



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11332/1022/2019

Complainant : Shri Gautam Waman Gaikwad, Postal Assistant, Shivajinagar Post Office, Pune-411 005

Respondent : The Postmaster General, Pune Region, Pune-411001

Disability: 100% visually impaired

Gist of Complaint:

Shri Gautam Waman Gaikwad vide his complaint dated 06.07.2019 submitted that the Postmaster General, Pune has reinstated him w.e.f. 08.12.2016 due to the intervention of this Court earlier. He had served for 23 years in the Postal Department. He was posted as PA at Shivajinagar S.O., Pune. Now the complainant has submitted that he has been transferred to Pune City H.O. and directed to relieve him from 10.07.2019 to join Pune City H.O. He made a detailed representation and sent to the Sr. Suptd. of Post Office, Pune City, West Division mentioning the difficulties and obstacles he has been facing while attending Pune City H.O. He submitted that Pune City H.O. is situated at the heart of city and during the day time there is always heavy rush of traffic and even normal person cannot move on his road. On 08.12.2016, his wife accompanied him to join the duty. Now he has been going to office alone as his wife had delivered twin babies. He again requested the appointing authority to allow him to continue to work at Shivajinagar S.O. vide letter dated 03.06.2019 but did not get any response. He is facing harassment at the work place. He has requested to cancel the rotational transfer to Pune City H.O.

2. No reply has been received from the Respondent.

Hearing :

3. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 06.10.2020.

4. The following persons were present during the hearing;

- 1) Mr. Gautam Waman Gaikwad, the complainant.
- 2) Mr. Abhijeet Bansode, Sr. Supdt. of Post Offices alongwith Mr. R.S. Gaikwad, on behalf of the respondent.

Both the parties were heard.

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

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

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5. The complainant who is a person with 100% visual impairment expressed that he had great difficulty in commuting to his present place of posting i.e. Pune City H.O. due to high traffic and fears for his safety.

6. The respondent stated that the complainant was transferred under three years Rotational Transfer Policy of Postmaster General.

7. For the information of the respondent, the rule position in respect of transfer of persons with disabilities as per the Rights of Persons with Disabilities Act, 2016 is as under:

"Section 20.(5) - 'Non-discrimination in Employment' of the Rights of Persons with Disabilities Act, 2016 provides that the appropriate Government may frame policies for posting and transfer of employees with disabilities."

As per the DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014, the persons with disabilities may be exempted from the routine/rotational transfers and to the extent possible, such persons should be retained at posts where they can contribute efficiently over a long period.

8. The respondent on being apprised of the rule position stated that since the complainant was posted on the counter job, he had to be shifted in terms of CVC Guidelines as also there was no back office work in the previous office. The respondents were compelled to transfer him to Pune City H.O. The respondent further assured that they are ready to accept the request of the complainant for posting at any other office at which the complainant may find it convenient to function apart from his previous place of posting i.e. Shivajinagar S.O., Pune. In view of this assurance of the respondent, the case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Date : 13.10.2020





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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11345/1022/2019

Complainant : Shri Rajesh K.R., Postal Assistant, Koodali P.O., Kannur, Kerala – 670 592

Respondent : The Chief Postmaster General Kerala Circle, PMG Junction, Near Planetarium, Thiruvananthapuram, Kerala – 695 033.

Disability: 60% Locomotor disability

Gist of Complaint:

Shri Rajesh K.R vide his complaint dated 12.07.2019 submitted that he has been working as Postal Department at Koodali P.O., Kerala. His both legs were disabled due to polio. He can walk only with the help of two Calipers and two crutches. He has been working as PA at Mamba Post Office and during the rotational transfer in 2019 he was transferred to Koodali P.O., Mamba P.O, 2 kms from his home while Koodali is 12 Kms away from his home. During the rotational transfer, he requested for exemption and to allow him to continue at Mamba P.O., but his request was rejected by the management. He appealed to CPMG Kerala to get the exemption in his transfer. But he was transferred to Koodali on 02.07.2019. He submitted that he registered a complaint in PG Portal on 25.06.2019 vide Regd. No. PMOPG/E/2019/0343243) and the same was closed on 08.07.2019 by saying that as per transfer guidelines, it is not possible to give him exemption. The complainant has requested for his posting at Mamba SO., Kerala.

2. No reply has been received from the Respondent.

Hearing :

4. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 06.10.2020.

5. The following persons were present during the hearing:

- 1) Mr. Rajesh K.R., the complainant.
- 2) Mr. Manoj Kumar, Director, Postal Services, Northern Region, Calicut, Kerala, on behalf of the respondent.

Both the parties were heard.

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6. The respondent informed and the position was confirmed by the complainant that the same matter is pending for a decision before the Kerala High Court in pursuance of an appeal against the decision of Central Administrative Tribunal, Kochi in favour of the complainant.

7. As the matter is sub-judice, the case is disposed off.

Date : 13.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities





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भारत सरकार/Government of India

Case No. 11351/1023/2019

Complainant : Shri A. Aswani Pothuraju, Office Superintendent, SSE/P, WAY/O/HPT Main Line, Hospet Post, Bellary Dist., Karnataka – 583201.

Respondent : The Divisional Railway Manager, South Central Railway, Divisional Office, Personnel Branch, Vijayawada – 520 001.

Gist of Complaint:

Shri A. Aswani Pothuraju vide his letter dated 17.07.2019 submitted that he had been appointed as Jr. Clerk during 2001 in UBL division of S.W. Railway(then S.C. Rly.). He has been facing issues as he is living far away from his native place. He applied for Inter railway request transfer in Sr. Clerk's Cadre to BZA Division of S.C.Rly. He had submitted IRRT application dated 06.08.2008. He was informed in reply to his RTI application that his transfer would be considered based on the vacancy position. Later on BZA division accepted the application but the same was not sent to S.W. Railway for further action. Further, BZA reviewed the matter and mentioned that there were no vacancy of Sr. clerk against DR quota to accommodate him. In the same letter Sr. DPO/BZA informed him that his IRRT application had been registered and was in priority no. 1. He had been asked to submit 'Fresh IRRT application' to process the case further. The other employees who had submitted the IRRT application were accepted by his establishment which shows clear negligence and violation of Railway Board guidelines.

2. The APO/Engg, South Central Railway vide letter no. SCR/P-BZA/222/3/EE/IRT/IDT/Vol.I dated 24.10.2019 submitted that Shri A. Aswani Pothuraju had sought Inter Railway request to BZA Division while working as Sr. Clerk on bottom seniority in any department. The CPO/SC vide letter no. SCR/P-HQ/221/EE/IRRT/Clerks dated 05.07.2013 along with the IRRT application of the said employee forwarded to their office advising to review the vacancy position and communicate the approval whether it is possible to accommodate the above named employee as Sr. Clerk in Civil Engineering Department, BZA Division. In reply it was conveyed to Hqrs that there is no vacancy existed in Sr. Clerk in Civil Engineering Department vide their office letter dated 03.09.2013. No communication was received from the Zonal Office in this regard. The competent authority DRM/BZA has agreed to accommodate Shri A. Aswani Pothuraju as Sr. Clerk in Level-5 in Civil Engineering Department, Vijayawada Division as there are vacancies in the category of Sr. Clerk vide letter no. SCR/P-BZA/222/3/EE/IRT/IDT/Vol.I dated 23.10.2019 and the same was sent to DRM(P)Hubli Division for further necessary course of action at their end.

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3. The complainant vide his rejoinder dated 11.12.2019 submitted that as mentioned in Respondent's letter dated 24.10.2019 his establishment once again reviewed his case and accepted his one way request transfer to BZA Division of S.C. Railway. He submitted that acceptance letter sent by DRM/Vijayawada on 23.10.2019 was received by DRM/HUBLI on 04.11.2019, but he was not relieved so far from Hubli Division. He submitted that instead of giving 'high support' to him, his inter railway request transfer was kept pending / neglected for more than 10 years by BZA Division of S.C. Railway. His parent Railway, i.e. Hubli Division of S.W. Railway is not relieving / delaying his transfer. He submitted that since last 10 years, he is living at his place of work alone without his family. Being a person with disability, he was in a very critical position and was finding difficulty in attending to day to day needs alone and he was not in a position to bring his wife to his work place as she has been suffering from mental health issues. He further submitted that all the ministerial staff from his Department who were relieved from Hubli Division of S.W. Railway are juniors to him and their request transfer application were also placed after his IRRT application. Due to the sheer negligence of Railway Administration his request transfer was not effected till date.

Hearing : 01.10.2020

4. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 01.10.2020.

5. The following persons were present during the hearing.

- 1) Mr. A. Aswani Pothuraju, the complainant.
- 2) Mr. Balaraju, Sr. Divisional Officer, on behalf of the respondent.

Both the parties were heard.

6. The request of the complainant who is 100% locomotor disabled for transfer from South West Railway to South Central Railway is genuine and should be considered by the respondent. The complainant informed that the South Central Railway had conveyed their acceptance for posting him there. However, his parent department i.e. South West Railway is not relieving him though many of his juniors have since been transferred from there. The rule position in respect of transfer of persons with disabilities as per Rights of Persons with Disabilities Act, 2016 is as under:

"Section 20.(5) - 'Non-discrimination in Employment' of the Rights of Persons with Disabilities Act, 2016 provides that the appropriate Government may frame policies for posting and transfer of employees with disabilities."

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As per the DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014, the persons with disabilities may be exempted from the routine/rotational transfers and to the extent possible, such persons should be retained at posts where they can contribute efficiently over a long period.

7. The Court observes that the complainant has been requesting for this transfer since the year 2008 and it has been more than ten years that his request has not been considered by the respondent.

Observation/Recommendations:

8. This Court recommends that the respondent may transfer the complainant as per his request within a period of three months from the date of receipt of these orders. A Compliance Report may be sent to this office within 90 days of receipt of these orders.

9. Accordingly the case is disposed off.

Date : 13.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities





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भारत सरकार/Government of India

Case No. 11419/1023/2019

Complainant : Shri Sandip Janardan Mandlik, Flat No.05, Kapeesh Park Phase-II, Behind Tuljabhawani Mandir, Telco Colony, Talegaon Dabhade Station, Pune, Maharashtra - 410 507.

Respondent : The Food Safety & Standards Authority of India (Through Chief Executive Officer), FDA Bhawan, Kotla Road, New Delhi - 110 002.

Gist of Complaint:

Shri Sandip Janardan Mandlik submitted that he has been working in Food Safety & Standards Authority of India (FSSAI) as a Technical Officer since 17.01.2013. His contract was being renewed along with eligible increments every year. After 31.12.2017, his contract has not been renewed on account of below benchmark evaluation by his reporting officer. He submitted that he has put in almost five years in FSSAI. He has applied against all the posts advertised by FSSAI vide advertisement dated 26.03.2019. He was to give Computer Based Test (CBT) as part of new recruitment process which was scheduled to be held on 24 & 25 of July, 2019. He has done M. Sc in Food Technology from CFTRI, Mysore and is also having almost more than five years of relevant experience on the date of notification of FSSAI (Recruitment and Appointment) Regulations, 2018. He was posted in Delhi during 17.01.2013 to 13.01.2016 and then he was transferred to Mumbai Regional Office where he served from 14.01.2016 to 31.12.2017. The applicant has been issued Show Cause Notice on 28.09.2017 for not doing initial scrutiny of the concerned document properly and for not doing his duty with due devotion/sincerity. The contract agreement of only the complainant has not been renewed beyond 31.12.2017. The complainant has requested for his reinstatement in FSSAI.

2. The Deputy Director, Food Safety and Standards Authority of India vide letter No. E.19020/05/2018-HR/808 dated 04.12.2019 submitted that the complainant was engaged on contract basis as Recruitment Regulations of FSSAI were under preparation. Since his performance as well as his conduct was not found to be upto the mark, the committee did not recommend extension of his contract beyond 31.12.2017. Further, the representations submitted by the complainant against termination of his contract were examined without any prejudice and a

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speaking order was passed by the competent authority on 06.07.2018. The appointment of the complainant was made on contract basis in FSSAI as Technical Officer as the RRs were not available to make regular recruitments. Thus his engagement on contract cannot be treated as regular appointment. So far as his transfer is concerned, it was ordered from Northern Region to Southern Region based on the request made by the complainant and subsequently he was posted to WR, Mumbai. The allegations made by the complainant were found to be baseless. The representations made by him in respect of the irregularities in sampling/inspection were investigated at the headquarter and no concrete substance was found the allegations, made by the complainant. The complainant has also raised the issue of integrity of the Authorised Officer. In this regard, it is clarified that some incriminating information against the AO was brought to the notice of the headquarter. In order to conduct a fair investigation in the matter, AO was transferred from WR, Mumbai to FSSAI headquarter, New Delhi. However, immediately after joining, AO proceeded on leave and also submitted a request for posting him back to WR, Mumbai on familiar grounds. His request was turned down and he was directed to report to the headquarter immediately. The AO complied with the direction and joined duty at the headquarter on 30.07.2018. After joining at the headquarter, AO again made a request for his transfer to Mumbai on the grounds of similar difficulties. The competent authority on re-consideration acceded to his request with the condition that he would not be entrusted with any sensitive work. The complainant has made the allegation of discrimination at the hands of AO but has not submitted adequate proof to support his claim.

3. The complainant vide his rejoinder dated 25.12.2019 submitted that he was engaged in FSSAI on contract basis by signing a Memorandum of Agreement (MOA) between him and FSSAI in which point number 1 of every Memorandum of Agreement whichever signed during complainant's services in FSSAI was described as 'Terms of reference' which clearly states that "the contractual employee will have to discharge the job responsibilities assigned by the authority competent in FSSAI and/or controlling/reporting officer of the contractual employee' and accordingly the complainant had discharged the job responsibilities dutifully from time to time. The complainant was engaged in FSSAI on contract basis on 17.01.2013 but complainant's contract was not renewed beyond 31.12.2017 only on account of below benchmark evaluation by his reporting officer. It has been stated by the Respondent/Competent Authority that the service contract of the complainant was not renewed due to some vigilance/integrity issues, which means either one or more than one or many more vigilance/integrity issues would have been observed by Respondent/Competent Authority against the complainant.



The complainant further submitted that the FSSAI is following the Government of India policy on reservation in services and accordingly provisions have been made in the RRs to extend the reservation benefits to all entitled categories, but when it comes to awarding basic right of allotting compensatory time of 20 minutes for every hour of the examination to the complainant than the abled persons/candidates it was not provided to the complainant. It indicates that FSSAI has not acted free and fair in respect of the complainant and wilfully neglected the complainant's basic right so that the complainant could not be benefitted from the said provision at any point during the said recruitment process of FSSAI. Accordingly, FSSAI deliberately not allotted said compensatory time while writing exam for the post of 'Assistant Director (Technical)', 'Central Food Safety Officer' and 'Technical Officer' whichever advertised by FSSAI through their advertisement vide Advt. No.DR-02/2019 dated 26.03.2019. He submitted that besides harassing the complainant mentally as well as physically, the complainant managed himself to qualify for the first stage of test for the post of Technical Officer and 'Central Food Safety Officer' within the same period of time as like abled persons/candidates whereas the complainant would have definitely obtained marginally higher marks than whatever he has achieved in the said exams if otherwise allotted with stated compensatory time to him/complainant. He submitted that the 'Recruitment Rules (RRs) have been notified on 01.10.2018 merely after a period of nine months post non-extension of contract of the complainant who already have dedicated the important years of his career to the FSSAI. The complainant submitted that he is still fixed on his statement that the consignment of Alkalized Cocoa powder was recommended for rejection but Authorized Officer directed him/to clear it out without raising any objections the complainant shall not follow what he has learned 'DELHI-NR' rather he shall follow what has assigned and directed here in 'MUMBAI-WR'.

Hearing :

4. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 01.10.2020.

5. The following persons were present during the hearing.

- 1) Mr. Sandip Janardan Mandlik, the complainant.
- 2) Mr. R.K. Jain, Executive Director, FSSAI, on behalf of the respondent.

Both the parties were heard.



6. The contention of the complainant was that because of his 80% locomotor disability his APAR was under-evaluated by his supervising officer. Further he did not follow the directions of his supervisor which were contrary to the rules of FSSAI, which caused antagonism and bridge in the supervisory officer leading to termination of his contract on 31.12.2017 after five years of working in FSSAI. He further stated that the inquiry/investigation which was conducted in this matter was done by the same supervisory officer and as such it was not a fair investigation. He was not given a chance to present his version of the matter to the respondent.

7. The respondent stated that there was no discrimination on the grounds of disability and the contract was terminated because it was found that the complainant did not do due diligence in a particular case of consignment which was to be rejected out rightly. As per the respondent, the case was investigated properly and decision to terminate the contract was taken at the level of Chief Executive Officer of the organisation.

Observation/Recommendations:

8. After hearing the submissions of both the parties and noting that the complainant is a technically qualified person though suffering from 80% locomotor disability and has worked for five years in the respondent's organisation. Giving the benefit of doubt to the complainant that the principle of natural justices was not followed in the investigation conducted by the respondent in terms of provision of Section 2(y) of the Rights of Persons with Disabilities Act, 2016 quoted as under:

"2(y) – "reasonable accommodation" means 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 equally with others."

9. This Court recommends that the respondent may give another opportunity to the complainant to present his case and consider for continuation of his contract, if found appropriate.

10. The case is accordingly disposed off.

Date : 13.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner for
Persons with Disabilities



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भारत सरकार/Government of India

Case No. 11583/1022/2019

Complainant : Shri N. Sridhar, No.15E, V.O.C 5th Cross Street, Kaikankuppam, Valasaravakkam, Chennai – 600 087.

Versus

Respondent : Chennai Petroleum Corporation Limited (Through the Chief General Manager (HR & Legal), 536, Anna Salai, Teynampet, Chennai – 600 018

Gist of Complaint:

Shri N. Sridhar, vide his complaint dated 23.09.2019 submitted that he is working as Manager in Chennai Petroleum Corporation Limited (CPCL) in Chennai. He has been promoted from the cadre of Manager of Maintenance Department to the post of Senior Manager. In his promotion order his placement was mentioned at Delhi Liaison Office. He submitted that this is injustice which will disturb him as he may not be able to take care of his son, a person with 50% disability. His son is pursuing 3rd year MBBS Course from a Government Medical College under Disability quota. He submitted that as per the policy of the government, he should have been treated under special provisions and should not have been transferred to any other location other than where his family resides. His daughter is studying in 11th standard. He submitted an application to the Chief General Manager (HR), CPCL to reconsider his posting and place him at Manali Refinery, but his request was rejected. Rather than considering his case under special provisions and post him to work at Refinery Chennai, the management took a decision to withdraw his promotion. The complainant has requested to intervene in the matter and uphold his promotion and to place him at Chennai so that he can continue taking care of his son with disabilities.

2. The Chief General Manager (HR & Legal), Chennai Petroleum Corporation Limited vide his letter no. HRD:05:802389 dated 03.12.2019 submitted that they had introduced a robust Performance Management System, namely electronics Performance Management System (e-PMS) in their company in 2008-09 and all officers have been using the e-PMS since then. The e-PMS has a provision for recording the mobility constraints by the officers during the self-appraisal phase. If an officer records 'Yes' for mobility constraints, the system asks for reasons like

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Dependents' education health and number of years etc.. As per the Promotion Policy, the promotion from Grade 'C' to Grade 'D' is vacancy based and the DPC select the candidates who are found suitable for that post. The Officer promoted under a particular vacancy had to occupy that position. As Shri Sridhar has not recorded the mobility constraints during the past and also in the last five years in the ePMS including the disability of his son, the details of his mobility constraints were not provided to DPC. The Respondent referred to the Clause SI. No.6.0 (ii) and (iii) of the Transfer Policy that stipulates that if an Officer on promotion is transferred to another location and does not join the new location within the specified date, the promotion shall become null and void and the Officer will not be considered for promotion for the next two years. The Management has the discretion to transfer any Officer to any location considering the operational requirement. However, considering the mobility constraint and as per the Special Provision Clause 2.0 V, they have re-considered the posting from DLO to Chennai. In view of complainant's not reporting at DLO, the Promotion Order had to be withdrawn as per the rules.

3. The complainant vide his rejoinder dated 02.03.2020 submitted that till his posting order was released on 23.07.2019, there was not a single occurrence of promotion order along with transfer order in the name of placement outside the place where an employee has been working. His case is the first case after introducing the system of ePMS in the year 2008-09 to release the promotion order with transfer order. As the complainant happened to be the elected Secretary of Chennai Petroleum Officer's Association since the year 2015, he has been engaged in discussion with the management to ascertain the vacancy but it was never spelt out by the management at any point of time that there was a vacancy for Grade 'D' Officer at DLO. Moreover, the promotion was also not offered based on any vacancy at DLO. Placement order was issued for him to report at DLO based on 'post promotion thought' of the management in spite of knowing his son's 50% locomotor disability and pursuing his MBBS degree. The complainant submitted that the disability of his son was informed and has been known to the organisation officially since his birth. He has been availing the medical facility available for the dependants of the employee. He has been availing the facility offered by his organisation since the birth of his son, i.e. 1998. He submitted that it is not fair on the part of the management to mention mobility constraint only in ePMS. He submitted that everyday himself or any one of his family members take care of his son while going to College and back to home. He considered taking care of his son's need as his priority. He could not accept the transfer order to Delhi and for this reason he has been penalized by withdrawing his promotion order and reverted to his old designation.

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Hearing :

4. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 06.10.2020.

5. The following persons were present during the hearing:

- 1) Mr. N. Sridhar, the complainant alongwith Mr. Vigneswaran, Advocate.
- 2) Mr. Isaac, Dy. General Manager (Personnel), on behalf of the respondent.

Both the parties were heard.

6. Shri N. Sridhar, the caregiver of a disabled son was promoted along with others in 2019 and posted out of Chennai to Delhi. On representing that he needs to continue in Chennai on the grounds of being a caregiver to a person with disability, the respondent stated that he would have to forego his promotion in case he does not join Delhi as per the transfer policy being implemented by the respondent. Accordingly, the complainant was forced to forego his promotion and continue at Chennai.

7. During the hearing, the complainant informed this Court two facts which were confirmed by the respondent:

(a) Complainant was one of the 24 persons who were promoted and out of these 24 persons only one i.e. the complainant was transferred to Delhi. All other 23 transferee officers were retained at Chennai.

(b) Till the date of this hearing, no one had been posted in Delhi against the vacancy caused by not joining of the complainant by foregoing his promotion..

8. With the above two undisputable facts, it is evident that is a clear case of harassment and discrimination to the complainant. He has been singled out for transfer on promotion despite his caregiver situation to be transferred to Delhi. The stand taken by the respondent that they did not know about the position of the caregiver is not acceptable, as the complainant has been working at Chennai office for many years and is availing of all the facilities admissible for a person with disabilities from the respondent.

9. In this respect the rule position as per Department of Personnel and Training, M/o Personnel, Public Grievances & Pensions, Govt. of India O.M. No.42011/3/2014-Estt.(Res) dated 08.10.2018, Para 3.(1) for caregiver are reproduced for information of the respondent:



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"Para 3.(1) – A Government employee who is a care-giver of dependent daughter/son/parents/spouse/brother/sister with Specified Disability, as certified by the certifying authority as a Person with Benchmark Disability as defined under Section 2(r) of the Rights of Persons with Disabilities Act, 2016 may be exempted from the routine exercise of transfer/rotational transfer subject to the administrative constraints."

10. In view of the position as in Para 7 which shows that there is no administrative constraint and the Rule position in Para 9, the respondent is recommended to restore the promotion of the complainant and retain him at Chennai itself as done in the case of other officers, so as to ensure there is no deliberate discrimination caused against any caregiver of a person with disability.

11. The case is disposed off.

Date : 13.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities



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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No:11617/1011/2019

वादी

R-23682 श्री सैयद ममनून अख्तर, महासचिव, ब्लाइंड वेलफेयर एसोसिएशन,
मकान नं: 56, गालिब बाग, गली नं: 13, जीवनगढ़, अलीगढ़।
ई-मेल <blindwelfareassociation2013@gmail.com>

प्रतिवादी

R-23683 रजिस्ट्रार, अलीगढ़ मुस्लिम विश्वविद्यालय, अलीगढ़, उत्तर प्रदेश।
ई-मेल <registrar.amu@amu.ac.in>

GIST of the Complaint:

प्रार्थी का अपनी शिकायत दिनांक 21.10.2019 में कहना है कि अलीगढ़ मुस्लिम यूनिवर्सिटी, दिव्यांगता अधिनियम के अनुसार 01 प्रतिशत आरक्षण दृष्टिबाधितों को ठीक ढंग से नहीं दे रही है चूंकि अभी तक केवल 07 दृष्टिबाधितों को Assistant Professor के पद पर यूनिवर्सिटी ने नियुक्त किया है इसके अतिरिक्त 11 दृष्टिबाधितों को चतुर्थ श्रेणी के पद पर नियुक्त किया। प्रार्थी का आगे कहना है कि सन् 2019 में Uni. Teacher के विज्ञापन में दृष्टिबाधितों के लिए 14 पद निश्चित किए गए जिसमें 09 पद ऐसे थे जिसमें दृष्टिबाधित अभ्यर्थी कार्य नहीं कर सकते, प्रार्थी ने निवेदन किया है कि दृष्टिबाधितों के लिए जो ऐसे पद आरक्षित किए गये हैं जिसमें दृष्टिबाधित कार्य नहीं कर सकते, उनकी जगह सामान्य विज्ञापन में ऐसे रिक्त पद दृष्टिबाधित अभ्यर्थियों के लिए आरक्षित किए जाए जिसमें दृष्टिबाधित कार्य करने पर सक्षम है तथा आयु सीमा में छूट व रियायत भी दिव्यांगजनों को दी जाए।

2. मामले को दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 03.01.2020 द्वारा प्रतिवादी के साथ उठाया गया। परन्तु स्मरण पत्र दिनांक 21.08.2020 के बावजूद प्रतिवादी ने कोई उत्तर/टिप्पण नहीं भेजे, इसलिए सुनवाई दिनांक 01.10.2020 सुनिश्चित की गई।

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 01.10.2020. The following were present:

- Shri Syed Mamnoon Akhtar – Complainant
- Dr. Farooq Hafeez, Assistant Professor on behalf of respondent



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3. The complainant reiterated his point of view and grievances as above. The respondent however, submitted its written version and informed that few positions in Geography, Chemistry, Applied Physics, Computer Engineering, Costume Designing, Pharmacology of these Departments has been reserved under VH category. The said posts in the following subjects has been reserved as per the provision of Notification of M/oSJ&E, GOI No. 16-15/2010-DD-III dated 29.07.2013 i.e. "if a post has duties and responsibilities similar to an identified post, that post should be construed to be identified. The Department and PSUs are free to identify more posts in their organization, over and above this. Further, submitted that due to preparation of Roster Register 2018, in accordance with the PwD Act, 2016 and Roster guidelines of M/oSJ&E some positions of the TGT/PGT has either been eliminated or interchanged to maintain the cyclic procedures provided in PwD Manuals. The brief summary of Roster as under:

Posts	Total strength	4% reservation	VH	OH	HH	e/d	Filled	Vacant
Asstt. Prof.	1066	43	14	18	NA	11 (e)	15	28
Associate Professor	394	16	05	06	NA	05 (e)	Nil	16
Professor	194	08	04	02	NA	02 (e)	01	07
School Teacher	393	16	06	05	NA	05 (e)	Nil	16
Total reserved posts		83	29	31	NA	23(e)	16	67

Observation/Recommendations:

4. After hearing the parties, the respondent is recommended to provide reservation to persons with benchmark disabilities in all vacancies strictly as per DOP&T's instructions contained in OM No. 36035/02/2017 – Estt. (Res) dated 15.01.2018 and the provisions under Section 34 of Rights of Persons with Disabilities Act, 2016:

Section 34.(1) Every appropriate Government shall appoint in every Government establishment, not less than four percent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one percent each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one percent for persons with benchmark disabilities under clauses (d) and (e), namely:-

(a) blindness and low vision;

(b) deaf and hard of hearing;



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(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) autism, intellectual disability, specific learning disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness by the appropriate Government from time to time:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability;

Provided that if the nature of vacancies in an establishment is such that a given category of persons cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit."

5. Keeping in view the reply submitted by the respondent and taking into considerations of complainant contention towards 1% reservation for persons with visual impairment, this Court recommends that necessary action may be initiated by the respondent under the aforesaid mentioned clauses of the Rights of Persons with Disabilities Act, 2016 and clear the backlog vacancies for persons with benchmark disabilities in general and persons with visual impairment in particular giving 1% reservation so that the vacancies do not lie unfilled for such a long period and the legitimate rights of persons with disabilities are taken care of.

6. The Respondent may also strictly follow the instructions of the Ministry of Social Justice and Empowerment regarding identification of posts for Persons with disabilities.

7. The Case is accordingly disposed off.

Dated: 13.10.2020




(Upma Srivastava)
Commissioner for
Persons with Disabilities



सत्यमेव जयते

Ex 29

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11627/1023/2019

वादी

R-23674

श्री सुरेश चन्द्र, उपमण्डल अभियंता, कार्या. प्रधानमहाप्रबंधक दूरसंचार, भासनिलि, राया टेलीफोन एक्सचेंज, मथुरा - 281204
ई-मेल <suresh.iitd@gmail.com>

प्रतिवादी

R-23675

अध्यक्ष और मुख्य प्रबंध निदेशक, कॉर्पोरेट कार्यालय, भारत सरकार निगम लिमिटेड, एच.सी. माथुरा लेन, जनपथ, नई दिल्ली - 110001
ई-मेल <cmdbsnl@banl.co.in> <bsnlestt.3@gmail.com>

वादी

40 प्रतिशत अस्थिबाधित

GIST of the Complaint:

प्रार्थी का अपनी शिकायत में कहना है कि वह वर्तमान में भारत संचार निगम लिमिटेड, मथुरा एसएसए के ग्रामीण क्षेत्र राया एसडीसीए में उपमंडल अभियंता पद पर तैनात है तथा पिछले 07 माह से उनसे सरकारी वाहन की सुविधा हटा ली गयी है जबकि अन्य कार्यालयों में वाहन सुविधा जारी है। प्रार्थी का आगे कहना है कि वह पूर्व में ही अपना ग्रामीण कार्यकाल पूर्ण कर चुके हैं फिर भी उन्हें जबर्दस्ती पुनः ग्रामीण सेवा हेतु स्थानांतरण कर दिया गया है। प्रार्थी का आगे कहना है कि उन्हें उच्चाधिकारी द्वारा शारीरिक एवं मानसिक रूप से टोर्चर किया जा रहा है

2. मामले को दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 12.12.2019 द्वारा प्रतिवादी के साथ उठाया गया। परन्तु स्मरण पत्र दिनांक 24.08.2020 के बावजूद प्रतिवादी ने कोई उत्तर/टिप्पण नहीं भेजे, इसलिए सुनवाई दिनांक 06.10.2020 सुनिश्चित की गई।

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 06.10.2020. The following were present:

- Mr. Suresh Chandra, the complainant.
- Mr. Anil Kumar, G.M. (HR), BSNL, UP West & Ms. Krishna Verma, BSNL, Mathura, on behalf of the respondent.

Observation/Recommendations:

3. Both the parties were heard.

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4. The complainant expressed the following four grievances:

- (i) Being humiliated, beaten up and abused by one Shri Jagmohan Meena in the presence of Shri Suryakant Agarwal, Chief General Manager in his office.
- (ii) Fear of life and safety and constant monitoring of his daily movement by Shri Suryakant Agarwal.
- (iii) Imposing the penalty of dies-non with break in service and consequent non-payment of salary without hearing the version of the complainant.
- (iv) Removal of government vehicle since last seven months.

5. Regarding the grievance at 4 (iv) the Respondent informed that the government vehicle have been reduced in number as per the policy decision taken in the organisation and the withdrawal of vehicle is not only for the complainant, but for other officers also.

6. Regarding 4(i) and 4 (ii) the respondent stated that they had no knowledge of any such incident of violence against the complainant as the complainant did not report this incidence which happened on 21.08.2019 to any higher authorities in BSNL.

7. This Court notes that the documentary evidence enclosed with the complainant's complaint shows that he has indeed informed the administration department seeking security for his life vide his letter dated 22.08.2019. Hence, the stand taken by respondent of being ignorant about any such happening is not found to be true.

8. Regarding 4(iii), it also appears that the principles of natural justice have not been followed as the Respondent maintained the stance that they have no role to play in such administrative action taken by the immediate supervisor.

9. This Court further notes that the respondent has failed to respond to the communications of this Court dated 12.12.2019 and 24.08.2020. On being asked as to why the respondent did not reply to these communications, a very casual reply from the GM (HR) Mr. Anil Kumar was made that perhaps they have sent the reply to Lucknow. The officers representing the Respondent did not take the trouble of preparing for the hearing by



examining all the facts of the case at hand. It is a very sad state of affairs that BSNL takes the Court of Chief Commissioner for Persons with Disabilities so lightly and does not bother to address the grievances of its employees with disabilities.

10. This Court brings to the notice of the respondent the legal position in the Rights of Persons with Disabilities Act, 2016 as under:

"Section 2.(y) – "reasonable accommodation" means 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 equally with others.

Section 7.(1) – The appropriate Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall –

- (a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;
- (b) take steps for avoiding such incidents and prescribe the procedure for its reporting;
- (c) take steps to rescue, protect and rehabilitate victims of such incidents; and
- (d) create awareness and make available information among the public.

Section 21.(1) – Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

- (2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

Section 23.(1) - Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the Chief Commissioner or the State Commissioner, as the case may be, about the appointment of such officer.

- (2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.



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(3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability."

11. The respondent shall take cognizance of the complaint dated 04.11.2019 made to this Court and inquire into the whole matter afresh including the beating incident and the imposition of Dies non, diligently following the due procedure. The incharge officer of BSNL, Mathura should also ensure that no person with disability including the complainant is treated badly by colleagues or superiors in his office. The name and all contact details of the Grievance Redressal Officer may be supplied to the complainant immediately.

12. The complainant is also advised to approach the Session Court in case of abuse and violence as per Sections 89 & 92 of the Rights of Persons with Disabilities Act, 2016 which states as under:

"Section 89. – Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Section 92. Whoever, -

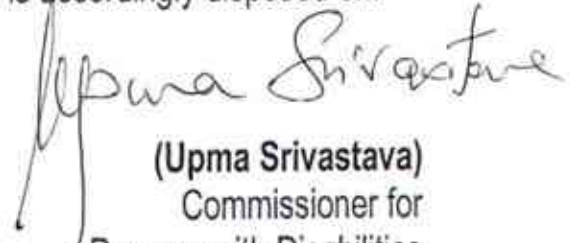
- (a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;
- (b) assaults or uses force to any person with disability with intent to dishonor him or outrage the modesty of a woman with disability;
- (c) having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;
- (d) being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;
- (e) voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;
- (f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability,



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(g) shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine."

13. A compliance report on action taken in pursuance of Para 10 above may be sent to this Court within 90 days of receipt of these orders. The Case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 13.10.2020





सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11647/1024/2019

Complainant : Shri S. Muthusivam, Flat No.1C, Charukesi Block, Doshi Symphony Housing Complex, 129, Velachery, Tambaram Main Road, Pallikaranai, Chennai-600100.

Respondent : Kendriya Vidyalaya Sangathan (Through The Commissioner), 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi – 110016.

Gist of Complaint:

Shri S. Muthusivam, a person with 60% locomotor disability vide his letter dated 14.11.2019 submitted that he retired as Deputy Commissioner(Finance) from Kendriya Vidyalaya Sangathan, New Delhi on 31.12.2017. KVS issued orders after his retirement on 03.01.2018 due to which his pay was revised retrospectively from the post of Accounts-cum-inspecting Officer(AIO) and up to the post of Deputy Commissioner(Finance) till the date of his retirement that is 31.12.2017. It also effected recovery of Rs. 6,80,454/- being an alleged excess withdrawal of pay and allowances from his gratuity amount of Rs. 10,00,000 on 14.05.2018 that is after his retirement.

2. The Respondent vide letter dated 24.02.2020 submitted that the complainant Shri S. Muthusivam submitted that KVS vide letter dated 11.07.2011 has accorded their approval for extending the benefit of fixation of pay under Fundamental Rule 49 of Shri S. Muthusivam who had been working as Accounts Officer at KVS, HQ, New Delhi for holding the additional charge of Accounts-Cum-Inspecting Officer in addition to his duties as Superintendent of Accounts at Regional Office, Mumbai for the period from 01.09.1989 to 15.08.1993. The matter was examined and it was found that after end of the period from 01.09.1989 to 15.08.1993, on 16.08.1993 his salary was fixed on the same basic pay on which he was working. On the approval of the competent authority on 01.09.1989, his salary had been again fixed as per Rule which had been done earlier before his retirement, i.e. 31.12.2017. Therefore, recovery of Rs.6,80,453/- was made from his Gratuity. On his application dated 15.05.2018, the competent authority found that earlier his pay fixation was wrongly done which was corrected by their O.M. dated 29.12.2017 and accordingly the complainant was informed vide office letter dated 24.10.2018.

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3. The complainant vide his rejoinder dated 21.07.2020 submitted that KVS has concealed the fact about the Pay fixation and arrear benefits extended to his senior Shri B.S. Nagaraja, Dy. Commissioner Finance (Retd.) in 2012. He got atleast 05 incremental benefits and consequent benefit of Pension till today. He may be drawing higher rate of pension of approximately Rs.5,000/- p.m.. KVS has taken no action till date for revision of either his Pay or pension. He submitted that if his pay revision is correct, then his pay also needs to be revised retrospectively including pension. KVS has also failed to mention in its reply about the refund or otherwise regarding the irregular recovery of 6.80 lakhs from his DCRG that too four months after his retirement. He retired on 31.12.2017. He submitted that KVS effected similar type of recovery from one Mrs. Cicily Ealias, ASO, Kendriya Vidyalaya Sangathan, RO Ernakulam in Novemebr 2016 (retirement month) and later on with the intervention of Hon'ble CAT Ernakulam (O.A. No.180/00228/2017-dated 11.07.2017(Z) and Hon'ble High Court of Kerala at Ernakulam (OP(CAT) No.249 of 2017(Z) dated 26.10.2017, the recovered amount was refunded by KVS to the aggrieved person after Judgment of Hon'be High Court of Kerala. This has also been concealed in the Respondent's reply dated 24.02.2020.

Hearing :

4. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 01.10.2020.

5. The following persons were present during the hearing.

- 1) Mr. S. Muthusivam, the complainant speaks on phone.
- 2) Mr. Anurag Bhatnagar, Asstt. Commissioner (Estt.I) and Mr. A.K. Srivastava, Asstt. Commissioner (Fin.), KVS, on behalf of the respondent, but could not connect due to technical reasons.

Observation/Recommendations:

6. The Court observes that this is a fit matter to be taken up by the complainant in appropriate Central Administrative Tribunal.

7. The case is disposed off.

Date : 13.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner for
Persons with Disabilities

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11661/1024/2019

Complainant : Shri Deepak V. Bhagade, Flat 1/Type-3, BSNL Quarters, Malviya Nagar, Khamla, Nagpur, Maharashtra - 440 025

Respondent : Department of Personnel & Training (Through the Secretary), Ministry of Personnel, Public Grievances and Pensions, North Block, New Delhi - 110 001.

Disability: Child suffering from 70% Autism.

Gist of Complaint:

Shri Bhagade submitted that his child is suffering from 70% severe Autism. His wife has taken up a course in Autism so that she can render the required services not only to her son but also to others suffering from Autism. She has been pursuing her D. Ed in Special Education (ASD) from New Delhi w.e.f. July 2019. Shri Bhagade works as a Junior Engineer with BSNL at Nagpur. In June 2019, he requested the Board of Directors, BSNL for grant of Child Care Leave so that he could look after his child in his mother's absence. As per DoP&T's Notification dated 11.12.2018, CCL is available for single male government servant. The notification defines Single Male Government Servant as an unmarried or widower or divorcee Government Servant. His representation was rejected by his establishment citing the reason that he is 'not a single male government servant' and hence not covered under the existing provisions. He further submitted that BSNL has rolled out a VRS package for its employees who are 50 years and above. Here also he falls short by 2 years. Otherwise he would have opted for VRS to care for his child. He submitted that over all these years, he has drained of his resources and is therefore unable to hire any help.

2. No reply has been received from the Respondent.

Hearing :

3. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 06.10.2020.

4. The following persons were present during the hearing:

- 1) Mr. Deepak V. Bhagade, the complainant on telephone.
- 2) Mr. Rajendra Prasad Tewari, Under Secretary, DoP&T, on behalf of the respondent.

Both the parties were heard.

5. The Court noted that as per Department of Personnel & Training, Govt. of India, the employees of BSNL are not Central Government employees and hence the Board of Directors/Governing Body of BSNL can take a decision in this respect.

6. Observing that Shri Bhagade is a single caregiver of a child suffering from 70% severe Autism, that he has no resources to hire a trained /specialized full time help and that the mother of the child is pursuing D.Ed in Special Education at Delhi to enable her to understand her child better, the respondent may consider one of the following interventions to reasonably accommodate the complainant:

(a) Allow the complainant to work from home as a special case for a period of two years till the complainant become eligible for applying for VRS.

(b) Offer VRS to the complainant two years earlier as a special case.

(c) As no due leave is available with the complainant, consider granting him Child Care Leave as a special case.

7. Any one of the options may be exercised by the BSNL taking into consideration the difficult situation of the complainant and help him in raising his child.

8. The case is disposed off.

Date : 13.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities





Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11670/1032/2019

Complainant:

Shri Gautam Lenka, P-6, Ocean Complex,
502, Noida Sector-18, Noida - 201301
District – Gautambuddh Nagar (UP)
Email – gautamlenka1978@gmail.com

Respondent:

Additional Commissioner (Acad), Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi – 110016; Email – kvs.addicacad@gmail.com

....Respondent No.1

Dy. Commissioner, Kendriya Vidyalaya Sangathan,
Regional Office, Agra, KV No. 2 Agra Cantt Campus,
Grand Parade Road, Agra Cantt., Agra – 282 001 (U.P.)
E-mail : dckvsroagra@gmail.com

....Respondent No.2

Principal, Kendriya Vidyalaya, Sector-24, Noida-201301,
Gautambuddhnagar (UP); Email: kvnoida02@gmail.com;

....Respondent No.3

Gist of Complaint

The complainant filed a complaint regarding providing free books, dress, shoes, transport etc. to his son, Master Manish Lenka, a child with 75% visual impairment, who is studying in Class-III (Section A) at Kendriya Vidyalaya, Sector-24, Noida, District-Gautambuddhnagar (UP) in terms of Section 17(g) of the Rights of Persons with Disabilities Act, 2016.

2. The matter was initially taken up with the Kendriya Vidyalaya Sangathan, Agra Region (KVS Agra Region) and with the Kendriya Vidyalaya, Noida (KV Noida). KVS Agra Region vide their reply dated 06.02.2020

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submitted that no detailed guidelines have been issued by KVS (Headquarters), New Delhi for providing facilities under Section 17(g) of the RPwD Act, 2016. KVS Agra Region vide reply dated 27.08.2020 further submitted that as per the letter dated 26.08.2020 received from KVS (Headquarters), New Delhi, this matter is under consideration to decide a policy/guidelines before the competent authority in the Ministry of Education. After receipt of the approval from the Ministry of Education, the policy/guidelines can be issued in this regard. KVS (Headquarters) had sought two months time.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 01.10.2020. The following were present:

- (1) Mr. Gautam Lenka, the complainant.
- (2) Mr. Mukesh Kumar, Principal, KVS, Noida alongwith Mrs. Indira Mudgil, Assistant Commissioner, KVS, on behalf of the respondent

Observation/Recommendations:

Both the parties were heard.

2. The complainant's case was regarding provision of free books, transport, uniform etc. to children with disabilities. This was in the context of his son studying in Class-III in KVS, Noida and suffering with 75% visual impairment.

3. The respondent explained that in KVS at present children with disabilities studying in Class-I & II are not charged any fee and children from Class-III onwards are charged only Rs.100/- per month as computer fee. The respondent further explained that under the Right to Education, 25% of students belonging to SC/ST/OBC/PwD/EWS children are admitted in Class-I to VIII and are provided free of cost books etc. At present there was no other policy in KVS to provide for any other free of cost facility to children with disabilities.



4. The respondent are directed to note the provisions of Section 31(1) & (2) of Chapter-VI of the Rights of Persons with Disabilities Act, 2016 which are reproduced as under:

"31.(1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.

(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years."

5. Further they are also directed to note the provision of Section 17(g) & (k) of Chapter-III of the Rights of Persons with Disabilities Act, 2016, which states:

"17(g) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years.

(k) any other measures, as may be required."

6. In view of these specific provisions of the Rights of Persons with Disabilities Act, 2016, the respondent are recommended to provide free education and books, learning materials, uniform etc. to all students with benchmark disabilities up to the age of eighteen years.

7. The case is disposed off.

Dated: 13.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner
for Persons with Disabilities



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extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11674/1141/2019

Complainants:

Shri Virender Kumar,

a person with 64% locomotor disability (Lower limb) &

Shri Kamal Deep, a person with 75% Cerebral Palsy,

(both students of University of Delhi)

A-112, J.J. Colony, Sector-7, Dwarka,

New Delhi – 110075; Email: viren555566@gmail.com;

Respondent:

The Managing Director,

Delhi Metro Rail Corporation Ltd.,

Metro Bhawan, Fire Brigade Lane,

Barakhamba Road, New Delhi-11000;

Email: mdmetro@dmrc.org

Gist of Complaint

The above named complainants, both students with disability, filed a joint complaint dated 14.11.2019 under the Rights of Persons with Disabilities Act, 2016 requesting that Delhi Metro Rail Corporation should consider providing free ride to persons with disabilities and if not possible then provide some concession in fare.

- On taking up the matter, Delhi Metro Rail Corporation Ltd. [DMRC] in their reply dated 19.02.2020 submitted that the fares of Delhi Metro are decided by a Fare Fixation Committee (FFC) constituted by Government of India under the provision of the **Metro Railway (Operations and Maintenance) Act, 2002**. Under this Act, the fare structure recommended by the FFC is binding on DMRC and DMRC has no right to change the fare structure as decided by the



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FFC. As per the fare structure decided by FFC, the DMRC passengers having Smart Cards are given 20% concession in fare.

3. The complainants in their rejoinder dated 14.09.2020 have submitted that DMRC should recommend the FFC for providing some special discount in fare for passengers with disabilities.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **06.10.2020**. The following were present:

- (1) Mr. Virender Kumar & Mr. Kamal Deep, the complainants
- (2) Gp. Capt. S.V. Kute, General Manager, DMRC, on behalf of the respondent

Observation/Recommendations:

Both the parties were heard.

2. The respondent informed that decisions about fare in Delhi Metro are as per the recommendations of the Fare Fixation Committee set up under the Delhi Metro Railway (Operation and Maintenance) Act, 2002. This Committee is constituted by the Ministry of Housing and Urban Affairs and serviced by Delhi Metro.

3. This Court recommends that Delhi Metro Rail Corporation Ltd. may place the agenda of a favourable decision for persons with disabilities in Delhi Metro for its favourable recommendation.

4. The case is disposed off.

Dated: 13.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner
for Persons with Disabilities

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सत्यमेव जयते

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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11693/1024/2020

Complainant: Shri Chandrakant C Mistra, R/o B - 20, Sahakar Nagar, Near Satya Sai Baba Temple, Mahakali Caves Road, Andheri (East), Mumbai - 400093
E-mail: cmishra846@gmail.com

Respondent: The Additional Commissioner of Income Tax (HQ), Personnel, O/o Principal Chief Commissioner of Income Tax, 3rd Floor, Aayakar Bhawan, M.K. Road, Mumbai - 400020
E-mail: MUMBAI.dcit.hq.pers@incometax.gov.in

Complainant 59% locomotor disability

GIST OF THE COMPLAINT:

Complainant suffers from disability of Permanent nature which is an undisputed fact. In spite of this fact the percentage of his disability has been determined differently 6 times. He was appointed against the vacancy reserved for PwDs. Certificate of Disability produced by him at the time of appointment described his disability as exceeding 40%. Later on, same institute which certified his disability percentage as exceeding 40% certified his disability as 25%, and 30% on different occasions. Other institutes, defined his disability percentage as 40%, 50% and 59%. Complainant also claims that he holds UNIQUE DISABILITY ID, as per which his disability percentage is 59%.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 13.10.2020. The following were present:

1. Complainant: Complainant in person; Adv. Rajeev Kumar
2. Respondent: None for the Respondent

RELIEFS SOUGHT:

1. Restoration of Disability Status.
2. Refund of Disability Allowance deducted from the salary of the Complainant.

OBSERVATION & RECOMMENDATIONS:

Section 2(t) of the Persons with Disability Act, 1995 defined 'person with disability' as a person suffering from not less than 40% disability as certified by the medical authority. Further Section 2(p) of the same Act defined 'medical authority' as any hospital or institution specified as such by the appropriate government.



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RPwD Act, 2016 defines term Persons with Benchmark Disability in Section 2(r) as a person suffering from not less than 40% disability as certified by the certifying authority. Section 2(e) defines certifying authority as authority designated as such under Section 57. Further, Section 57 empowers appropriate government to designate a person as certifying authority.

Hence, apart from numbers, definition of PwD in both Acts is same, i.e. person with more than 40% disability certified by the certifying authority (2016 Act) or medical authority (1995 Act).

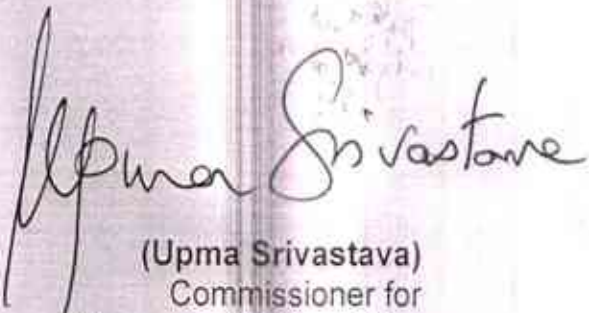
Therefore, it is certain from relevant provisions of both the Acts that certifying authority/medical authority is the competent authority to determine percentage of disability.

In the present case, Complainant was appointed against the post reserved for PwDs. Hence, the disability certificate he produced at the time of appointment must have been issued by the competent authority. Respondent has failed to present any legal provision or rule or regulation or by-law which enables the Respondent to conduct 'Post Offer Functional Employment Test'. It is absurd that the Complainant is subjected to disability test again and again.

Hence this court makes following recommendation :-

- a. Respondent shall restore the disability status of the Complainant.
- b. Respondent shall restore the Disability Allowance of the Complainant.
- c. Respondent shall refund the amount of Rs. 15,600/- which was recovered from the salary of the Complainant by Certificate dated 30.05.2012.

The case is accordingly disposed off.


 (Upma Srivastava)
 Commissioner for
 Persons with Disabilities





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Extra 3

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11766/1021/2020

Complainant: Shri Anil Biswas, House No. D - 37, P - 3 Sector, Greater Noida - 201310

R.2367

E-mail: <pbiswas182.pb@gmail.com>

Respondent: The Chairman & Managing Director, Engineers India Ltd, El Bhavan, 1, Bhikaji Cama Place, New Delhi - 110066

R.2367

E-mail: <gopa.pradhan@eil.co.in> <subhendu.jena@eil.co.in>

Complainant: 46% locomotor disability

GIST of the Complaint:

Complainant in his complaint submitted that he had joined Engineers India Ltd (EIL) on 07.01.1994 as Senior Engineer (Mechanical) at Construction Site, KBPL, Jaipur and while on duty, he met with a road accident on 23.02.1995 and he became 46% Divyang. Thereafter, he was transferred to EIL Head Office, New Delhi on 24.12.1995 on Medical Ground. He further submitted that he was last promoted in 2012 as Asstt. General Manager (Level 17) which is now re-designated as Dy. General Manager by the Company but his promotion to next level as General Manager (Level 18) has been denied by EIL.

2. The matter was taken up with the Respondent vide letter dated 19.02.2020 under Section 75 of the Rights of Persons with Disabilities Act, 2016.

3. In response, Chief General Manager (HR), Engineers India Ltd vide letter dated 12.05.2020 inter-alia submitted that promotion from Dy. General Manager (Level 17) to General Manager (Level 18) posts are based on the number of vacancies and effected in order of merit-cum-seniority. The merit order is drawn on the basis of appraisal ratings, seniority and assessment by the Promotion Committee. As per Govt. Directives, the criteria for promotion are kept same for all categories of employees including PwD (Divyangjan)



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

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

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

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

category employees without any discrimination. Shri Anil Biswas joined EIL on 07.01.1994 and he has always been promoted in Minimum Qualifying period upto the post of Assistant General Manager (redesignated to Dy. General Manager). They further submitted that Shri Biswas did not meet the requisite cut-off marks computed based on the ratings of latest three appraisal years, seniority and assessment by the Promotion Committee, he was not recommended for promotion by the Promotion Committee. Shri Biswas had submitted a representation against non-promotion in 2017-18 but the Committee consisting of CMD & Functional Directors did not recommend him for promotion to higher level.

4. After considering the respondent's reply dated 17.08.2020 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 **06.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **06.10.2020**. The following were present:

- Mr. Anil Biswas, the complainant.
- Ms. Smitha Sehgal, AGM (Legal), Mr. Subendu Kumar Jena, Sr. Manager (HR) and Ms. Gopa Swain, GM, on behalf of the respondent.

Observation/Recommendations:

5. Both the parties were heard.

6. Primarily the main complaint of the complainant was regarding non-promotion to the post of General Manager on grounds of his appraisal rating being reduced because of his disability.

7. The respondent have stated that Shri Biswas has never submitted representation against reducing his appraisal ratings prior to the time of consideration for promotion and that in the past all promotions of the complainant have been done in the minimum qualifying period. The respondent further expressed that not all officers eligible for promotions are promoted each time, a large number of officers are not recommended by the Promotion Committee on grounds of non-fulfilment of criteria for promotion which is same for all categories without any discrimination for persons with disabilities. During the process of hearing, Shri Biswas raised the following two other grievances:-



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- (a) Not being provided Double Transport Allowance as per revised rates, and
- (b) Being posted at Gurgaon, which is very far from his home Greater Noida and not being considered for posting to a closer office located at Bhikaji Cama Place, R.K. Puram, New Delhi.

8. The respondent stated that the complainant never represented to them regarding difficulties in commuting to Gurgaon and that he was transferred alongwith a group of officers to Gurgaon. Regarding the payment of Double Transport Allowance, the respondent stated that they are awaiting the advice of the Department of Public Enterprises in this matter.

9. The rule position in respect of transfer of persons with disabilities as per the Rights of Persons with Disabilities Act, 2016 is as under:

"Section 20.(5) - 'Non-discrimination in Employment' of the Rights of Persons with Disabilities Act, 2016 provides that the appropriate Government may frame policies for posting and transfer of employees with disabilities."

As per the DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014, the persons with disabilities may be exempted from the routine/rotational transfers and to the extent possible, such persons should be retained at posts where they can contribute efficiently over a long period.

10. The rule position in respect of Double Transport Allowance, as per the Department of Expenditure, Ministry of Finance, O.M. No.21-1/2011-E.II(B0 dated 5th August, 2013 is as under:

".....Double Transport Allowance shall be allowed to an orthopedically Handicapped Government employee if he or she has a minimum of 40% permanent partial disability of either one or both upper limbs or one or both lower limbs OR 50% permanent partial disability of one or both upper limbs and one or both lower limbs combined....."



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11. In view of the aforesaid rule positions, this Court recommends transferring the complainant to Head Office, Bhikaji Cama Place, R.K. Puram, New Delhi and payment of Double Transport Allowance as per eligibility.

12. In view of the above, the case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 13.10.2020



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सत्यमेव जयते

Extra

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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11784/1023/2020

Complainant: Shri Joginder Kumar, House No. 71-P, Sector - 27,
Panchkula, Haryana.
E-mail: joginder.kamboj@rediffmail.com

Respondent: The Chairman, Syndicate Bank, Manipal, Udupai Distt.,
Karnataka
E-mail: lovelywilson@canarabank.com

Disability Percentage: 75% locomotor disability

GIST of the Complaint:

1. Complainant has claimed that he is a permanent employee in Respondent Bank and Bank passed an unlawful unreasonable order dated 01.01.2018, whereby he was suspended. On 26.10.2018, he received letter of imputation of charges. Further, he received detailed charge sheet on 12.01.2019. A detailed inquiry was conducted from 29.07.2019 to 31.07.2019 by the Bank. Subsequently, in consequence of the proceedings, he was punished by reducing two levels of pay scale. Complainant has sought relief to exonerate him from all charges and restore his pay scale after setting aside the punishment imposed upon him.
2. Respondent vide letter 04.05.2020 inter-alia submitted that complainant was always posted at Branch of his choice and punishment was imposed on him after following due process.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 13.10.2020. The following were present:

1. Complainant: Complainant in Person
2. Respondent: Mr. Manu Pandey, AGM, Canara Bank, H.O.

Both the Parties were heard

OBSEVATIONS & RECOMMENDATIONS:

1. Two main points of contention which emerge after perusal of documents submitted by the both the complainant and the respondent and on the basis argument presented during hearing. First, suspension and second, transfer of the complainant.



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2. Complainant is alleged that he has been wrongly suspended in consequence of unfair disciplinary proceedings conducted against him. He further submits that he made several representations against the suspension order. However, concerned authorities gave deaf hearing and rejection is representations. During the proceedings Respondent submitted that the Complainant can take recourse of filing appeal/review against the suspension Order. It was submitted that such recourse could be taken within 6 months from the date of rejection which was 12.02.2020.
3. Complainant also raised contention that he has been discriminated against because disciplinary proceedings conducted against him were void of principle of natural justice. This court concludes that under light of section 75 of Rights of Persons with Disabilities Act, 2016, it is beyond the jurisdiction parameters of this court to test the correctness and validity by disciplinary proceedings conducted against the complainant.
4. On the issue of filing of appeal/review before higher authority and issue pertaining to transfer, this court recommends following -
 - a. Complainant application before concern authority was rejected on 12.02.2020. As per submissions made during online proceedings, appeal/review could be filed within 6 months from the date of rejection. Considering the extraordinary situation created because of CoVid-19 pandemic and condition of disability of the complainant, this court recommends that 6 months from the date of rejection, i.e. 12.02.2020 shall be waived by the respondent and opportunity shall be granted to the complainant to file reviewing /appeal before the higher authority. Further it is recommended that the concerned appellate/reviewing authority shall decide such appeal/review as per the bank's policy applicable.
 - b. On the issue of transfer, it was informed during the proceedings that presently the complainant is posted in his hometown as per his wish. Therefore, no recommendation is issued on his issue.

The case is accordingly disposed off.


 (Upma Srivastava)
 Commissioner for
 Persons with Disabilities



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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No:10630/1014/2018

Complainant: Shri A. Madhab Chandra Patro, At/PO Jagadal Pur (Netaji Nagar), Via
– Nimakhands (Bam), Dist. – Ganjam, Odisha - 761001

R-23759

E-mail: <amadhabchandrapatro@gmail.com>

Respondent: The Director, Swami Vivekanand National Institute of Rehabilitation
Training & Research (SVNIRTAR), Olatur, P.O. Bairoi, Distt. – Cuttack,
Odisha – 754010

R-23760

E-mail: <svnirtar@gmail.com1>

GIST of the Complaint:

Complainant vide complaint dated **26.11.2018** submitted that Director, SVNIRTAR has illegally appointed a person against the post of Pipe Fitter Gr-2.

2. The matter was taken up with the Respondent vide letter dated **06.02.2019** under Section 75 of the Rights of Persons with Disabilities Act, 2016.

3. In response, Director, SVNIRTAR vide letter dated **20.03.2019** has submitted that Sri Madhab Ch. Patro was a candidate for the post of Pipe Fitter Gde-II for which the candidate attended the interview on 16.10.2003. The post was not reserved for PwD and total 10 numbers of candidates attended the interview. As per the selection board proceeding held on dated 16.10.2003 and Sri Pradeep Kumar was selected in the merit list, accordingly, he was issued offer of appointment and he joined on 06.11.2003 in the post of Pipe Fitter Gde-II.

4. After considering the respondent's reply dated **20.03.2019** 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 **09.10.2020**.



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Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **09.10.2020**. The following were present:

- Mr. A. Madhab Chandra Patro, the complainant.
- Dr. S.P. Das, Dy. Director, SVNIRTAR, on behalf of the respondent

Observation/Recommendations:

5. Both the parties were heard.

6. The Court noted that the same grievance of the complainant had been heard on 09.08.2007 and orders were passed on 03.09.2007. **A copy of those orders is enclosed with the present orders of this Court.**

7. The respondent expressed that they had no knowledge about the orders dated 03.09.2007, therefore, the question of their implementation does not arise.

8. The Court notes with deep disappointment that an institute which actually deals with rehabilitation of persons with disabilities is so grossly inefficient in maintaining records.

9. This Court in agreement with the orders passed in 2007 recommends that the respondent may implement all the directions as contained in Para 11 a., b., c. & d. of the orders dated 03.09.2007.

10. A compliance report of implementation of directions may be sent to this court within 90 days of issue of these orders.

11. The case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 14.10.2020





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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11223/1023/2019

वादी श्री सुनील कुमार, पुत्र श्री रघुनन्दन पासवान, बी - 143, एन.एफ.एल.
टाऊनशीप, बटिडा, पंजाब - 151003
ई-मेल <devisinghbanjara@gmail.com>

प्रतिवादी अध्यक्ष एवं प्रबन्ध निदेशक, नेशनल फर्टिलाइजर्स लिमिटेड, स्कोप
कॉम्पलेक्स, कोर-III, 7 संस्थागत क्षेत्र, लोधी रोड नई दिल्ली -
110003
ई-मेल <kush@nfl.co.in> <cmd@nfl.co.in>

GIST of the Complaint:

प्रार्थी का अपनी शिकायत दिनांक रहित में कहना है कि वह सन् 2011 में Tech Gr - V के पद पर नेशनल फर्टिलाइजर्स लिमिटेड, बटिडा में शामिल हुए और तब से ही उच्च अधिकारी उनको कभी CISF कॉलोनी में मीटर रीडिंग के लिए कहते हैं जो कि एक किलोमीटर दूर है और कभी 36 मीटर ऊपर बॉयलर पर चढ़ने का कार्य देते हैं। प्रार्थी का आगे कहना है कि उनको डराया धमकाया जाता है कि सी.आर. खराब कर देंगे, स्थानांतरण कर देंगे।

2. मामले को दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 20.06.2019 द्वारा प्रतिवादी के साथ उठाया गया।

3. प्रबंधक (मा सा), नेशनल फर्टिलाइजर्स लिमिटेड ने ई-मेल दिनांक 01.10.2020 द्वारा जवाब दिनांक 17.09.2019 की प्रति संलग्न की है जिसमें कहा गया है कि श्री सुनील की शारीरिक सीमाओं को ध्यान में रखते हुए, प्रबंधन द्वारा उन्हें बेहतर कामकाजी वातावरण प्रदान किया गया है उन्हें टेंस्टिंग लैब का कार्य सौंपा गया है जिसको वह वातानुकूलित वातावरण में कर रहे हैं और न तो CISF कॉलोनी की मीटर रीडिंग का कार्य सौंपा गया और ना ही कभी बॉयलर प्लांट में पोस्ट किया गया है तथा वर्ष 2018 में उन्हें Engg. Asstt. Gr.III के रूप में पदोन्नत किया गया है।

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 09.10.2020. The following were present:

- Mr. Sunil Kumar, the complainant.
- Mrs. Jaya Dikshit, GM (HR), on behalf of the respondent.

(Signature)



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Observation/Recommendations:

4. Both the parties were heard.
5. The complainant informed that though he was been posted in Laboratory of NFL yet from time to time he has given field duties like going to CISF Colony for meter reading, for cleaning the magnetic valve filter of dehydration machine, to climb up to the Boiler Plant, to work on the first floor of Ammonia Plant etc. He is also harassed by his supervisor Shri Gulshan Kumar, Dy. Manager. Because of difficulty in walking, he is unable to perform these duties properly and is humiliated consequently by the supervisors.
6. The respondent expressed that they had no knowledge about these issues raised by the complainant and would definitely look into the grievances empathetically.
7. The rule position regarding reasonable accommodation as per Section 2 (y) of the Rights of Persons with Disabilities Act, 2016 is reproduced as under for information of the respondent:

"Section 2.(y) – "reasonable accommodation" means 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 equally with others.
8. In view of the above, this Court recommends that the complainant may be given the work where he could work efficiently over a long period of time at one place.
9. The Case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 14.10.2020



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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11227/1023/2019

Complainant : Shri Manish Gautam, Dy. Director (Legal), Association for the Rights of Disabled Persons, BK 2/94, Shalimar Bagh, Near Railway Reservation Counter, Delhi-110088.

Respondent : The Registrar General and Census Commissioner of India, NDCC-II Building, Jai Singh Road, New Delhi - 110 001.

Gist of Complaint:

Shri Manish Gautam, Dy. Director (Legal), Association for the Rights of Disabled Persons vide his email dated 10.06.2019 submitted that the Office of Registrar General of India and Office of Census Commissioner of India were continuously over ruling, avoiding, deviating and neglecting the existing DoP&T OMs in giving good working environment to persons with disabilities and also by not providing certain basic facilities like accessible office building or barrier free environment at work places, Choice based place of posting, exception from rotational transfer postings, effective grievances redressal cell, disabled friendly toilet/rest room, basic accommodation, separate pwd roster on cadre strength etc as per provision of DoP&T O.M. dated 31.03.2014 and RPwD Act, 2016. He submitted that their Association has requested several times to the Office of Registrar General and Controlling Officers of several Directorates to provide such basic facilities and not just neglect the existing DoP&T OMs. Employees with disabilities are facing moral degradation in performing their responsibilities/duties because of the biasness, harassment, threats etc. He submitted that there are several other administrative corruptions like favouritism in transfer posting, promotion, preparation and upgradation of seniority, TA Bill etc.

2. The Under Secretary, Office of the Registrar General, India vide letter No. 13014/11/2017-LC/1109 dated 04.09.2019 submitted that out of the 35 offices (34 Directorates and ORGI) 15 offices are having own building for which CPWD is doing maintenance. Under accessible India Campaign, CPWD have submitted estimates for making the building accessible for persons with disabilities. Their office had given financial approval and the work by concerned is in progress. The construction of office building at four locations is in progress and CPWD/Implementing agency are following the norms of disable friendly building. Eight offices are working from CPWD buildings /CGO complex and the norms of disable friendly building is being followed by CPWD.

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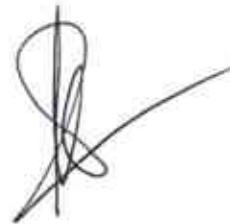
Remaining eight offices are running from private rented /State Government buildings. Out of these some DCO's have already communicated to the concerned State governments to take up the matter for making the office building accessible for persons with disabilities. As far as Grievance Redressal Cell is concerned, the Grievance Redressal Cell is available in ORGI. The Respondent submitted that any petitioner is free to lodge their grievance and the same is forwarded to the concerned section/DCO by the nodal grievance cell and all grievances are disposed timely. The PwD Register for Group 'A' and 'B' posts is already maintained in ORGI. The Respondent submitted that on the date of requisition for filling up of 42 Group 'A' posts, DoP&T instructions OM No. 36035/3/2004-Estt(Res) dated 29.12.2005 were in existence for which following cycle of 100 points divided into blocks comprising the following points :

- i) 1st Block - 1 to 33
- ii) 2nd Block - 34 to 66
- iii) 3rd Block - 67 to 100

As per the said DoP&T instructions, one point was reserved in the roster for points for 1 to 33, the 2nd points was to be filled in the cycle of 34 to 66 point by recruitment of other posts in Group 'A'. It is stated the PwD register roster is maintained group wise not post wise. As regards threat to the employees with disabilities from the Under Secretary level Officers to harm him/her or destroy his or her career, no such incident has come to the notice of their office.

3. The complainant vide his rejoinder dated 21.01.2020 submitted that the ORG Officers were giving excuses that the remaining eight offices are running on private buildings. He submitted that representatives of their association visited many states and it was seen that the basic facilities for persons with disabilities were absent in most of the DCOs except in West Bengal. The Officers of these DCOs are completely insensitive towards employees with disabilities. The complainant wishes to know if the name of the Grievance Redressal Officer has been displayed at the office entrance of the Respondent and also at their website? if the Grievance Redressal Officer has maintained any grievance register?, the total number of grievances registered till date with complete details and its investigation procedure adopted etc. As regards the reservation roster, the complainant submitted that he wished to know from the Respondent if any separate reservation roster for pwds has been maintained by them.

Hearing : The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 09.10.2020.



4. The following persons were present during the hearing ;

- 1) Mr. Manish Gautam, the complainant.
- 2) Mr. M.K. Chaudhary, Dy. Secretary, RGI, on behalf of the respondent, but could not connect due to technical reasons.

5. The complaint of the complainant is primarily concerned with the implementation of the provisions of the Rights of Persons with Disabilities Act, 2016 and DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014 entitled "Guidelines for providing certain facilities in respect of persons with disabilities who are already employed in Government for efficient performance of their duties", in the O/o the Registrar General & Census Commissioner, India, specially para 2.D which states as under:

"D. Accessibility and barrier free environment at work place In addition to the guidelines for modification in all public buildings including Government offices to provide easy accessibility and barrier free environment for PWDs as per the provisions of the PWD Act, all Government offices should take special steps to provide barrier free and accessible work stations to PWD employees, access from main building entrance to their work stations and access to common utility areas such as Toilets, canteens etc. Lifts/elevators should be made accessible by providing Braille signage and audio outputs. Wherever required, suitable colour contrast may also be made available in buildings, utilities, staircases, etc. for the benefit of low vision employees"

6. The respondent in his reply stated that they have started implementation of the provisions of the Rights of Persons with Disabilities Act, 2016 though it may take some time for all buildings of the RGI to be fully accessible for persons with disabilities.

Observations and Recommendations :

7. This Court recommends as under:

- (i) The senior management of RGI Headquarters, New Delhi may hold a meeting with the members of the Association for the Rights of Disabled Persons to discuss and understand their specific problems which will lead to better resolution of the grievances of persons with disabilities.
- (ii) To appoint a Grievance Redressal Officer as per provisions of Section 23 of the Rights of Persons with Disabilities Act, 2016, which reproduced as under:

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"Section 23.(1) - Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 and shall inform the Chief Commissioner or the State Commissioner, as the case may be, about the appointment of such officer.

(2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.

(3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability."

- (iii) The management may organize a sensitivity campaign in all offices of the RGI across the country which will ensure that the number of grievances of persons with disabilities will be reduced to a large extent.
- (iv) Strictly follow the provisions of the Rights of Persons with Disabilities Act, 2016 in letter and spirit.

8. The case is disposed off.

Dated: 14.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

Case No. 11236/1022/2019 भारत सरकार/Government of India

Complainant : Shri Pramod Kumar Sinha, Manager, State Bank of India, SCAB, Patna.
Patna Main Branch Building, Patna-800001.

Respondent : The State Bank of India (Through the General Manager-I), 5th Floor, LHO,
West Gandhi Maidan, Patna – 800001.

Gist of Complaint:

Shri Pramod Kumar Sinha vide his email dated 12.06.2019 submitted that his son Sneh is a child with 90% Cerebral Palsy. The child is 18 years of age. He cannot either speak, stand on his feet and also cannot recognise any person. He cannot even demand for meal and water. He has to be taken care of all the time. His wife is unable to take care of his son alone. Daily physiotherapy is must for the survival of the child. Therefore, the child is under permanent treatment of one Dr. (Col.) S.K. Jha and Physiotherapist Dr. Jaidev Kumar Pandit in Patna. Presently Mr. Sinha is posted at Patna Centre and is now been transferred to Bettiah Branch. He has already given his representation to his establishment to post him at Patna Centre to take care of his son and to discharge Bank's work conveniently. But his representation is still pending and he was going to be relieved on 21.06.2019. The complainant has requested to arrange to post him at Patna Centre so that he can take care of his needy child.

2. No reply has been received from the Respondent.

Hearing : The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 09.10.2020.

3. The following persons were present during the hearing ;

- 1) Mr. Pramod Kumar Sinha, the complainant on telephone.
- 2) Mr. Mayank Shekhar, Asstt. General Manager (HR), on behalf of the respondent.

Both the parties were heard.

4. The complainant informed that he is presently posted in Betia, but his family continues to stay at Patna alongwith his disabled son. He is a primary caregiver and wants to be with his son at Patna only.

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5. The respondent informed that the complainant has been transferred to Betia after eight years of stay at Patna in terms of Transfer Policy of the Bank and the written replies of the Bank in this matter have been sent to this Court on 19.09.2019 and 18.01.2020.

Observations and Recommendations:-

6. For the information of the respondent, Section 2.(d) of the Rights of Persons with Disabilities Act, 2016 reproduced as under:

"Section 2.(d) – "care-giver" means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability."

7. In this respect the rule position as per Department of Personnel and Training, M/o Personnel, Public Grievances & Pensions, Govt. of India O.M. No.42011/3/2014-Estt.(Res) dated 08.10.2018, para 3.(i) for caregiver is also reproduced as under for information of the respondent:

"Para 3.(1) – A Government employee who is a care-giver of dependent daughter/son/parents/spouse/brother/sister with Specified Disability, as certified by the certifying authority as a Person with Benchmark Disability as defined under Section 2(r) of the Rights of Persons with Disabilities Act, 2016 may be exempted from the routine exercise of transfer/rotational transfer subject to the administrative constraints."

8. In view of the above, this Court recommends that the respondent may transfer complainant back to Patna where he can take care of his son.

9. The case is disposed off.

Dated : 14.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11277/1014/2019

वादी

R-23757 श्री नवीन कुमार निराला, एसटीए, क्षेत्रीय कार्यालय, सड़क परिवहन एवं राजमार्ग मंत्रालय, डीसीएम, अजमेर रोड, जयपुर - 302019
ई-मेल <niralacc@gmail.com>

प्रतिवादी

R-23758 अध्यक्ष, रेलवे भर्ती बोर्ड, गुवाहाटी स्टेशन रोड, गुवाहाटी - 781001
ई-मेल <crrb-as@nic.in>

वादी

40 प्रतिशत श्रवण बाधित

GIST of the Complaint:

प्रार्थी का अपनी शिकायत में कहना है कि उन्होंने केन्द्रीय विज्ञापन सं० 02/2014 के तहत जूनियर इंजीनियर (वर्क्स एवं ड्राइंग व डिजाइन) के लिए ओ.बी.सी. के अंतर्गत रेलवे भर्ती बोर्ड, गुवाहाटी हेतु ऑनलाइन आवेदन दिया तथा लिखित परीक्षा उत्तीर्ण होने के बाद, प्रार्थी को दिनांक 19.12.2015 को कागजात सत्यापन के लिए बुलाया परन्तु प्रोविजनल पैनल में उनका नाम शामिल नहीं किया गया। प्रार्थी का आगे कहना है कि सूचना के अधिकार अधिनियम के तहत उन्हें मालूम हुआ कि उन्हें लिखित परीक्षा में 56.75 अंक प्राप्त हुए परन्तु प्रार्थी द्वारा ओबीसी प्रमाण पत्र एक साल से ज्यादा पुराना होने के कारण प्रार्थी को ओबीसी श्रेणी से अनारक्षित श्रेणी में माना गया।

2. मामले को दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 11.07.2019 द्वारा प्रतिवादी के साथ उठाया गया।

3. Assistant Secretary, RRB vide letter 24.10.2019 submitted that Shri Navin Kumar had applied for the posts of JE/Works and JE/Drawing/Drawing & Design (Civil) and in the application, the candidate had mentioned his community as OBC. On being successful in the written examination held on 14.12.2014, the candidate was called for Document Verification. On checking the document of Shri Navin Kumar Nirala at the time of DV, it was found that OBC certificate submitted by him was dated 12.12.2009, which was older than



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one year as has been mentioned in the CEN. As such, Shri Navin Kumar Nirala was treated as UR and not as an OBC candidate due to submission of invalid caste certificate. Shri Navin Kumar Nirala secured 56.75 marks out of 150 marks in the written examination. The minimum qualification marks for UR is 60, OBC – 45, SC-45 and ST – 37.5.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **09.10.2020**. The following were present:

- Shri Navin Kumar - complainant
- Respondent was absent

Observation/Recommendations:

4. During the hearing, complainant reiterated his earlier written submissions and stated that as per the DOP&T's OM dated 08.10.2015, it is clearly mentioned that if a candidate belonging to a SC, ST and OBC is unable to produce a certificate from any of the prescribed authorities, he/she may be appointed provisionally on the basis of whatever prima-facie proof his/she is able to produce in support of his/her claim (copy enclosed). The above OM was also circulated by Ministry of Railways, Railway Board vide letter dated 23.06.2016 regarding acceptance of caste certificate produced by candidate.

5. After hearing the matter, it is recommended that respondent may consider the case of Shri Navin Kumar Nirala as per the existing DOP&T's instructions dated 08.10.2015 and ensure that persons with disabilities should not be deprived of their legitimate right.

6. The Case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 14.10.2020





सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11374/1023/2019

Complainant : Shri Umed Singh Parashar, House No. E-191, New Roshanpura, Najafgarh, New Delhi – 110 043.

Versus

Respondent 1 :

The Officer Incharge, Records the JAT Regiment, Civil Lines, Bareilly, Uttar Pradesh – 243001

Respondent 2 :

The Adjutant General, Army Group Insurance Fund (AGIF), IHQ of MOD (Army), AGI Bhawan, Post Bag 14, Rao Tula Ram Marg, P.O. Vasant Vihar, New Delhi – 110057

Respondent 3 :

The Officer Incharge, Office of the PCDA (Pensions), Draupadi Ghat, Near Sadar Bazar, Prayagraj, Allahabad – 211014 (U.P)

Respondent 4 :

The Managing Director & CEO, Punjab National Bank, Plot No. 4, Sector – 10, Dwarka, New Delhi – 110075

Disability: 40% Locomotor disability

Gist of Complaint:

Shri Umed Singh Parashar vide his email dated 24.07.2019 submitted that he became a person with disability during his service in the Army and was medically boarded out on 31.07.2004. He has been granted service and disability pension by the Govt. He has done commendable job during the military service and after retirement. His pension has not been revised by the Punjab National Bank and also arrears have not been paid to him.

2. The Respondent No. 1 vide his letter No. Civ-0581-2518800 dated 26.12.2019 submitted that JC-488885N Ex Nb Sub/Clk Umed Singh Parashar was enrolled in Army on 24th June 1986 and discharged from service on 31st June 2004(AN) under Rule 13(3)I(iii)(C) read in conjunction with Rule 13 (2A) of Army Rules 1954 in low medical category S1H1A3P2E1 for diagnoses Bilateral Renal Calculus (OPTD) and Osteoarthritis Left Knee (OPTD) after rendering 18 years, 01 month and 07 days qualifying service, accordingly service pension and disability element was granted vide PCDA (P) Allahabad PPO No. S/040087/2004 and DE/015614/2004. As per Release Medical Board proceeding conducted by medical authorities, the final degree of disabilities of the individual is as under :-

- (a) BILATERAL RENAL CALCULUS (OPTD) aggravated with 20% disability } Composite
(b) OSTEOARTHRITIS LT KNEE (OPTD) aggravated with 20% disability } disability 40%

2/-

The Respondent No. 1 submitted that the admissible pensioner benefits related to the service and disability has been paid/action taken as per details given below:-

- (a) Service element - Sanctioned vide PPO No.S/040087/2004 dated 21st July 2004. The same has been revised @ Rs.23150/- p.m. w.e.f. 01.01.2016 as per 7th CPC Vide PCDA (P) Allahabad suo-moto PPO No.164200400484 (0199).
- (b) Disability element - Sanctioned vide PPO No. DE / 15614 / 2004 dated 20.12.2004. The same has been revised @ Rs.6739/- p.m. w.e.f. 01.01.2016 as per 7th CPC vide PCDA(P) Allahabad circular No.582 dated 05.09.2017 by PDA/ Bank. Now case for notification of corrigendum PPO regarding disability element as per 7th CPC has already been forwarded to PCDA(P) Allahabad on 20.09.2019.

3. The Respondent No. 2 submitted vide letter No. A/56327/AG/Ins/Dis/JAT dated 07.10.2019 that in the context of payment of 'Disability Benefit', it was laid down vide Rule 9(c) that the same shall be entitled only in the event of termination of service of a subscriber on account of his/her physical disability, he/she shall receive such disability benefits as may be prescribed depending on the nature and percentage of the disability and other qualifying conditions as may be notified from time to time. The disability benefit is paid as a lump sum benefit to a member, who is released/invalided out before completing the contractual period of service for the rank and meeting the eligibility conditions based on 'initial Assessment' by invaliding Medical Board or Release Medical Board. The Respondent submitted that JC-48888N Naib Subedar Umed Singh Parashar (Retd.) was discharged from Army on 31.07.2004 (AN) in low medical category 'CEE' (Permanent). Release medical board of the Naib Subedar Umed Singh Parashar (Retd) was held on 03.04.2004 wherein he was awarded 20% composite disability (initial assessment). On receipt of claim documents, disability benefits amounting to Rs.50,000/- on account of 20% disability (initial assessment) was paid to Naib Subedar Umed Singh Parashar (Retd.) by AGIF vide Syndicate Bank, AGI Bhawan, New Delhi vide Cheque No.15690 dated 11.10.2004 as per the then prevailing rate. The maturity benefits amounting to Rs.66,056/- has also been paid to Naib Subedar Umed Singh Parashar (Retd.) on 08.10.2004, but the complainant had appealed for re-evaluation of his initial disability assessment. Accordingly, the Appeal Medical Board (AMB) was ordered under the authority of DGAFMS (Med) letter dated 09.01.2007. His AMB was held at Base Hospital, Delhi Cantt., which was approved on 03.09.2007. The AMB has awarded 40% composite disability to Naib Subedar Umed Singh Parashar (Retd) w.e.f. 03.09.2007. Based on AMB, he had requested AGIF to pay arrears of disability benefits for 50% disability from 01.08.2004 along with interest.

....3/-



4. The Respondent No.3 vide letter No.LC/X/summon/umed Singh/N-Z-2020 dated 02/2020 has requested the Court to provide the case details, Regimental No., Name of Records Office and Pension Payment Order No. of pensioner to the person they will be deputing to this Court to collect the case information to further process the case.

5. The Respondent No. 4 vide letter No. HO/GBD/5132/Pension dated 19.12.2019 submitted that they have revised the basic pension of Shri Umed Singh Parashar as per PPO No.164200400484 Suffix 0199 to Rs.23150/- w.e.f. 01.01.2016. Revised pension and arrear will be paid along with pension payment for the month of December 2019. The Respondent Bank further submitted that the Pension account of Shri Umed Singh Parashar is already converted in PNB Rakshak Plus and SMS has been sent to the pensioners which include detail of Basic/DR/Arrear at the time of credit of pension in accounts centrally.

6. The complainant vide his email dated 04.05.2020 submitted that as per the PCDA (Pensions), Draupadi Ghat, Allahabad's letter dated 31.12.2019, his notional pay of Rs.41100/- with pay level 6 and revised service pension of Rs.23,150/- that is 50% of 41100+5000 (Military Service) pay has been fixed with effect from 01.01.2016 by the PCDA against his last basic pay of Rs.6180/-. The pre-revised scale of Rs.5620-140-8140 in terms of Concordance table page number 173 is wrong. Because as per the said table page number 173, it was to be revised to 15700/-. When one locates the pay range corresponding to the basic pay at column number 12, one will find his notional basic pension relevant to the range as on 01.01.2016 Rupees 16000/- (minimum range) and Rupees 18530/- (maximum range) as such his minimum notional pay basic pension would be Rs.42300 + 5200 which is equal to 47520 and 50% of which would be Rs.23750/- and maximum that should be fixed would be Rs.49000 + 5200 (MSP) which is equal to 54200 and 50% of which would be Rs.27,100/-. Even this amount as basic service pension has not been fixed by the PCDA Allahabad. He submitted that after his repeated requests, the PCDA (P), Allahabad has not sent a copy of revised Service Pension Payment Order (PPO) No. 164200400484 (0199). The PCDA (P) Allahabad has not revised his Service Pension as per Notional Pay Method given at concordance Table No.19 of Ministry of Defence, Deptt. of Ex-Servicemen Welfare letter No. 17(1)/2017(02)/D (Pension/Policy) dated 17.10.2018 and PCDA (P) Circular No. 608. The pension was earlier fixed as per length of service. This stipulation was removed by the GOI vide para 5 to 7 of letter No.38/37/08/P&PW (A) dated 06.04.2016. According to this letter, the revision of pension of pre-2006 pensioners was to be done as per fitment table without pro-rata reduction of pension even if they had qualifying service of less than 33 years. Therefore, as per the said concordance table his Basic Service Pension should

...4/-

be 50% of Rs.91400=45700+Rs.5200 (MSP) = Rs.50,900/- whereas in the said PPO his service pension has not even been revised considering 50% of Rs.41100+5200 (MSP) as mentioned in the PPO. As per their calculations also it becomes Rs.20550+5200 =25750/- which is less than his pre-revised Basic Pension which is being paid without including amount of the MSP. PCDA (P) has revised his pension to Rs.23150/- including the amount of MSP, i.e. 5200/- which in no way is correct. The complainant has requested to direct the CRO, Records the Jat Regiment, Bareilly, U.P., PAO (OR), and the PCDA (P) Allahabad to revise his service and disability pension correctly and dispatch the revised PPO to all concerned including him and the CPPC, PNB, New Delhi. His Basic Disability Pension is to be revised to Rs.8500/- from Rs.6739/-.

Hearing :

7. The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 06.10.2020.

8. The following persons were present during the hearing;

- 1) Mr. Umed Singh Parashar, the complainant.
- 2) Mr. A. Venkatesan, R.O., Jat Regiment & Mr. Amit Grover, PNB, on behalf of the respondent.

Both the parties were heard.

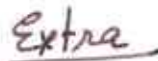
9. After listening to the complainant and the respondents, this Court makes the following recommendations:

- (a) The R.O., Jat Regiment shall modify the records of the complainant as requested by him regarding correct disability percentage, correct date of birth of his wife and revision of pension so as to depict the correct amount.
- (b) The PNB shall convert the Pension Account into PNB Rakshak plus Scheme Account and pay all outstanding arrears as per rule.
- (c) PCDA, Allahabad shall issue revised PPO after the corrections are made.

10. The case is disposed off.

Date : 14.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities



COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. Case No.10776/1011/2019

Complainant:

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

Respondent:

Employees State Insurance Corporation,
Through its Director General,
Head Office – Panchdeep Bhawan,
CIG Marg, New Delhi-110002;
Email: dir-gen@esic.nic.in; med6-g@esic.nic.in;

Gist of Complaint:

The complainant, a person with 65% locomotor disability [Crutch user] filed complaint regarding non-implementation the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016] with regard to the recruitment of Insurance Medical Officers (IMO) Grade-II (Allopathic) at Employees State Insurance Corporation (Head Office), New Delhi.

2. The complainant furnished a copy of the advertisement published by ESIC HO for recruitment of Insurance Medical Officers (IMO) Grade-II (Allopathic) in ESI Corporation. He alleged that in the advertisement -

(i) the respondent had not shown the exact number of seats reserved for PwD candidates according to RPwD Act, 2016; and for appointment, preference would be given to PwD candidates;

- (ii) as stated at Note 3, recruitment of PwD would be made by a separate recruitment exercise is beyond the scope of the instructions issued in DoPT Om dated 15.01.2018;
- (iii) Rs.250/- had been charged while the fee was fully exempted; and
- (iv) there was no merit of deciding a fixed cut off criteria for the recruitment of identified and reserved vacancies for PwDs;

The complainant sought the following reliefs –

- (i) Participation of person with disability in recruitment exercise from initial stage to final stage;
- (ii) At least 4% reservation in this recruitment exercise and in backlog vacancies also;
- (iii) Vacancy No.1, 26, 51 and 76 must be reserved for persons with disabilities;
- (iv) No pre decided cut of marks as per the verdict of Hon'ble High Court of Bombay;
- (v) No application fee and additional banking charges; and
- (vi) Disabled friendly examination venue close to home.

3. Further, the complainant vide email dated 12.12.2018 furnished a copy of the reply dated 02.11.2018 given by ESIC HO to the complainant.

4. ESIC HO had submitted that "Govt. of India vide OM dated 15.01.2018 has issued instructions on reservation for Persons with Benchmark Disabilities as under:



Category	Types of Disability	Percentage of Reservation
Category A	Blindness and Low Vision	1
Category B	Deaf and Hard of Hearing	1
Category C	Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy	1
Category D	Autism, intellectual disability, specific learning disability and mental illness.	1
Category E	Multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness.	

Ministry of Social Justice & Empowerment, Govt. of India has identified posts suitable for PwDs in the year 2013 on the basis of recommendations of a High Level Expert Committee. The disabilities under Category D & E and the disabilities – 'leprosy cured, dwarfism, acid attack victims and muscular dystrophy' under Category C have been newly introduced and these are not covered in the existing instructions on identification of posts suitable for PwDs issued by the Ministry of Social Justice & Empowerment in the year 2013.

Under these circumstances, it has been decided by ESIC that PwD vacancies under Category C, D & E may be kept vacant and filled through Special Recruitment Drive after identification of suitability in respect of newly introduced categories by GOI.

The post of Insurance Medical Officer Gr.II is identified as suitable for OA and OL category as per identification of posts suitable for PwDs issued by the Ministry of Social Justice & Empowerment in the year 2013. This post is not identified as suitable for category A (Blindness and Low Vision) and B (Deaf and Hard of Hearing).

In case the PwD vacancies for the post of Insurance Medical Officer Gr.II is advertised as per existing identification under OA and OL category it would deprive the newly introduced categories from applying to this post.

As such in the recruitment for the post of IMO Gr.II the PwD vacancies have been kept vacant to be filled under Special Recruitment Drive for PwDs to be conducted subsequently after identification of post for PwD.

The ESIC HO further informed that at the time of holding Online Examination, the PwD candidates should be allotted disabled friendly Examination Centre nearest possible to their Home. The application fees charged from PwD and other exempted category candidates is refundable on appearing in the Online Examination. Reservation to PwD candidates is provided in ESIC as per Govt. of India instructions."

5. The complainant in his rejoinder dated 12.12.2018 submitted that the respondent had not replied in the form of to the point answers as per his concerns in the original complaint.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 09.10.2020. The following were present:

1. Dr. Nitesh Kumar Tripathi, complainant
2. Shri Deepak Mullick, Dy. Director, Medical Administration, ESIC

Observation/Recommendations:

Both the parties were heard.

2. The respondent is recommended to implement the provisions of Section 34 of the RPwD Act, 2016 and to ensure reservation of 4% seats for candidates with disabilities. Roster should be maintained and horizontal reservation for candidates with disabilities must be given as



per roster points at 1, 26, 51 and 76 in terms of Articles 7 of DoPT OM dated 15.01.2018. Barrier free and accessible examination centres be provided to the candidates with disabilities. As per Clause XIV of the Office Memorandum No.34-02/2015-DD-III dated 29.08.2018 of Department of Empowerment of Persons with Disabilities, which is of "Proper seating arrangement (preferably on ground floor)", should be made prior to the commencement of examination to avoid confusion or distraction during the day of the examination. The candidates with disabilities should be exempted from payment of application fee and examination fee prescribed in respect of competitive examinations in terms of Article 24 of DoPT OM dated 29.12.2005.

3. The case is accordingly disposed off.

Dated: 15.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities



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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

CASE NO.: 10852/1021/2019
DATE OF COMPLAINT: 18.01.2019;
further documents submitted on 14.02.2019,
14.03.2019, 22.07.2019, 20.08.2019,
10.01.2020, whereby Complainant has submitted
further details pertaining to the case.

COMPLAINANT: R-23753
Sri T. Raghava, General Secretary, All India Deaf
Bank Employees Association. A-1, New No. 43, Car
Street, Triplicane, Chennai - 600005

RESPONDENT: R-23754
Bank of Baroda (Through Managing Director & CEO)
Baroda Corporate Centre, Plot No. C-26, Block G,
Bandra Kurla Complex, Bandra (East), Mumbai -
400051

DISABILITY PERCENTAGE: NOT MENTIONED

DATE OF REPLY: 16.09.2019

DATE OF REJOINDER: 12.12.2019

SUBJECT OF COMPLAINT: PROMOTION and RESERVATION

FACTS IN BRIEF:

Claims Made by the Complainant:

- Complaint filed by All India Deaf Bank Employees Association, on behalf of 4 employees of the Respondent bank, who belong to Persons with Disabilities category (Hearing Impairment).
- Respondent promoted 437 employees to clerical cadre by circular dated 17.01.2019.
- No staff belonging to Persons with Disability category was promoted hence, rule of 1% reservation is violated.
- Name and details of 4 employees mentioned claim is made that these 4 cleared the exam and are eligible for promotion.
- Bank is not maintaining 100 points reservation roster. (alleged in letter dated 22.07.2019)

Reliefs Sought:

- Stay Order in Promotion of 437 promotes.
- Promotion of said 4 employees.
- Withdrawal of show-cause-notice/memos issued against the 4 mentioned employees.

....2/-

Submissions made by the Respondent

- a. Out of 4 employees, on behalf of whom the present Complaint is made, 3 failed to obtain minimum marks in at least one subject of Online Test, hence not promoted.
- b. One out of 4, i.e. Dinesh Kumar, failed to obtain minimum passing marks in interview, hence not promoted.
- c. Out of 437 employees who have been promoted, 13 belong to PwD category, sub category not mentioned.
- d. All candidates who secured minimum qualifying marks in online test and also in interview have been promoted.
- e. Such promotion, if given, shall amount to 'Out of Turn' promotion.

Submissions made in Rejoinder:

- a. With respect to 3 employees who failed to obtain minimum qualifying marks in written test – These employees belong to PwD category and can not be equated with staff not belonging to PwD category.
- b. With respect to employee who failed to obtain minimum qualifying marks in interview – Bank did not provide any interpreter during the interview. Interview could have been dispensed with for Hearing/Speech impaired staff.
- c. Relaxation in marks could be given to such candidate.
- d. Such promotion shall not amount to 'Out of Turn' promotion. It is promotion under reservation.

Further Submissions made by Complainant in Letter dated 10.01.2020:

- a. Respondent bank has again promoted 3090 staff from Clerk to Officer level.
- b. Also promoted 566 staff to Clerical cadre.
- c. Name of the 4 employees on behalf of whom the Complaint is being filed, not considered even this time.

HEARING DETAILS:

The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 29.09.2020.

The following persons were present during the hearing:

1. Mr. T. Raghava, the complainant.
2. Mr. C.M. Tripathy, Head - HR Operations, on behalf of the respondent.

Both the parties were heard.

POINTS OF CONTENTION/ISSUES:

From perusal of the documents submitted by both the parties and submissions made during hearing, this court observes following Points of Contentions/Issues -:

1. Non implementation of 1% quota of hearing-impaired persons in promotion from Sub-Clerk to Clerk even when hearing impaired persons were available.
2. No pre-promotion training given to hearing impaired persons.
3. Non implementation of roster in respect of persons with disabilities.
4. No relaxation given to persons with disabilities (hearing impaired) vis-à-vis normal unreserved persons.



OBSERVATIONS & RECOMMENDATIONS:

1. In view of the reply of the respondent this Court concludes that the respondent did not provide any interpreter during the interview. It is universally acknowledged that the selection method of interview is inherently subjective and no matter the efforts brought into makes it objective it is difficult to eliminate subjectivity and biases on personal decisions. The Court also noted that Department of Personnel and Training instructions in O.M. No.36035/3/2013-Estt.(Res) dated 31st March, 2014 provided that job specific post-recruitment as well as pre-promotion training programs are required to be organized for the persons with disabilities. If an employee was not able to qualify merely because of failing in the interview, the organization should have provided some support to him in terms of pre-promotion training, so that he got equal opportunity at par with other candidates.
2. Attention of the Respondent bank is attracted to Section 3 of RPwD, 2016. As per the provision it is mandatory for the Appropriate Government to provide reasonable accommodation to Persons belonging to PwD category. Similarly, Section 20 of RPwD Act, 2016, which talks about Non discrimination in Employment, in subsection 2 lays down that it is mandatory duty of Government establishment to provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.
3. Term 'reasonable accommodation' is defined in Section 2(y) of RPwD Act, 2016. As per the provision 'reasonable accommodation' means necessary and appropriate modification and adjustments to ensure that Person with Disabilities can enjoy and exercise rights equally with others. Further Section 2(h) of RPwD Act, 2016 defines term 'discrimination'. As per the provision, discrimination includes denial of 'reasonable accommodation'.
4. Provisions mentioned above are reproduced below:-

Section 2(h) - "discrimination" in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation.

Section 2(y) - "reasonable accommodation" means 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 equally with others.

Section 3(5) - The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

Section 20(5) - Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.



5. In the light of statutory provisions mentioned above, this court concludes that Respondent has violated Employment Rights of the Complainant by not providing interpreter, by failing to give pre-promotion training and by not relaxing the minimum qualifying marks. Therefore, this Court concludes that Rights guaranteed under Sections 3 and 20 read with Sections 2(h) and 2(y) of RPwD Act, 2016.
6. In view of the above, this Court recommends that the respondent for the purpose of giving equal opportunity to persons with disabilities should consider slightly relaxed standards in the process of examination/interview and consider all the four hearing impaired staff working in the bank for promotion to the post of Clerk and necessary orders to this effect shall be issued.
7. The case is disposed off.

Dated: 15.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities



extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11143/1101/2019

Complainant:

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

Respondent:

Employees State Insurance Corporation,
Through its Director General,
Head Office – Panchdeep Bhawan,
CIG Marg, New Delhi-110002;
Email: dir-gen@esic.nic.in; med6-q@esic.nic.in;

Gist of Complaint:

The complainant, a person with 65% locomotor disability [Crutch user] filed a complaint regarding non-implementation of Section 45 and Section 46 of the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016] with regard to the recruitment of Medical Officers (IMO) Grade-II (Allopathic) at Employees State Insurance Corporation (Head Office), New Delhi.

2. The complainant submitted that he got his name in the final list of recruitment for the post of Insurance Medical Officers Grade-II in ESIC HO in year 2016. He requested the respondent to provide accessible service place allocation as per the binding provisions named as Equal Opportunity Policy covered under RPWD Act 2016. But the respondent did not take any initiative for allocation of Disabled friendly work place to him as IMO Grade 2 for discharge of his duties and responsibilities with respect and dignity.

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3. On taking up the matter, respondent filed their reply dated 05.08.2019 and submitted that the complainant was offered the post of IMO Gr.II vide OM dated 23.08.2016 with advice to join duties in Delhi by 23.09.2016 as per the terms & conditions of the offer of appointment laid down that in case of failure to report for duty by due date, the offer of appointment would stand cancelled. He did not join the duties and vide letter dated 21.09.2016 sought extension in joining for a period of around one year i.e. till July, 2017 without quoting any reason. Extension in joining time to Medical Officers is generally not granted beyond three months because of their perennial shortage in ESIC. It does not also allow extension beyond six months in any case as per DoPT OM No.35015/2/93-Estt(D) dated 09.08.1995:

"....extension beyond three months should not be granted liberally and it may be granted only as an exception and in any case only upto a maximum of six months from the date of issue of original offer of appointment. An offer of appointment would lapse automatically after the expiry of six months from the date of issue of the original offer of appointment."

Keeping in view, on 28.10.2016 the complainant was asked to furnish the reasons for seeking extension in joining time, but he did not reply. He was reminded vide email dated 25.04.2017 to submit his reply, but he did not reply within the stipulated time. After around one and a half year in 2017 he emailed on 04.11.2017 that he might be allocated service at the dispensary nearest to his home. He did not inform the reasons for extension which could have been examined on merits. Therefore, his offer of appointment stood cancelled in terms of DoPT OM dated 09.08.1995.

4. In the rejoinder dated 19.08.2019, the complainant submitted that the reply filed by the respondent is inappropriate and irreverent. He was the rare one successful candidate with disability falling under most underprivileged category, but the ESIC has tried to eradicate the legitimate share of a person with disability. He requested to provide him the posting at that place where accessible accommodation is readily available under equal opportunity policy.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 09.10.2020. The following were present:

1. Dr. Nitesh Kumar Tripathi, complainant
2. Shri Deepak Mullick, Dy. Director, Medical Administration, ESIC

Observation/Recommendations:

Both the parties were heard.

2. It was observed that the Recruitment Department of the respondent has given sufficient time to the complainant for joining the post as per the norms. However, the complainant requested extension in joining for a period of one year without quoting any reason. However, keeping in view the request of the complaint, the respondent had asked the complainant to furnish the reason for seeking extension which was also not replied to by the complainant.

3. This Court does not find any merit to intervene in this matter and give any recommendation. Therefore, the case is disposed off.

Dated: 15.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities





सत्यमेव जयते

Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11635/1081/2019

Complainant:

Dr. Manoj Sharma,
Warden House, Kirori Mal College,
University of Delhi,
New Delhi – 110007
Email: msharma1313@gmail.com;

Respondent:

The Principal, Kirori Mal College,
University of Delhi, New Delhi-110007
Email: principal@kmc.du.ac.in;

....Respondent No.1

The Registrar, University of Delhi,
New Delhi -110007; Email: registrar@du.ac.in;

....Respondent No.2

Gist of Complaint

The petitioner is the Hostel Warden of Korori Mal College, University of Delhi and has been allotted the Warden House within the college premises till September, 2020. He applied for allotment of the Teaching Staff Quarters for Teachers in Kirori Mal College on the medical ground of his younger daughter, Ms Yashvi Sharma, a child with 100% Intellectual disability (Epileptic Encephalopathy). But the House Allotment Committee rejected his representation on the ground that his spouse owns a flat which is nearly five kilometres away from the college. The petitioner's contention is that the condition of his daughter is so critical that these five kilometres are too far away as she requires immediate attention and constant care in any emergent situation. He

Page 1 of 3

alleged that the respondents have not followed the rules regarding allotment of staff quarters on Medical Ground.

2. On taking up the matter, the respondent filed their reply dated 10.02.2020 and submitted that the rule in Swamy's Handbook for Central Government Staff 2020, Page No.150, Point No.2 (2): **Quarters to house-owing employees** states as under:

"2. **Not eligible for adhoc allotment** – Officer/employee who owns a house either in his name or in the name of member of his family in the station of his posting or in the adjoining municipal area is not entitled to adhoc allotment on grounds such as retirement, death, vacation of Departmental Pool Accommodation, medical grounds, physical handicap, special compassionate grounds etc."

In the light of the above rule and the representation of the petitioner that his wife owns the flat, 5-B-Utkarsh Apartment, Civil Lines, Delhi-110054 within 5 kms away from the college, the petitioner is not entitled for allotment of house in the college premises.

3. The petitioner in his rejoinder dated 02.03.2020 submitted that there is no reference to the fact that the daughter of the applicant, being a 'dependent' in terms of clause (v) of the 'University of Delhi, Rules for Allotment of Residences' is suffering from 100% disability. Clause (v) reads as under:

'Family for the purposes of these rules shall include only wife, husband, children, parents, brothers and sisters residing with the employee.'

Further, Rule 5.(iv) of 'Rules for Allotment of Residence' states as under—

'Employees owning houses within a radius of 10 kilometres from the University and who are already in occupation of the University accommodation would continue to occupy the accommodation already allotted to them. They would however, not be eligible for better/higher type of accommodation.'



Rules of the University of Delhi is not in consonance with the Central Government rules pertaining to allotment of residence; and the employees of University are not eligible for residence in the general pool residential accommodation of the Central Government. The rules of own residence within a radius of 10 kilo meters, is not applicable to those who have already been allotted a residence. The only condition is that they would not be eligible for better/higher type of accommodation. The petitioner already occupies a temporary residence – Warden's house - in the college; and if a Type-III house is allotted in the college campus, he would eventually be moving to a smaller house than the present one.

Observation/Recommendations:

In view of the facts mentioned above, it is observed that the Central Government Rule as quoted by the respondent is not in consonance with the 'Rules of Allotment of Residences' of the respondent University. It is recommended that in terms of Rule 5.(iv) of the 'Rules for Allotment of Residence' of University of Delhi, the respondents should accept the request of the petitioner for allotment of the Teaching Staff Quarters on the medical grounds of his younger daughter, Ms Yashvi Sharma, a child with 100% Profound Intellectual disability (Epileptic Encephalopathy).

2. The case is disposed off.

Dated: 15.10.2020




(Upma Srivastava)
Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11837/1101/2020

Complainant:

Shri Jayant Singh Raghav; Shri Mohan;
Mohd. Keshar Ali; and Ms. Nidhi,
all students with disabilities of Ram Lal Anand College;
Email: jsraghav33@gmail.com;

Respondent:

The Principal, Ram Lal Anand College,
University of Delhi, South Campus,
South Moti Bagh, New Delhi-110021;
E-mail: rlac.du@gmail.com

Gist of Complaint

The complainants have filed complaint regarding barrier free and accessible environment at Ram Lal Anand College, University of Delhi. The complainant had also filed a copy of the Order dated 18.10.2019 passed by the State Commissioner for Persons with Disabilities, Govt. of NCT of Delhi, in the similar matter.

2. On taking up the matter, the Principal, Ram Lal Anand College, filed reply dated 02.06.2020 and submitted that as per the suggestions/advice of the Commissioner, Court of Chief Commissioner for Persons with Disabilities, the college had done the access audit through CPWD. CPWD had given an estimate of Rs.24,54,300/- to construct a barrier free campus in accordance with Section 45 of the RPWD Act, 2016. Accordingly, the college had sent a letter on 20.03.2020 to University Grants Commission for release of the amount.

Page 1 of 2

As soon as the amount would be received from UGC, this Office would be updated further development.

3. The complainants in their rejoinder have submitted the Order passed by the State Commissioner for Persons with Disabilities, Govt. of NCT of Delhi.

Observation/Recommendation:

It is observed that State Commissioner for Persons with Disabilities, Govt. of NCT of Delhi [SCPD Delhi] has already passed Order on 18.10.2019 with regard to provide barrier free and accessible environment in Ram Lal Anand College. It is recommended that respondent shall adhere to para 18 (i) to (iii) of the Order dated 18.10.2019 and create a model for other educational institutions. Moreover, keeping in view the immediate requirements of existing students with disabilities, the college shall take immediate action from its own funds to develop at least required accessibility facilities for barrier free learning of persons/students with disabilities in anticipation of receiving the grants from the University Grants Commission.

2. A copy of these orders are marked to the University Grants Commission with the recommendation that necessary grant may be released to the Ram Lal Anand College for implementing the provisions of the Rights of Persons with Disabilities Act, 2016.

3. The case is disposed off.

Dated: 15.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner
for Persons with Disabilities

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11127/1024/2019

R-24001

Complainant:

Shri M. Pentarao, President,
Visakhapatnam Steel Plant Differently Abled
Employees Welfare Association,
Door No.13-227, Donkada Colony,
Aganampudi RHC-1, Ward No.56,
Gajuwaka Mandal, Visakhapatnam-530046
Email: vspdaewa@gmail.com; vspdaewa@yahoo.com

Respondent:

The Chairman-cum-Managing Director,
Rashtriya Ispat Nigam Limited,
Visakhapatnam Steel Plant,
Main Administration Building,
Visakhapatnam-530031
Email: cmd@vizagsteel.com

R-24002

Gist of Complaint

The complainant submitted that there are 250 employees in the Rashtriya Ispat Nigam Limited (RINL) all across the country in executive and non-executive cadre. All the employees with disabilities formed an association, namely, Visakhapatnam Steel Plant Differently Abled Employees Welfare Association (VSPDAEWA). Through their association, they submitted to the respondent to resolve their long awaited pending issues pertaining to service matters, accessibility and barrier free working

Page 1 of 2

environment, as provided in the Rights of Persons with Disabilities Act, 2016 and the instructions issued by the Government.

2. On 19.09.2020, the complaint dated 24.07.2019 filed by the complainant was taken up with the General Manager (HR), RINL for submission of their comment. But despite reminder dated 11.03.2020, no reply was found to be received.

Observation/Recommendations:

It appeared that no specific complaint has been filed by the complainant in respect of any individual employee with disability with regard to discrimination of his/her legitimate rights as provided under the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016] and the instructions/rules of the Government thereunder.

2. However, the respondent is advised to ensure that all the employees with disabilities have been provided accessible, barrier free and disabled friendly working environment at RINL; and no employee with disability have been deprived of their legitimate rights as provided in Chapter IV – Skill Development and Employment – of the RPwD Act, 2016 and the instructions/rules of the Government.

3. The case is accordingly disposed off.

Dated: 20.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities





सत्यमेव जयते

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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11656/1022/2019

R-23973

Complainant : Shri Vinay Kumar, Director (P&L), Military Engineer Services, HQ CE (R&D), Probyn Road, Delhi – 110 054.

Respondent : Military Engineer Services (Through the Director General Personnel/E1B, Engineer-in-Chief's Branch, Kashmir House, Rajaji Marg, New Delhi – 110 011.

R-23974

Gist of Complaint:

Shri Vinay Kumar vide his complaint dated 27.11.2019 submitted that he has been working as Director (P&L) in Military Engineer Services in Delhi. His son Ishan Anchit, 17 years old, has been suffering from -40% visual impairment. The complainant submitted that he had earlier made a complaint under Case No. 8687/1022/2017 in this Court on 15.09.2017 regarding his posting from HQ Chief Engineer Pathankot Zone to Delhi to look after his son with low vision. A personal hearing was held in the case on 18.07.2018 and the Respondent was advised to consider the request of the complainant for his posting to Delhi to take care of his son. MES vide posting Order No.70001/SE/15/2019 dated 19.06.2019 posted him to HQ CE (R&D), Delhi but disallowed Transfer TA. The posting has been issued after this Court's order yet he was penalized with monetary value for the tune of Rs.1.5 to 2.00 lakhs. He made a representation to his department to reconsider their decision but it was turned down quoting para-114 of SR which deals with posting on own request. At no stage of time, he was given any undertaking to post him to Delhi without Transfer TA which happens in case of compassionate grant transfer/posting.

2. No reply has been received from the Respondent.

3. The issue before the Court is whether transfer was done in public interest or on request?

4. This Court has jurisdiction because issue of TA deduction is directly related to transfer of the Complainant which was done in compliance of the Orders of this Court. This court passed the Order considering the rights of PwD child. Hence, the issue in the present complaint falls within the jurisdiction of this court.

....2/-



5. In the light of the following facts the complainant's transfer cannot be construed as a transfer on personal request:

- a. This court issued Orders to transfer the Complainant considering the rights of PwD child. Compliance of such Order cannot be termed as 'personal request'. It is public interest to comply with the Order of the court or tribunal.
- b. Complainant has submitted that he has never made any request for transfer to Delhi. No document to disprove the same has been put on record by the Respondent, therefore it cannot be concluded that transfer was made on request.
- c. O.M.s issued by DoPT are not applicable on military personnel. Postings and transfers of military personnel are governed by Posting Policy issued by Ministry of Defence. As per Para 21 of the same, applicability of DoPT O.M. 42011/3/2014 has been extended to military personals. Hence benefit of this O.M. can also be given to the Complainant. As per this O.M. any government employee who serve as main care giver of his own disabled child, he may be exempted from routine transfer.
- d. Transfer to Delhi cannot be said to be transfer after termination of tenure because tenure is deemed to terminate on the expiry of 4 years of posting at a place. Hence contention forwarded by the Complainant that his tenure should be deemed to terminate and hence TA should be granted on this ground alone, cannot be accepted.

Final Observation/Recommendations:

6. This Court recommends that the respondent may refund the entire amount of Transfer TA which was deducted from the complainant's salary on account of his transfer to Delhi in terms of recommendations of this Court's order dated 18.07.2018.

7. The case is disposed off.

Date : 20.10.2020




(Upma Srivastava)
Commissioner for
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11690/1021/2020

Complainant: Shri. Rami Reddy Annapureddy, Higher Grade Assistant, Life Insurance Corporation of India, City Insurance Corporation of India, City Branch – 2, Chandramouli Nagar, Guntur (PO), Andhra Pradesh – 522007
E-mail: <ramireddy610403@gmail.com>

Respondent: The Chairman & Managing Director, Life Insurance Corporation of India, 1st Floor, Yogakeshema Central Office, Jeevan Bima Marg, Nariman Point, Mumbai – 400021
E-mail: <ed_nb@licindia.com>

Complainant 65% locomotor disability

GIST of the Complaint:

Complainant is employed on the post of Higher Grade Assistant in Life Insurance Corporation and is posted in Guntur which also happens to be his hometown. He submitted that he was promoted and posted in Gurazala District, outside his hometown. Gurazala falls under same division as Guntur. He requested for change in place of posting to no avail. Later he rejected the promotion and again appeared for promotion interview. Again, he was promoted and posted to Nellore, which is 198 KMs away from his hometown. Complainant claims that there are vacancies available in Guntur branch, despite that, he was posted hundreds of kilometres away from his hometown. He also claims that other employees have been posted in the same branch where he was posted in his hometown and he is the one who has been discriminated against.

2. The matter was taken up with the Respondent vide letter dated **28.01.2020** under Section 75 of the Rights of Persons with Disabilities Act, 2016.

3. Respondent vide letter **02.03.2020** inter-alia submitted that vacancies are scattered in different branches, all over the division. As far as Guntur is concerned, no vacancies are available in branch in Guntur.



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Signature

4. After considering the respondent's reply dated **02.03.2020** and the complainant's rejoinder dated **08.07.2020**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **13.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **13.10.2020**. The following were present:

- Mr. A. Rami Reddy, the complainant.
- None for the respondent.

Observation/Recommendations:

5. The written submissions of the complainant have been gone through and as well as the written reply of the respondent have also been perused.
6. The rule position as per the Rights of Persons with Disabilities Act, 2016, in respect of transfer of persons with disabilities as under:

"Section 20.(5) - 'Non-discrimination in Employment' of the Rights of Persons with Disabilities Act, 2016 provides that the appropriate Government may frame policies for posting and transfer of employees with disabilities."

As per the DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014, the persons with disabilities may be exempted from the routine/rotational transfers and to the extent possible, such persons should be retained at posts where they can contribute efficiently over a long period.

7. The provisions of reasonable accommodation as per the Rights of Persons with Disabilities Act, 2016 is as under:

"Section 2.(y) - "reasonable accommodation" means 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 equally with others.



....3...

8. Respondent vide E-mail dated 13.10.2020 informed this Court that complainant filed a Writ Petition before Hon'ble Andhra Pradesh High Court asking for similar relief. Writ Petition Details – Registration Number of the case – W.P. No. 32447/2017. As per information available on the website of Hon'ble High Court, since 2017, when this case was filed, no Order has been uploaded on the website. However, Prayer sought in the Petition is mentioned. As per the same, complainant (as called in the case before this Court)/Petitioner (as called before High Court) has sought relief to direct the Respondent (same before this court and before Hon'ble High Court) to PROMOTE the Complainant with retrospective effect.

From the perusal of the Prayer, as available on the website of Hon'ble High Court and arguments forwarded by the parties in this court, it can be concluded that both the cases are different. Case before this court does not involve issue of promotion. That seems to be the case before the Hon'ble High Court. Before this court, Complainant himself admitted that he has been promoted. His grievance before this court is that, since he has been transferred outside his hometown, post promotion, hence promotion/transfer Orders issued by the Respondent contravenes RPwD Act, 2016.

Therefore, it is safe to conclude that Complaint before this Court and Write Petition before the Hon'ble High Court of Andhra Pradesh are different.

9. In view of the above said, the respondent is recommended to adjust the complainant against a vacancy in Guntur only on promotion, so that the complainant does not have to forego his promotion.

10. The case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 20.10.2020





सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11804/1022/2020

Complainant: Smt. Athira S. Bhaskar, Block – P, Flat 1, Sampa Mirza Nagar
Govt. Housing Estate, P.O. Sarkarpool, Kolkata - 700143
e-mail: <athirasuthan04@gmail.com>

Respondent: The General Manager, Farakka Barrage Project, P.O. Farakka
Barrage, Dist. Murshidabad, West Bengal – 742212

Complainant: 50% locomotor disability

GIST of the Complaint:

Complainant vide e-mail dated 11.02.2020 inter-alia submitted that she was appointed as MTS in Farakka Barrage Project, Murshidabad, West Bengal on 13.08.2018 after qualifying the Special Recruitment Drive 2015 Exam. On joining, she stayed in Officer's Guest House and had filled up the application for the allotment of quarter. After a few months, She was allotted a quarter, but the doors were too small for her wheelchair to enter. So, she couldn't take the possession of the same and requested for a higher type quarter to the General Manager. She alleged that from the very beginning, she is being harassed by one or the other officials of Farakka Barrage Project, Murshidabad specially the Finance Officer and the then Executive Engineer. She has requested for transfer from present place of posting to Kolkata and accept medical certificate of the Kolkata's Physiotherapist for sanction of extra-ordinary leave. She has also requested to take action against the officials who are forcing her to resign by harassing.

2. The matter was taken up with the Respondent vide letter dated 12.06.2020 under Section 75 of the RPwD Act, 2016.



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3. In response, Consultant (Admn.), Farakka Barrage Project vide e-mail dated 14.08.2020 inter-alia submitted that the matter had been considered by the Inquiry Committee and investigations revealed that everyone at Farakka extended helping hand towards her, owing to her specially abled status. It has been found allegations submitted by the complainant against the officers could not be established on the basis of records and facts, even after detailed investigation of the contents.

Observation/Recommendations:

4. In the light of the above and documents available on record, the case is disposed of with recommendation to the respondent:

- a) to implement the order passed by State Commissioner for Persons with Disabilities, West Bengal on 22.09.2020.
- b) to provide immediate relief to the complainant as per the above order.
- d) to ensure that barrier free facilities are provided in accordance with Rights of Persons with Disabilities Act, 2016.

5. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 20.10.2020





सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11688/1024/2020

Complainant: Shri Girdhari Lal Gehlot, House, No. 178, Sardar Pura, Pahli See Road,
Upstairs Prem Tailor, Jodhpur
E-mail: <girdharilalgehlot@14gmail.com>

Respondent: The Managing Director & CEO, Punjab National Bank, Plot No. 04,
Sector - 10, Dwarka, New Delhi - 110075
E-mail: <rkchatterji@pnb.co.in>

Complainant 80% locomotor disability

GIST of the Complaint:

Complainant submitted that he was employed as single window operator, joined the Respondent Bank in year 1983 and was posted in Jodhpur Circle. Complainant submits that he was penalised by the Respondent Bank. In order to discharge his penalty, he had to sell his house.

2. The matter was taken up with the Respondent vide letter dated 16.01.2019 under Section 75 of the Rights of Persons with Disabilities Act, 2016.

3. In response, General Manager, PNB vide letter dated 29.02.2020 submitted that Departmental Inquiry was initiated against the Complainant, subsequently charges were framed and were proved after due process and thereafter Complainant was dismissed from the services without notice.

4. Complainant vide rejoinder dated 06.08.2020 claims that he may be granted pension as he suffers from 80% disability and finds it difficult to sustain himself because of disability and old age.



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5. After considering the respondent's reply dated **29.02.2020** and the complainant's letter **06.08.2020**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **13.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **13.10.2020**. The following were present:

- Mr. Som Srivastava, Advocate for the complainant.
- Mr. R.K. Bajpai, GM (HR) HQ, on behalf of the respondent.

Observation/Recommendations:

6. Both the parties were heard.

The complainant raised the following points:

- (a) Since an FIR has been lodge and trial is going on, no decision can be taken by the respondent in the disciplinary case.
- (b) The house of the complainant was sold off by the Bank.
- (c) As per regulation 22 of the Bipartite settlement, pension is admissible for those employees also who are dismissed.

7. The respondent informed the Court that the complainant had been dismissed in 2011 itself on charges of fraud after giving due opportunity to the complainant as per the principle of the natural justice and following the due procedure as laid down in the Bank. The respondent further informed that the sale of the house of the complainant was made as per the consent of the complainant, the documents to that affect being available with the Bank. Rule 22 of the Pension Regulations of the Bank clearly states that no pension or benefits of remaining service will be admissible to persons who are dismissed.

8. This Court also notes that all necessary terminal benefits which were due in this case have been given by the Bank and there is no merit in the complaint. The case is accordingly disposed off.



Upma Srivastava
(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 21.10.2020

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11867/1022/2020

Complainant: Shri Shyama Charan, Scientific Officer, SPH 1/23, NPCIL Kaiga Township, Karnataka – 581400
E-mail: <charanshyama78@gmail.com>

Respondent: The Chairman & Managing Director, Nuclear Power Corporation of India Ltd, Nabhikiya Urja Bhawan, Anushaktinagar, Mumbai – 400094
E-mail: <cpsingh@npcil.co.in>

Complainant 40% locomotor disability

GIST of the Complaint:

Complainant has sought relief (1) Nearest place post to his home town Narora, Noida office and Haridwar QA Office (2) identified and suitable post like R&D, QA document cell etc. (3) APAR to be improved so that he could be promoted in time.

2. The matter was taken up with the Respondent vide letter dated **23.06.2020** under Section 75 of the Rights of Persons with Disabilities Act, 2016.

3. In response, Additional General Manager (HRM) vide letter dated **05.08.2020** inter-alia submitted that Shri Shyama Charan, Scientific Officer/C (Electronics Discipline) had submitted an application for transfer to Delhi QS Office, Haridwar QA Office or Mumbai HQ vide online application dated 05.01.2018 but his application was rejected by the Committee for shortage of officers at KGS 3&4. Subsequently, Shri Charan submitted another online application on 02.08.2019 requesting transfer to Haridwar, Delhi (Noida), Gorakhpur (Haryana) and his transfer request along with other applications received will be examined by the Committee. They further submitted that assessment Shri Charan's of APAR was done for the year 2017 – 2018 and grading were disclosed for both the APARs but he did not make any representation in the prescribed time limit for any of the APARs. Shri Charan did not possess the requisite minimum prescribed grading, his case was not considered by the Screening Committee for promotion to the next higher.



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Signature

Signature

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

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

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

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

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

4. Complainant vide rejoinder dated **22.08.2020** submitted that he disagreed with the respondent's comments.

5. After considering the respondent's reply dated **05.08.2020** and the complainant's rejoinder dated **22.08.2020**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **13.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **13.10.2020**. The following were present:

- Mr. Shyama Charan, the complainant.
- Mr. C.P. Singh, Additional General Manager (HR), on behalf of the respondent

Observation/Recommendations:

6. Both the parties were heard.

7. The complainant raised large number of issues pertaining to his harassment by his immediate Supervisor - Shri Mukund Lal Das and Chief Superintendent - Shri T. Prem Kumar. The complainant expressed that he is meet to climb up monkey ladders, go down into trenches, he is left along on operating island and deliberately harassed and humiliated because of his disability and consequently not able to perform field jobs to the satisfaction of his Supervisor. The complainant also expressed that he has been posted at a place very far away from his home town and is finding it really difficult because of the huge distances involved in travelling between his place of residence to office.

8. The respondent stated that there was no substance in the grievances of the complainant and that he had made two representations regarding his transfer requirement, but the same could not be considered by the organisation due to administrative constrain.

9. After listening to both the parties, this Court makes the following recommendations for the respondent:



- (a) Immediate transfer of the complainant to a station indicated by him, which is closer to his home town and is not a field position in terms of the following rule position in respect of transfer of persons with disabilities:

"Section 20.(5) of the Rights of Persons with Disabilities Act, 2016 - 'Non-discrimination in Employment' of the Rights of Persons with Disabilities Act, 2016 provides that the appropriate Government may frame policies for posting and transfer of employees with disabilities."

As per the **DoP&T O.M. No.36035/3/2013-Estt.(Res) dated 31.03.2014**, the persons with disabilities may be exempted from the routine/rotational transfers and to the extent possible, such persons should be retained at posts where they can contribute efficiently over a long period.

- (b) The General Manager (HR) may hear the grievances of the complainant empathetically and ascertain the responsibility of those senior officers/supervisors, who are harassing and humiliating the complainant and initiate disciplinary action against them if so required.
- (c) The Grievance Redressal Officer of the organisation should counsel the complainant and the supervisors in his office to resolve the acrimony and misunderstanding if any.
- (d) The respondent may note the provisions of reasonable accommodation of the Rights of Persons with Disabilities Act, 2016 for implementation in both letter and spirit for all persons with disabilities, which is reproduced as under:

"Section 2.(y) – "reasonable accommodation" means 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 equally with others.

10. The case is accordingly disposed off.

Dated: 21.10.2020




(Upma Srivastava)
Commissioner for
Persons with Disabilities

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11602/1023/2019

Complainant : Dr. Kapil Jagga, Medical Officer, 819, 2nd Floor,
Mukherjee Nagar, Delhi-110 009

R-24050

Respondent : Ministry of Health & Family Welfare, (Thru Directorate
General Health Services), Room No.244, A, Nirman
Bhawan, Maulana Azad Road, New Delhi – 110 001

Disability : 52% Locomotor Disability

Gist of Complaint:

Dr. Kapil Jagga vide his complaint dated 09.10.2019 submitted that he has been presently posted in Safdarjung Hospital, Delhi. In the year 2005, his initial posting was at Nilokheri in Karnal. He was the only Doctor posted there. He was posted without any training which is against the Disability Act which clearly states that an employee with disability should have been given enough training before joining his job. Therefore, he decided to do Post graduation. For seeking permission to acquire higher education by giving PG Entrance Exam, he applied through proper channel and informed his department a year in advance. He did not hear anything regarding permission from his department. He went on to do PG. He has always been in touch with

his department. He was denied the leave for doing PG and a disciplinary case was initiated against him and a penalty was imposed on him vide letter dated 30.04.2013. The penalty was reduction to the lowest of time scale and stoppage of increment for five years with further direction that he will not earn increments of pay during the period of reduction and on expiry of such period the reduction will not have the effect of postponing the future increments of pay. He submitted that after the completion of his penalty period, the injustice has been still continuing. His grievances are :

- i) Denial of promotion
- ii) Reduction of Rank
- iii) The increments are still reduced every years
- iv) Loss of seniority

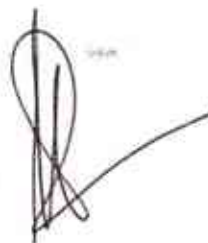
2. No reply has been received from the Respondent.

Hearing : The case was heard through video conferencing by the Commissioner for Persons with Disabilities on 25.09.2020.

3. The following persons were present during the hearing:

- 1) Dr Kapil Jagga, Complainant
- 2) Dr S. K. S. Kushwaha, Additional DDG, DGHS on behalf of the Respondent

Both the parties were heard.



Observation/Recommendations:

The Court noted that the complainant was penalized for pursuing a post graduate degree course to further his capabilities and competencies in his chosen field of profession. Efforts made by any person and especially by a Person with disability should have been encouraged and supported by regularising through leave due and admissible rather than punishing him. It is disappointing to see this apathetic attitude of the respondent.

This Court also notes that the Complainant was penalized by Order dated 30.04.2013 for taking leave without permission. Following penalties were imposed upon him.

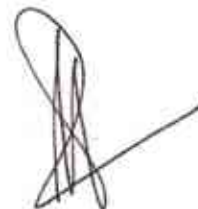
- Reduction of minimum time of the scale pay.
- Stoppage of increment of pay during the period of reduction

With respect to second penalty it is pertinent to note that contradictory statements were made within the penalty order.

Further, it was directed that such reduction will not have the fact of postponing his future increments of pay.

With respect to increments of pay during the period of reduction, language of the operating part of the order is contradictory. Operating part of the Order is reproduced below -:

"AND WHEREAS, disciplinary Authority, after carefully considering all the facts and circumstances, all relevant documents of the case, and advice tendered by the UPSC, has come to the conclusion that good and sufficient reason exists for imposition of penalty of "reduction to the minimum of the time-scale of pay for a period of five years, with further direction that he will not earn increments of pay during the period of the

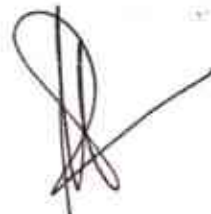


reduction and on expiry of such period. The reduction will not have the effect of postponing the future increments of his pay is imposed on the C.O. i.e. Dr. Kapil Jagga". It is further directed that Dr. Kapil Jagga will earn increments of pay during the period of reduction and that on the expiry of the said period of five years, the reduction will not have effect of postponing his future increments of pay. The period of his unauthorised absence will be treated as dies-non."

Firstly, penalty order says that the complainant in the present case will not earn implements of pay during the period of reduction. In the same Para, after 2-3 lines, contrary statement is made that the complainant will earn the increments of pay during the period of reduction. Since, beneficiary interpretation should be given to the Penalty Order, therefore, this court concludes that penalty of "reduction of the minimum of the time scale of pay for the period of 5 years" was imposed on the complainant.

With respect to issue related to earning increments of pay during the period of reduction this court concludes that the complainant is entitled to earn increments of pay during the period of reduction. With respect to postponing his future increments of pay after expiry of penalty period of 5 years, this court concludes that the reduction does not have the effect of postponing the such increments of pay.

This court would like to attract the attention of the respondent to O.M. No. 22011-7-86/ESH(D) dated 03.07.1986. As per the O.M in cases where reduction is for a specified period and is not to operate to postponed future increments the seniority of the government servant may be fixed in the higher services, grade or post or the higher time scale at what it would have been but for her reduction.



Hence, in the present Complaint, this court concludes that denial of promotion, reduction of rank, reduction of increments and loss of seniority after the expiry of penalty period of 5 years is violation of employment rights of the complainant as guaranteed under Rights of Persons with Disabilities Act, 2016.

Therefore, this court recommends the following to the respondent.

- a. comply with rules relating to fixation of seniority of a government servant reverted to a lower post/grade/service as a measure of penalty, as laid down in O.M. No. 22011-7-86/ESH(D) dated 03.07.1986.
- b. Shall restore the increments of pay during the period of reduction of the complainant since the same cannot be stopped in terms of the aforementioned interpretation of the penalty order dated 30-04-2013.
- c. Shall not postpone future increments of pay of the complainant.
- d. Shall not deny due promotion to the Complainant as Penalty Order does not talk about the same.

Dated: 22/10/2020


(Upma Srivastava)
Commissioner



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11618/1022/2019

Complainant: श्री नवीन कुमार, नं० 932542467, मुख्य आरक्षक नवीन कुमार, 133 वीं वाहिनी सीमा सुरक्षा बल।

Respondent: महानिदेशक, सीमा सुरक्षा बल, केन्द्रीय कार्यालय परिसर, 10, ब्लॉक, लोधी रोड, नई दिल्ली - 110003

GIST of the Complaint:

प्रार्थी का अपनी शिकायत दिनांक 21.10.2019 में कहना है कि वह नलकाटा, त्रिपुरा में तैनात है तथा उनका परिवार चण्डीगढ़ में। प्रार्थी का आगे कहना है कि उनकी 80 प्रतिशत मानसिक रोगी पुत्री का इलाज नेहरू चिकित्सालय स्नातकोत्तर शिक्षा एवं अनुसंधान संस्थान, चण्डीगढ़ में चल रहा है तथा वह रीजनल इंस्टीट्यूट फार मैन्टली हैंडीकैप्ड स्कूल, सेक्टर 31, चण्डीगढ़ में पढ़ रही है एवं प्रार्थी की पत्नी को हर समय बच्ची के साथ रहना पड़ता है इसलिए उन्होंने कई बार चण्डीगढ़ स्थानांतरण के लिए विभागीय पत्राचार भी किया है परंतु अभी तक कोई कार्रवाई नहीं की गई।

2. The matter was taken up with the Respondent vide letter dated 22.11.2019 under Section 75 of the Rights of Persons with Disabilities Act, 2016 but despite reminder dated 02.03.2020, no response has been received from the respondent.

Observation/Recommendations:

3. Complainant being the care giver of a child with intellectual disability, needs to be with the child for taking care for her educational and rehabilitation need. The rule position for the care giver of such child is as follow:

As per the DoP&T O.M. No.42011/3/2014-Estt.(Res) dated 08.10.2018, a Government employee who is a care-giver of dependent daughter/son, parents/spouse/brother/sister with specified disability as certified by the certifying authority may be exempted from the routine exercise of transfer/rotational transfer subject to the administrative constraints.



[Signature]

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4. Keeping in view the need of the child and rule position stated above, this Court recommends, the respondent to transfer the complainant to Chandigarh and submit the compliance report to this Court within 90 days.

5. The case is accordingly disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 22.10.2020



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Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment
भारत सरकार/Government of India

Case No. 11725/1032/2020

Complainant:

Shri Shashikant Jha,
R/o House No.225/5, Ward No.2,
Mehrauli, New Delhi – 110030
Email – shashij673@gmail.com;

Respondents:

Additional Commissioner (Acad),
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi – 110016;
Email – addlcacad@gmail.com

....Respondent No.1

Principal, Kendriya Vidyalaya, B-5&6,
Kishangarh - Mehrauli Rd,
Pocket B, Sector B, Vasant Kunj, Delhi 110070;
Email: kvvasantkunj@kvsedu.org; kvvk_nd70@yahoo.co.in;

....Respondent No.2

SUBMISSION MADE IN COMPLAINT:

1. The complainant's son Master Siddhant Jha is a child with 40% locomotor disability (Duchene Muscular Dystrophy in all four limbs). He studies in Class V in Kendriya Vidyalaya, Vasant Kunj, Delhi. His class room is on 2nd floor. Complainant submitted that his son is unable to climb stairs on his own as all his four limbs are impaired. The complainant alleged that the Principal of the school denied allotting his son a classroom on the ground floor. The Principal even advised the complainant to get his ward transferred from the school. The complainant submitted that his home is near that school.

SUBMISSIONS MADE IN REPLY:

1. The Principal, KV, Vasantkunj, in his reply dated 05.02.2020 submitted that the school has only 20 classrooms and all of them are running at their full capacity. None of the class room is empty on ground and first floors. Classes

Page 1 of 5

from 1st to 4th with two sections of each class are on ground and first floors; and Class V in which Master Siddhant Jha is studying is on second floor.

RELIEF SOUGHT:

1. To shift the classroom of the Child suffering from Disability to Ground Floor from First Floor.

Hearing:

The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 13.10.2020. The following were present:

- | | |
|-----------------|---|
| 1. Complainant: | Wife of the Complainant |
| 2. Respondent: | Mr. Rajeev Singh, Principal K.V.S. Vasant
Kunj, Mr. Sanjeev Kumar, Assistant Commissioner,
KV Sangathan |

Both the parties were heard.

Observation/Recommendations:

1. A human being needs reasonable mind only to understand the trauma of a child suffering from muscular disability. This court is anguished and astonished to take cognizance of this complaint because of two reasons – first, nature of the complaint and responsible nature of the post occupied by the Respondents.
2. Complaint is filed by the grieving father of a child suffering from Duchene Muscular Dystrophy. As per the Complaint and also admission made by the Respondent, the child of the Complainant is studying in Respondent school. His classroom is situated on the 2nd floor, where he finds it impossible to climb by using stairs, on his own without any external support.
3. Respondents are Additional Commissioner (Acad.) of Kendriya Vidyalaya Sangathan and Principal of Kendriya Vidyalaya, Vasantkunj, where ward of the Complainant is pursuing his primary education.



4. Kendriya Vidyalaya Sangathan is a premier education institution for primary education in this country. This court would like to remind the Mission, Vision and Objectives of KVS to the Respondents, as made available by the organisation itself on its website - <https://kvsangathan.nic.in/>

5. Point No. 2 under heading Mission reads as –

"To pursue excellence and set the pace in the field of school education"

6. Vision of the Sangathan is described on the website as –

"KVS believes in imparting knowledge/values and nurturing talent, enthusiasm and creativity of its students for seeking excellence through high quality educational endeavours."

7. Further, Commissioner's message reads as -

"It is universally acknowledged that a teacher plays a pivotal role in shaping the character and aspirations of a child. Our ancient scriptures too remind us of the bonding and harmonious relationship between Guru and Shishya, but this bonding brings with it the responsibility of enabling the students to realise their full potential by inculcating in them the values of integrity, hard-work and commitment. A teacher is not only a parent, friend, philosopher and guide to his/ her students, but also a mentor who imbues in them the sterling qualities of head and heart, thus moulding the future citizens of our great nation."

8. Manifestly, there is a huge gulf between tall dreams KVS seeks to achieve and actual practice of Respondent Principal and other staff of the organisation who made the Complainant run from pillar to post.

9. Clearly, Respondent Principal of the school and other concerned staff members of the organisation who did not apply their mind to address the problem faced by the child, the Respondent must feel ashamed for not even trying to achieve what is stated by their parent organisation.

10. To the utter surprise of this court, Respondent school has audacity to admit in its Reply that 1000 other students cannot be made to suffer because of one child. Further, Respondent also submitted that Complainant has been



advised to get their child transferred to another KVS School. Also, it is submitted in the reply that on the ground floor, there is staff room which is not suitable for child suffering from disability hence cannot be converted into a class room.

11. To submit that room used as staff room cannot be converted into classroom suitable for child suffering from disability is not how Respondent organisation can impart quality education, values and nurture talent, enthusiasm and creativity in the students whether or not suffering from disability. Expression of inability to convert staff room into classroom, which requires simple furniture and black-board, manifests Zero creativity and absolute Zero application of mind on the part of the Respondents. Furthermore, to not even attempt to address the problem of a child suffering from disability and to suggest the grieving Complainant to get his child transferred to another school and also to play game of 'office-office' is act of utmost shame for the whole Kendriya Vidyalaya Sangathan, and not only the Respondents listed in the present Complaint.

12. This court is also compelled to inform the Respondent about the duties of the Respondent, as mentioned in the Rights of Persons with Disabilities Act, 2016, passed by the Parliament of this country.

Section 16 - The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—

(ii) make building, campus and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion.



13. Hence under the light of Mission, Vision, Objectives mentioned by the Respondent on the website and also the provisions of the RPwD Act, 2016, this court recommends following –

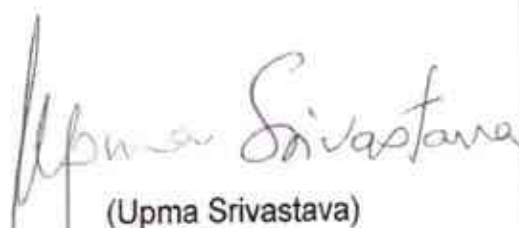
(a) Respondent shall identify class/classes on ground floor in which no child suffering from disability as to make the classroom inaccessible to such student, is studying and substitute that classroom with the classroom in which the child of the Complainant is studying.

(b) If there is no such classroom available on the ground floor, in which Child suffering from disability to make the classroom inaccessible to him, then Respondent shall convert the staff-room situated on the ground floor, as admitted, or any other room occupied as office by the Principal of the school or any other administrative staff, into classroom suitable for child suffering from disability.

(c) The exercise as recommended in Point (a) and (b) shall be carried out within period of 1 month from the date of receiving of this Order.

The case is accordingly disposed off.

Dated: 22.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities





सत्यमेव जयते

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Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No.11884/1041/2020

R-24033

Complainant:

Shri Gautam Lenka, P-6, Ocean Complex,
502, Noida Sector-18, Noida – 201301;
District – Gautambuddh Nagar (UP);
Email – gautamlenka1978@gmail.com

Respondent:

The Principal,
Kendriya Vidyalaya,
Sector-24, Noida-201301,
District - Gautambuddhnagar (UP),
Email – noida_kv@rediffmail.com

R-24034

Gist of Complaint:

The above named complainant filed a complaint dated 12.12.2019 under the Rights of Persons with Disabilities Act, 2016 for providing 'Writer/Reader' to his son, Master Manish Lenka, a child with 75% visual impairment and student of Class-III (Section-A) at Kendriya Vidyalaya, Sector-24, Noida (UP), as provided in the "Guidelines for conducting written examination for Persons with Benchmark Disabilities" vide Office Memorandum No.34-02/2015-DD-III dated 29.08.2018 and "Corrigendum" dated 08.02.2019 issued by Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice & Empowerment.

2. The matter was taken up with the Principal, Kendriya Vidyalaya Noida vide letter dated 22.05.2020 followed by reminder dated 29.07.2020. Since no reply was received within the stipulated time, the



(Page - 1 - of 3)

case was listed for online hearing on 13.10.2020 and Notice of Hearing was issued to the parties on 08.10.2020.

3. After issue of Notice of Hearing, the respondent filed their reply vide email dated 09.10.2020 and submitted that in Class I & Class II no formal examination was conducted and Master Manish Lenka is presently studying in Class-III. In this session 2020-21 due to lockdown, the Vidyalaya is conducting classes and test on online mode and child is permitted to attempt test/examination from home with the help of Parents/Writer/Reader. Whenever offline examination would be conducted, he would be allowed to bring his own Writer/Reader.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 13.10.2020. The following were present:

- (1) Shri Gautem Lenka, complainant along with his son Master Manish Lenka
- (2) None appeared for the respondent.

Observation/Recommendations:

The complainant reiterated his grievance for providing 'Writer/Reader' to Master Manish Lenka in the examination by the respondent.

2. This Court noted that though late, yet finally allowed Master Manish Lenka to bring his own 'Writer/Reader' to write the offline exams.

3. The respondent is advised to implement the 'Guidelines for conducting written examination for Persons with Benchmark Disabilities' [Guidelines] issued by the Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice & Empowerment vide Office Memorandum No.34-02/2015-DD-III dated 29.08.2018 followed by the 'Corrigendum' dated 08.02.2019. Master Manish Lenka be provided 'Writer/Scribe' as per Clause IV of the Guidelines which provide as under:

"IV. The facility of Scribe/Reader/Lab Assistant should be allowed to any person with benchmark disability as defined under section 2(r) of the RPwD Act, 2016 and has limitation in writing including that of speed if so desired by him/her.



A handwritten signature in blue ink, consisting of a stylized 'S' followed by a long horizontal stroke.

In case of persons with benchmark disabilities in the category of blindness, locomotor disability (both arm affected-BA) and cerebral palsy, the facility of scribe/reader/lab assistant shall be given, if so desired by the person.

In case of other category of persons with benchmark disabilities, the provision of scribe/reader/lab assistant can be allowed on production of a certificate to the effect that the person concerned has physical limitation to write, and scribe is essential to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon/ Medical Superintendent of a Government health care institution as per proforma at APPENDIX-I.

Master Manish Lenka as well as other students with disabilities be also provided "compensatory time" in terms of the Clause XII of the Guidelines (as amended in the 'Corrigendum'). Proper seating arrangement (preferably on the ground floor) should be made as per the Clause XIV of the Guidelines.

4. The case is disposed off.

Dated: 22.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner
for Persons with Disabilities

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सत्यमेव जयते

Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 12148/1032/2020

Complainant:

Shri Shameer Rishad,
Convenor, Javed Abidi Foundation,
F-311, Royal Residency Sushant Lok,
Phase-2, Sector-56, Gurgram-122011 (Haryana);
Email: shameer.rishad@gmail.com

Respondent:

The Registrar,
Banaras Hindu University,
Banaras Hindu University Campus,
Varanasi – 221005 (U.P); Email: registrar@bhu.ac.in

SUBMISSIONS MADE BY THE COMPLAINANT

1. The complainant submitted that Shri Rahul Tiwari is a 19 year old student with hearing impairment who is pursuing B.Sc. (Hons), Mathematics in Banaras Hindu University (BHU). He is unable to access any of his classes in entirety of his first year of college started in August, 2019. There are no Indian Sign Language Interpreters; and the teachers use traditional oral and auditory methods to deliver their lectures. BHU took no action on the requests made in this regard by the father of Shri Rahul Tiwari.
2. The complainant further submitted that University Grant Commission had formulated a HEPSN Scheme (Higher Education of Persons with Special Needs) which included setting up of Disability Units in colleges, accessibility of built



Page 1 of 4

environment and technology, appointing a coordinator etc. and provided funds for implementing them. This scheme has not been implemented well.

SUBMISSIONS MADE BY THE RESPONDENT:

1. Banaras Hindu University (BHU) in their reply dated 21.08.2020 submitted that there was no position sanction as Indian Sign Language Interpreter (SLI) in the BHU, hence regular recruitment was not possible. As per the list of SLIs available on the website of Indian Sign Language Research & Training Centre, New Delhi (ISLRTC), some of the trained SLIs were contacted over phone but they expressed their inability. After identifying the budget head for payment of remuneration for Contractual Engagement of SLIs, Indian Sign Language Research & Training Centre, New Delhi was approached for providing three SLIs for various Faculties to support the students in need. But at the same time Lockdown due to COVID-19 was imposed and University was closed. After opening of the University and commencement of the regular classes the SLIs would be provided to such students during the coming academic session. Shri Rahul Tiwari and similar other students of intermediate semesters had been given general promotion to the higher semesters. A separate special facility of Audio Recording for Visually Impaired and Dumb Students has been stated to be provided in the Central Library of the BHU.

ISSUE/POINT OF CONTENTION:

Whether respondent is failed in his duty to provide inclusive education and reasonable accommodation to the persons belonging to Pwd category (Deaf and Blind sub category)

HEARING:

The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **13.10.2020**. The following were present:

1. Complainant: Complainant in person
2. Respondent: Dr. Pushyamitra Trivedi, Dy. Registrar (Acad.)



Both the parties were heard.

OBSERVATIONS & RECOMMENDATIONS

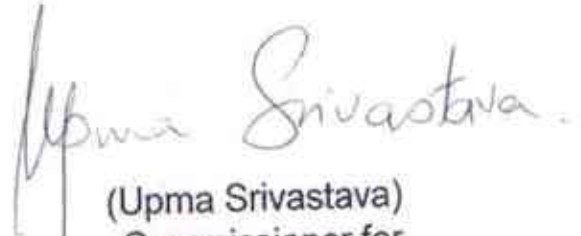
1. Complainant in this case is filed by member of an NGO, on behalf of a student pursuing bachelor course in respondent university. Main point of contention is denial of the education rights by the respondent. At the very beginning, it is not worthy to mention Section 17(c) and Section 16(v) of Rights of Persons with Disabilities Act, 2016. Section 16 of RPwD Act makes it mandatory for the appropriate government to ensure that education to blind or deaf or both is imparted in the more appropriate language and modes and needs of communication. Section 17 elevates this duty to higher step. As per the section it is mandatory duty of the appropriate government to employ teachers who are qualified in sign language and Braille language. Objective of these two provisions is to ensure that students belonging to PwD category, can be given inclusive education so that they can be brought at par with other students who do not belong to PwD category.
2. In the light of the reply filed by the respondent this court notes that respondent has started taken corrective steps towards performance of its duties as indicated in the above mentioned two provisions. However, this court feels compelled to issue following recommendations:
 - a. As soon as next academic session commences, the respondent shall employ qualified Sign Language Interpreters.
 - b. Respondent shall take up the issue of employing Sign Language Interpreters with UGC/HRD to complete the appointment on permanent basis. The respondent shall complete this exercise within 3 months on receiving this order.
 - c. It is to be noted that during the hearing conducted by video conferencing, Complainant presented various ideas which can be used to impart holistic education by using information



technology. Therefore, this court recommends that a meeting shall be organised by the respondent university with the complainant whereby he can effectively suggest the ideas for the consideration by the respondent university.

The case is accordingly disposed off.

Dated: 22.10.2020


(Upma Srivastava)
Commissioner for
Persons with Disabilities



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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 11844/1023/2020

Complainant: Shri Rajendra Prasad Sharma, K - 19, Street No. 13, Gangotri Vihar, West Ghonda, Maujpur, North East Delhi - 110053
e-mail: <negimohit16@gmail.com>

Respondent: The Head - Human Resources, Jones Lang LaSalle Building Operations Pvt. Ltd., Level 16, Tower C, Epite Building No. 05, DLF Cyber City Phase III, Gurgaon - 122002
e-mail: <admin.pam@ap.jll.com> <khadija.iqbal@ap.jll.com>

Complainant 90% visual impairment

GIST of the Complaint:

Complainant vide complaint dated **24.02.2019** submitted that he had joined the respondent Company on 01.06.2014 and the company issued a warning letter to him on 04.08.2017 for unsatisfactory job performance. He further submitted that after accepting the letter, the company stopped his entry and not paid salary, also not given termination letter. He further submitted that on July 2018, he was admitted in AIIMS for visual treatment and on 19.06.2019, he came to know that he was suffering from visual disability after that he informed the company through e-mail and they had assured him to provide all possibilities on humanity and medical ground. He alleged that respondent neither released his salary and nor provided medical help.

2. The matter was taken up with the Respondent vide letter dated **09.06.2020** under Section 75 of the RPwD Act, 2016.

3. In response, respondent vide letter dated **31.07.2020** inter-alia submitted that complainant had failed to perform his services for which several oral warnings had been given to him. Even after issuing so many warnings, he did not improve, resultant thereon, on



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....2....

04.08.2017, the company had issued a warning letter to the claimant for his unsatisfactory job performance and directed him to improve the same. They further submitted that the company is not liable to pay any salary to the complainant as they were neither aware nor being informed about the disability until July 2019.

4. Complainant vide rejoinder dated **03.09.2020** submitted that his entry to the old site was banned by the company on **01.08.2017**, due to which the applicant could neither go to his old site nor did he receive any oral and written order by the company to go to the new site.

5. After considering the respondent's reply dated **31.07.2020** and the complainant's rejoinder dated **03.09.2020**, it was decided to hold a personal hearing in the matter, and therefore, the case was listed for personal hearing on **16.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **16.10.2020**. The following were present:

- Shri Rajendra Prasad Sharma – on phone
- Respondent – absent

Observation/Recommendations:

6. It is observed that assessment of disability of the complainant was done in 2019 and a certificate of disability was issued on 19.06.2019 and the grievance of not allowing him to work is related to the year 2017. Therefore, this Court does not find any merit in the case on the ground of disability. However, since the complainant became person with disability and obtained certificate in 2019, therefore, respondent may consider giving possible help to the complainant on humanitarian ground.

7. The case is disposed off.

Dated: 23.10.2020



Upma Srivastava
(Upma Srivastava)
Commissioner for
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No: 12047/1023/2020

Complainant: Shri Hunny Chugh, House No. CG, Tower No. 09, Type - 2, Kidwai Nagar East, Delhi - 110023
e-mail: <hunny.chug@gov.in>

Respondent: The Directorate General - Fire Services, Civil Defence & Home Guards, Ministry of Home Affairs, East Block - 7, Level - 7, R.K. Puram, New Delhi - 110066
e-mail: <dgfscdhg@gmail.com>

GIST of the Complaint:

Complainant vide complaint dated 28.05.2020 submitted that Shri D.K. Shami, Fire Adviser and Shri Umesh Sharma ADG were harassing him in petty office matter therefore, he had written a complaint to Chairman of Grievance redressal Cell (Divyangjan) about harassment vide letter dated 01/01/2020 but no action or response was received till date. He further submitted that he had taken earned leave from 9th to 13th March 2020 but unfortunately, he had missed return flight from Ahmedabad to Delhi on 16 March 2020 due to illness of his parents which had been intimated to the office on 16 March 2020. He further submitted that he had informed the office that he was stranded in Red zone Ahmedabad district and requested work from home which was allotted to him by E-mail and WhatsApp started from 21 March 2020 and work completed by him on time. He further submitted that he had requested DDO and ASO cash section by email dated 23/04/2020 not to deduct income tax and any cess from his salary which may be deducted by end of FY 2020-21 as he was stranded in Ahmadabad but when he reached Delhi, he found that an amount of Rs.8424/- as Income-tax had been deducted from his salary.

2. The matter was taken up with the Respondent vide letter dated 09.07.2020 under Section 75 of the RPwD Act, 2016.



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3. In response, respondent vide letter dated 13.08.2020 inter-alia submitted that Mr. Hunny Chugh, Assistant Section Officer was absent for long, still considering the COVID -19 scenario, office has released full salary for the month of Mar, April and May 20, the transport allowance component was deducted for month of Apr and May 2020 in accordance with Dept. of expenditure. They further submitted that Mr. Hunny Chugh reached Delhi as intimated vide mail dated 28.05.2020 and he was instructed to report to Office immediately but vide mail dated 29.05.2020, he had informed that "I can't come to office as I am exempted as per DOP&T orders". However, considering the COVID – 19 scenario and disability of assistant, DG (FS, CD & HG) has taken a lenient view of his case and directed to regularize his leave (referring clarification regarding absence during COVID-19 lockdown period from other Govt. office i.e. CAG) from his leave account (82 EL + 26 HPL) and released the salary and his case for transfer has already been taken up.

4. After considering the respondent's reply dated and the complainant's rejoinder, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **16.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **16.10.2020**. The following were present:

- Shri Hunny Chugh – complainant
- Shri Umesh Sharma, ADG on behalf of respondent

Observation/Recommendations:

5. Both the parties were heard.

6. The case is disposed off with the recommendation to take action as per the DoP&T's O.M. dated 28.07.2020 and reconsider the issue of leave and deduction of salary during COVID – 19 epidemic lockdown period so as to ensure that rights of persons with disabilities do not get infringed.



Dated: 23.10.2020

Upma Srivastava
(Upma Srivastava)
Commissioner for
Persons with Disabilities



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भारत सरकार/Government of India

Case No: 12091/1022/2020

Complainant: Dr. Khushboo Jha, C – 601 Taj Apartments, Gazipur, Delhi - 110096
E-mail: <dr.khushboo.jha@gmail.com>

Respondent: The Chairman & Managing Director, Food Corporation of India, 16 – 20,
Barakhamba Road, New Delhi – 110001
E-mail: <chairman.fci@gov.in>

Complainant 57% locomotor disability

GIST of the Complaint:

Complainant vide complaint dated 02.07.2020 submitted that she has been working in the Principal Controller of Defence Accounts Office, Dehradun since September 2018 and her husband is working in FCI, HQ, New Delhi. She further submitted that as per DOP&T's OM dated 20.09.2009, her husband had applied for Transfer from New Delhi to Dehradun on 16.10.2018 but no action was taken, therefore, he again submitted an application to the respondent which is pending.

2. The matter was taken up with the Respondent vide letter dated **28.07.2020** under Section 75 of the RPwD Act, 2016. But despite reminder dated **16.09.2020** respondent did not submit any reply, therefore hearing fixed on **16.10.2020**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **16.10.2020**. The following were present:

- Complainant could not connect due to technical reasons.
- Mr. Arun Kumar, GM (Pers), FCI & Mr. R.L. Meena, FCI (HQ), on behalf of the respondent.

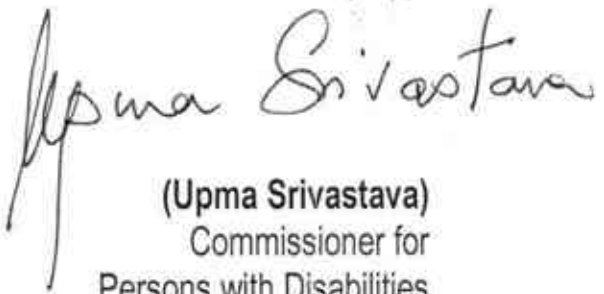


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Observation/Recommendations:

3. Both the parties were heard.
4. The grievance of the complainant is regarding transfer of her spouse presently working in FCI, Delhi to Dehradun, Uttarakhand, where the complainant works in the O/o Principal Controller of Defence Accounts (Air Force).
5. The respondent explained that they do not have any post in Dehradun, Uttarakhand at the level of the complainant's spouse where he could be posted now. However, whenever any vacancy is created in Uttarakhand region in future, he will be considered.
6. Under the circumstances, the only option available for the complainant is to get herself transferred to New Delhi by requesting the O/o Principal Controller of Defence Accounts (Air Force), so that she could be looked after by her spouse, given her disability condition.
7. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 23.10.2020





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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 11001/1024/2019

Complainant:

Shri Feyaz Ahmed,
Qr. No.H/228, Sector-15,
Rourkela, Sundergarh-769003 (Odisha)
Email: fezasahmed@gmail.com

Respondent:

The Secretary, Railway Board,
Ministry of Railways, Rail Bhawan,
New Delhi - 110001
Email: secyrb@rb.railnet.gov.in

Gist of Complaint

The complainant is a person with 100% hearing impairment and is working as 'Safaiwala' at Bondamunda, South Eastern Railway, Chakradharpur. He alleged that South Eastern Railway has turned down his request to change his category to 'Hospital Attendant' whereas as per the letter/circular No.E(NG)II/2014/RC-2/1List dated 14.02.2014 issued to the General Manager (P), All Zonal Railways/PUs, the posts of Ward Attendant/Sr. Ward Attendant, Ward Assistant, Ward Boy etc. under this category are identified for persons with hearing impairment.

2. From the perusal of the documents filed by the complainant, it appears that South Eastern Railway vide letter No. E/1/Tfr/1057 dated 07.07.2006 addressed to the Chief Medical Officer, Bondamunda that Deaf and Dumb cannot work as Hospital Attendant (HA) as HAs are supposed to attend to sick

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patients and their demands. Similarly he is unsuitable as 'Peon' or 'Masalchi'. Both the jobs demand listening & speaking.

3. The matter was taken up with the respondent vide this Court's letter dated 10.01.2019 followed by reminder dated 17.09.2020, but no response has been found received despite reminder dated 17.09.2020.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **16.10.2020**. The following were present:

- (1) Mr. Feyaz Ahmed, the complainant
- (2) Mr. Mahesh Kr. Meena, Dy. Director (Estt.), on behalf of the respondent

Observation/Recommendations:

The complainant expressed that because of his 100% hearing impairment, he is being discriminated in his office and his category of employment i.e. Safaiwala is not being changed to other category like Hospital Attendant, Ward Attendant etc. as done in the case of employees similarly placed in his organisation. The Ministry of Railways stated that it was not possible to post him as Hospital Attendant or on any other post as Peon or Masalchi, because he could not speak or hear.

2. The respondent stated that they have not considered examining the case of the complainant to change his category to any other suitable identified post where he could work efficiently despite his disability.

3. It is extremely disappointing to see the apathetic attitude of the respondent towards the request of the complainant who has been working with them for the last twenty years. The respondent can definitely upgrade the category of the complainant to a post which is suitable for persons with disabilities as would have been identified by the Ministry of Railways in terms



of directions of the Ministry of Social Justice & Empowerment. Posts like Ward Boy, Ward Attendant, Sr. Ward Attendant etc. are identified for persons with disabilities of these categories- i.e. OA, OL, LV, HH, vide Notification No.16-15/2010-DD.III dated 29.07.2013 issued by the Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice & Empowerment.

4. Accordingly, the respondent is recommended to change the category of the complainant appropriately and send a compliance report within 90 days of the receipt of this order.

5. The case is disposed off.

Dated: 26.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities





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Extra

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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

वाद संख्या - 11975/1141/2020

परिवादी -

श्री इफ्तिखारवसी, 109-बी, मोहल्ला कोट, बस्ती हज़रत निज़ामुद्दीन, दक्षिणी दिल्ली-110013;

ईमेल: iftikharwasitirmizi@gmail.com; Mobile: 96547176221

प्रतिवादी -

दिल्ली दुग्ध योजना,

द्वारा महाप्रबन्धक, पश्चिमी पटेल नगर, नई दिल्ली-110008;

ईमेल - gm.dms@nic.in; दूरभाष 25872455/25872466.

परिवाद का सार -

परिवादी ने समाचार पत्र में प्रकाशित विज्ञापन के अनुसार, दिनांक 12.06.2018 को दिल्ली दुग्ध योजना के पटेल नगर स्थित कार्यालय से पचास रुपये फार्म की फीस जमा कर डीएमएस बूथ आवंटन के लिए सारे प्रमाण पत्रों के साथ आवेदन किया था। दिल्ली दुग्ध योजना के नियमानुसार आवेदकों के वरीयता क्रम के अनुसार 'प्रथम आओ प्रथम पाओ' के आधार पर बूथ आवंटन किया जाता है। दिनांक 22.05.2019 को क्रम संख्या 1 से 20 तक के आवेदकों को साक्षात्कार के लिए बुलाया गया था जिसमें परिवादी का क्रम संख्या 3 था। परिवादी को खाली बूथों की एक सूची भी दी गई जिसमें से निजामुद्दीन या उसके आसपास के बूथ आवंटित करने का परिवादी ने अपनी सहमती दे दी थी। परिवादी को प्रतिवादी के कार्यालय द्वारा यह बताया गया कि दिव्यांग होने के कारण उन्हें वरीयता में प्रथम स्थान पर रखा गया था और आवंटन आरम्भ होते ही सूचित कर दिया जाएगा। परिवादी ने आरोप लगाया कि आज तक प्रतिवादी द्वारा उसे कोई बूथ आवंटित नहीं किया गया जबकि उनके बाद के आवेदकों को बूथ आवंटित किया गया।

2. प्रतिवादी ने उत्तर दिनांक 17.08.2020 प्रस्तुत किया कि परिवादी को दिनांक 22.05.2020 को बूथ लेने हेतु साक्षात्कार के लिए बुलाया गया और साक्षात्कार के समय परिवादी को खाली पड़े बूथों की सूची दी गई कि खाली पड़े बूथों में से कोई पाँच बूथ अपनी पसन्द का वरीयतानुसार चुन कर लिखित रूप में दो कार्य दिवस के अन्दर दिल्ली दुग्ध योजना में जमा कराएँ जिसे वे लेना चाहते थे ताकि उस पर विचार

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किया जा सके। लेकिन परिवादी ने बूथ लेने हेतु अपना लिखित आवेदन जमा नहीं करवाया जिसके कारण उन्हें बूथ का आवंटन नहीं किया जा सका।

3. परिवादी ने प्रत्युत्तर दिनांक 04.09.2020 में प्रतिवादी के कथन को गलत बताया और कहा कि उन्होंने बूथ लेने हेतु दिनांक 22.03.2020 को अपना लिखित आवेदन जमा किया था

सुनवाई - इस परिवाद में विडियो कान्फ्रेंसिंग के माध्यम से आयुक्त दिव्यांगजन द्वारा दिनांक 16.10.2020 को सुनवाई की गई। सुनवाई में निम्नलिखित व्यक्ति उपस्थित हुए -

1. श्री इफ्तिखारवसी, परिवादी स्वयं दूरभाष पर
2. श्री वीरेन्द्र सिंह, प्रभारी, दिल्ली दुग्ध योजना दूरभाष पर प्रतिवादी की ओर से

अवलोकन/अनुशंसाएँ -

शिकायतकर्ता का तर्क यह है कि यद्यपि वह आवेदकों की सूची में जिन्हें डीएमएस मिल्क बूथ आवंटित किया जाना था, क्रम संख्या 1 पर था, फिर भी उनकी विकलांगता के कारण प्रतिवादी ने उन्हें कोई बूथ आवंटित नहीं किया था, जबकि आवेदक जो सूची की रैंकिंग में कम थे, उन्हें उनकी पसंद के अनुसार बूथ आवंटित किए गए थे।

2. प्रतिवादी ने यह व्यक्त किया कि यद्यपि परिवादी क्रम संख्या 1 पर था, उसे किसी भी बूथ को आवंटित नहीं किया जा सकता था, क्योंकि वह नियत तिथि यानी 22.05.2019 को पाँच बूथों के लिए अपनी वरीयता के लिखित अनुरोध के साथ नहीं आया था, जो उस समय उपलब्ध थे।

3. परिवादी ने कहा कि उन्होंने प्रतिवादी को ऐसा लिखित अनुरोध दिया था।

4. परिवादी और प्रतिवादी द्वारा दिए गए वक्तव्यों को देखते हुए यह अनुसंशा की जाती है कि परिवादी उपलब्ध शेष बूथों में से उनकी वरीयता को विधिवत चिन्हित करते हुए नए सिरे से एक अभ्यावेदन प्रतिवादी को देगा, जो प्रतिवादी द्वारा परिवादी को बूथ आवंटन के लिए विचार किया जा सकेगा।

5. तदनुसार इस परिवाद का निपटारा किया जाता है।

दिनांक : 26.10.2020

उपमा श्रीवास्तव

(उपमा श्रीवास्तव)
आयुक्त दिव्यांगजन





extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 12004/1141/2020

Complainant:

Shri Ajeet Kumar,
S/o Shri Ramjeevan Mahto,
Village-Gokhulpur, Post-Satnag,
PS – Chandi, District-Nalanda -803108 (Bihar)
Email: sahilsinha980pnb@gmail.com

Respondent:

The Chief Executive Officer,
Indian Oil Corporation Limited
Regd. Office: Indian Oil Bhavan,
G-9, Ali Yavar Jung Marg, Bandra (East),
Mumbai-400051; Email: kgwalani@indianoil.in

Date of Complaint: 07.03.2020

Gist of Complaint

The complainant, a person with 70% locomotor disability submitted that he had applied for allotment of Petrol Pump under OBC-PH quota in the Divisional Office, Patna of Indian Oil Corporation Ltd. (IOCL). He alleged that IOCL did not allot him the petrol pump; instead a non-disabled person was allotted the petrol pump.

2. On taking up the matter, IOCL in their reply dated 17.08.2020 submitted that the location "Devaria (Not on SH), Block-Ben, Dist. Nalanda", Bihar was advertised for Rural Retail Outlet (Kisan Sewa Kendra-KSK) under OBC-PH category in Nov 2018. A total of five applications were received against the said advertisement as per the details given below:

- Group-1 (land owned by self/family members) – Single application
- Group-2 (Firm offer of land) – Two applications
- Group-3 (No land) – Two applications.

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Since Shri Arun Kumar was the sole applicant under Group-1, he was declared as selected candidate. Subsequent to the scrutiny of documents, land evaluation & Field Verification, Letter of Intent (LOI) was issued in favour of the selected candidate, Shri Arun Kumar on 21.08.2019. Shri Arun Kumar had submitted PH Certificates – one, bearing ref-149 dated 18.04.2012 issued by Medical Officer, PHC, Ben, Dist. – Nalanda; and another PH certificate bearing ref.-195 dated 01.04.2019 issued by Chairman, Board for Physically Handicapped, Sadar Hospital, Biharsharif, District Nalanda. Confirmation regarding the genuineness of Ph certificate had been sought from the concerned issuing authority.

3. The complainant in his rejoinder dated 08.08.2020 has submitted that Shri Arun Kumar who had been declared the suitable candidate is his co-villager and he know him well that he is absolutely physically fit and fine. With mal-intention and to take undue advantage of this special category and grab a dealership Shri Arun Kumar has managed to obtain wrongfully a certificate of physical disability.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **16.10.2020**. The following were present:

- (1) Mr. Ajeet Kumar, the complainant
- (2) Mr. Ankit Katiar, Advocate, Mr. R.K. Gupta & Mr. Ajay Garg, IOCL, on behalf of the respondent

Observation/Recommendations:

Both the parties were heard.

2. The contention of the complainant is that the person who was selected for allotment of Petrol Pump under OBC-PH quota in the Divisional Office, Patna of Indian Oil Corporation Ltd. was not actually disabled. As per the complainant, the selected candidate is absolutely fit, whereas he himself who was also an applicant was really disabled.



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3. The respondent expressed that the selected candidate was indeed disabled as per the certificate given to them by the candidate, which has been issued in 2012 by Medical Officer, PHC, Nalanda. The respondent further stated that they had actually got the certificate re-verified from the PHC, Nalanda and hence they had no doubt that this candidate was disabled. Further the respondent has also enclosed another disability certificate of the candidate in question issued by Sadar Hospital, Biharsharif, District Nalanda of April, 2019 which also certified the same percentage of disability.

4. In view of the submissions and the documents produced by the respondent, there is no merit found in the contention of the complainant.

5. The case is disposed off.

Dated: 26.10.2020


(Upma Srivastava)
Commissioner
for Persons with Disabilities

