in Adarsh Nagar. She looked for schools in the neighborhood of the S.V. College viz. Springdales, Sadhu Vaswani and Air Force Golden Jubilee School for her daughter's admission. But these schools insisted that the residence should be within the range of the school. So she applied for allotment of staff quarters on compassionate grounds on the basis of her child's disability as she came to know that two staff quarters meant for teaching staff were lying vacant for more than 08 months in the S.V. College Campus. The Principal refused to allot her the quarters. However, after intervention of the Chairman, S.V. College Governing Body, the Principal allotted her quarter No.3 on 31.01.2016 and gave her seven days to occupy the same. These quarters were already in possession of another employee. She again approached to the Chairman and only on his personal direction a vacant quarter was

allotted after four months. But it was too late and her daughter could not get the admission in immediate neighborhood school, The Springdales School. However, she could finally get admission in Air Force School.

Complainant further stated that she met the Principal and applied for Child Care Leave (CCL) on 03.07.2016. The Principal neither put up her CCL in the meeting of Leave Sanctioning Committee (LSC) held on 11.07.2018, nor informed her the outcome of the LSC on CCL. She proceeded on leave to take care of child with disability. The Principal took disciplinary action against her by manipulating the fact that LSC did not sanction her CCL.

Respondent filed their reply dated 18/06/2019 and refuted/denied the allegations made by the complainant.

Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 24/06/2020. The following were present:

1. Smt. Pratibha Gaur, **Complainant**
Associate Professor, Sri Venkateswar College
2. Shri Girindra Kumar Pathak, Advocate for
Respondent

Observations/Recommendations:

This Court observed that on 03/07/2018 complainant applied for Child Care Leave (CCL) from 06/08/2018 to 05/09/2018. However, her application was not placed before the leave sanctioning authority in its meeting held on 11/07/2018. No communication was sent to her regarding denial or approval of her leave prior to 06/08/2018. On 16/08/2018, the explanation was called from her regarding un-authorized absence.

However, subsequently the Leave Sanctioning Authority on 24/08/2018 granted her EL+CCL for the entire period.

This appears to be a case of insensitivity on the part of the College authorities in handling the leave application of the applicant. Child with intellectual disability requires special care. Parents/care givers should be granted leave on priority and the administration should be sensitive enough to address their concerns proactively. The Court recommends that the College administration need to be more careful and sensitive in future towards their employees with disability and employees having dependent persons with disabilities and address their issues such as leave, accessibility matters, etc., well enough.

Dated: 24/06/2020
(Shakuntala Doley Gamlin)

Chief Commissioner

Case Number No. 11724/1024/2020

Complainant : Dr. Komal Kamra, a person with 100% Locomotor Disability.

Date of Complaint : 13/01/2020

Respondent : Registrar, University of Delhi and Principal, SGTB Khalsa College, University of Delhi.

Gist of Complaint:

Prof. Komal Kamra in her complaint submitted that she joined as a permanent teaching faculty in SGTB Khalsa College, University of Delhi on 07.08.1975. She retired on 30.09.2019 after over 44 years of service. She is a person with 100% locomotor disability and is a Wheelchair user due to a spinal cord lesion caused in 1993. She needs frequent medical interventions as she underwent a surgical procedure on 21.12.2019 and is completely bedridden at present and cannot move. She has to look after her son with chronic neurological disorder as she lost her husband in an accident in 1997.

She further submitted that she has not received her pensionary benefits for over 3 months despite repeated requests. As per the complainant, the Head of Office is empowered to sanction provisional pension and gratuity for a period of six months to a retiring employee, if he is of the opinion that the Government servant is likely to retire before his pension and gratuity or both can be finally assessed.

2. The Respondent vide their letter dated 18/27.02.2020 have submitted that the pension papers delivered to the complainant at her residence were received back by them on 12.02.2020 and the papers were forwarded to the University of Delhi on 14.02.2020. The Respondent further submitted that all the dues

released and paid to the complainant through her salary account with Punjab & Sind Bank at the College. The balance sum of Rs. 2,37,229/- on account of revision of pay scale in terms of recommendations of 7th CPC will be paid to the complainant when the staff is paid salary for the month of February 2020. The amount will be transferred to her account with Punjab & Sind Bank. Respondent submitted that the complainant did not disclose the facts about the dues released by her employer Sri Guru Tegh Bahadur Khalsa College as and when it was due.

Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 24/06/2020. The following were present:

1. Dr. Komal Kamra, Complainant
2. Dr. P. Arun, Associate Professor and Shri Jarnail Singh, Sr. PA on behalf of the Respondent.

Observation/Recommendations:

The Court observed that the complainant retired from Khalsa College on 30/09/2019. However, her pension dues as well as terminal benefits are yet to be settled.

As per Rule 64 of the CCS Pension Rules, 1972, in case the pension granting authority foresees that it will not be possible to settle the pension and gratuity of an employee before his/her retirement, he can grant the provisional pension.

As per Government of India's OM dated 05/10/1999 of D/o Pensions and Pensioners Welfare, all pensionary dues are to be settled by strictly following the Rule 56 - 76 of CCS Pension Rules, 1972. The complainant is a person with disability and her son is also a person with

disability and it is not expected from them to follow up their matters with college authorities. Denial of pension for more than 09 months is thereby causing lot of hardship to the complainant.

The Court recommends that the college authorities need to settle all the pensionary dues of the complainant within a period of two weeks as per CCS Pension Rules, 1972 and instructions of D/o Pensions and Pensioners Welfare.

Dated: 24/06/2020
(Shakuntala Doley Gamlin)

Chief Commissioner

Case Number No. 11408/1031/2019

Complainant: Mohd. Munis, a person with 42% locomotor disability.

Date of Complaint: 16/08/2019

Respondent : Aligarh Muslim University

Gist of Complaint

The complainant appeared in Entrance Examination held on 20.05.2019 for admission to B.Tech., conducted by the Aligarh Muslim University. When the result was published, out of total 365 seats, only 08 candidates with disabilities were offered admission whereas as per 5% reservation policy, at least 18 candidates with disabilities should have been selected for admission. The complainant alleged that he was denied admission to B.Tech. under PwD category.

The respondent replied stating that 5% seats for persons with benchmark disabilities were earmarked over and above the intake in courses. Eligibility to appear in the examination is 45% marks in Class XII with PCM & English. The complainant, Mohd. Munis secured only 11.50 marks in B.Tech Entrance Examination which is less than the prescribed minimum marks for PwD candidates which is 45%. The candidates with benchmark disabilities who secured eligibility marks after relaxation were given admission to B.Tech. Course.

Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 24/06/2020. The following were present:

1. Mohd Munis, Complainant

2. Mohd Faisal Fareed, Assistant Controller on behalf of the Respondent.

Observation/Recommendations:

After hearing both the parties, this Court noted that Aligarh Muslim University is implementing the provisions of Section 32 of the Rights of Persons with Disabilities Act, 2016 and also providing relaxation in marks to students with disabilities for admission in their B.Tech and other programmes. The Court did not find any merit in intervening in the policy of the education institution for lowering eligibility criteria such as minimum pass marks for admission to their programmes to maintain standard of education. However, Aligarh Muslim University is advised to take steps to ensure that the seats reserved for students with disabilities are optimally utilized.

Dated: 24/06/2020
(Shakuntala Doley Gamlin)

Chief Commissioner

Case Number No. 11487/1021/2019

Complainant: Shri Anuj Bhardwaj, 80% Locomotor Disability

Date of Complaint: 27/08/2019

Respondent: IDBI Bank

Gist of Complaint

Shri Anuj Bhardwaj joined IDBI Bank as Hindi cum English Typist on 15.05.1991 under PwD category. He was promoted to the post of Assistant Manager on 14.05.1999. Later on in 2007, he was promoted to Assistant General Manager. His ACRs were very good till date and his performance was exemplary. In 2011, he applied for the post of DGM but was not selected. The same thing happened in 2014 though his juniors were promoted. The interviews cum group discussions were conducted in years 2015, 2016, 2018 and 2019 and his juniors were promoted but he was denied the promotion since last 8 years.

Chief General Manager (HR), IDBI Mumbai vide letter no.3380/2019-20 dated 01/11/2019 submitted that as there is no reservation in promotion within the Officer's cadre, certificate from liaison officer certifying that the Reservation Roster (Promotion) is maintained, is not being attached.

The complainant vide his rejoinder dated 19/11/2019 has submitted that he has served the bank for more than 28 years. As per complainant, Respondent is taking pretext of 'Selection Method' of the organization which changes as per the convenience of the Management. The Selection Method/Policy of the Bank is not

prescribed/fixed and is also not transparent. It is based on the following –

- a) APAR
- b) JAIIB/CAIIB
- c) Group Discussion
- d) Interview
- e) Mobility, and
- f) Disciplinary Attributes

Every year complainant achieved all the parameters prescribed above but it seems in last six interview/Group Discussion (8 years) complainant is lacking in Points (c) and (d) only which is debatable. He further submitted that the marks given against Points (c) and (d) are never disclosed to the complainant and never a list of total mark of all the officers called for Group Discussion is published. The details of marks are never displayed anywhere in the bank which shows the non-transparent and malafide intentions of the Bank. The complainant has requested this Court to ask for the details of the following:

- (i) Marks of Group Discussion of all the candidates appeared from 2011 to 2019;
- (ii) Marks of Interview of all the candidates appeared from 2011 to 2019;
- (iii) Cut of marks of all the candidates appeared from 2011 to 2019;
- (iv) Minutes of the Selection Committee of all the candidates appeared from 2011 to 2019.

As per the complainant, the Respondent admitted that only four officers with disabilities were promoted during 2011-2019. Complainant requested the Court to advise the Respondent to provide list of all the four PwD candidates along with the marks and year of promotion.

Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 24/06/2020. The following were present:

1. Mr. Anuj Bhardwaj, Complainant

Observation/Recommendations:

After hearing the complainant and going through the written submissions of the respondent and other documents available on record, this Court recommends as under:

The Court hereby instruct IBDI Bank to submit the following information in terms of Section 77 of the Rights of Persons with Disabilities Act, 2016 within 02 weeks:

- (i) Marks of Group Discussion of all the candidates appeared from 2011 to 2019;
- (ii) Marks of Interview of all the candidates appeared from 2011 to 2019;
- (iii) Cut of marks of all the candidates appeared from 2011 to 2019;
- (iv) Minutes of the Selection Committee of all the candidates appeared from 2011 to 2019;
- (v) Number of employees with Disabilities so far promoted to the post of DGM.

Dated: 24/06/2020
(Shakuntala Doley Gamlin)

Chief Commissioner