



सत्यमेव जयते

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

केस सं. 6881/1021/2016

दिनांक: 01/04/2018

के मामले में :-

श्री बिनोद कुमार
 आशुलिपिक
 कार्यालय महाप्रबन्धक
 दूरसंचार कटिहार
 बिहार-854105

—वादी

बनाम

भारत संचार निगम लिमिटेड
 (द्वारा : अध्यक्ष)
 मुख्यालय
 बी०एस०एन०एल० भवन
 हरिशचन्द्र माथुर लेन
 नई दिल्ली-110001

—प्रतिवादी

सुनवाई की तिथि: 06.04.2018

उपस्थित — वादी की तरफ से कोई उपस्थित नहीं हुए
 श्री आर०डी० शर्मा, उप प्रबन्धक — प्रतिवादी की तरफ से
 श्री जी०पी० विश्वा, सहायक महा प्रबन्धक — प्रतिवादी की तरफ से
 श्री हरिश चन्द, सहायक प्रबन्धक — प्रतिवादी की तरफ से
 श्री राजीव राजवंशी, उप प्रबन्धक — प्रतिवादी की तरफ से

आदेश

श्री बिनोद कुमार, 50 प्रतिशत अस्थि दिव्यांग ने दिव्यांगजन श्रेणी के अन्तर्गत प्रौन्नति नहीं देने से संबंधित शिकायत दिनांक 26.08.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 (जो अब दिव्यांगजन अधिकार अधिनियम, 2016 हो गया है) के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत इस न्यायालय के पत्र दिनांक 21.09.2016 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 03.01.2018 भी भेजा गया ।

3. चूंकि प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में इस न्यायालय के समसंख्यक नोटिस दिनांक 14.03.2018 द्वारा मामलों में दिनांक 06.04.2018 को 15.00 बजे व्यक्तिगत सुनवाई निर्धारित की गयी ।

4. सुनवाई के दौरान वादी की तरफ से कोई उपस्थित नहीं हुए ।

5. उप महा प्रबन्धक(एस.ई.ए.), भारत संचार निगम लिमिटेड ने अपने पत्र सं. 4-8/2018-SEA BSNL(Pt.) दिनांक 06.04.2018 जोकि सुनवाई के दौरान इस न्यायालय में प्रस्तुत किया, वह इस प्रकार है कि the complaint of Sh. Binod Kumar has been examined thoroughly and found that as per Department of Personnel and Training OM No. 36012/24/2009-Estt(Res) dated 03.12.2013, (para 5), guidelines PWD quota reservation in Group-B posts is restricted to direct recruitment quota only. Whereas the post of JAO for which the said LICE was conducted on 17.07.2016 is Executive cadre post in BSNL which is equivalent to Group 'B' Post in Government of India. Hence due to non availability of quota in Executive Cadre i.e. Group 'B', the request of the applicant i.e. Sh. Binod Kumar cannot be acceded to.

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)



सत्यमेव जयते

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

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6. उपरोक्त के परिप्रेक्ष्य में मामले को बिना किसी निर्देश के बन्द किया जाता है ।

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(डा. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

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

Case No.: 7248/1023/2016 R-8288

Dated: 01.05.2018
 Dispatch No.....

In the matter of :

Smt. Sadhna Rani,
 86, Pushpanjali Vatica,
 Near Railway Crossing,
 Sikandra,
 Agra – 282 007

.....Complainant

Versus

State Bank of India
 (Through the Chairman)
 State Bank Bhavan,
 Madame Cama Road,
 Mumbai – 400 021

.....Respondent

Date of Hearing : 06.06.2017 and 12.02.2018

Present :

Complainant - Smt. Sadhna Rani, complainant along with her husband Shri Mohan Swarup Anami.
 Respondent - Shri Siddharth Sangal, Legal Counsel, Shri Harish Sablok, Chief Manager (HR) and Sangeet Sorout.– On behalf of Respondent

ORDER

The above named Complainant, filed a complaint dated 03.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding dismissal of her husband, a person with 75% visual impairment from service without notice and causing harassment and transfer etc.

2. The Complainant submitted that her husband Shri Mohan Swaroop Anami is a person with 75% visual impairment and is working as Senior Assistant in State Bank of India, Agra. Her husband submitted a request letter dated 19.06.2010 along with Disability Certificate to the Branch Manager, State Bank of India, Parkham Branch, Region III. The Disability Certificate of Shri Anami was neither fed in the HRMS nor forwarded to the appropriate authority for doing the needful. The Assistant General Manager, Shri Mohinder Budhiraja has been forcing her husband to resign from

....2/-

his post. Shri Anami has been transferred to Kosi, about 150 Kms away from his home town on his in-cadre promotion, which he had refused but he was transferred to Taraulli Branch. This Branch is located in the remote place and is about 120 Kms away with no direct transport facility. As the request of Complainant's husband for cancelling his transfer was not considered, he joined the remote Branch and had to engage his son to assist him to go to his office and back. This way his son's career has been spoiled. AGM served a charge sheet to the Complainant's husband and did not give any reasonable opportunity to defend his case. The inquiry concluded ex-parte and her husband was dismissed without serving him any notice.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities, Act 1995 vide this Office's letter dated 27.01.2017 followed by reminder dated 21.03.2017.

4. The Respondent Bank vide its letter no. R-3/Staff/320 dated 04.03.2017 addressed to the complainant has submitted that as per Bank's disciplinary authority structure, Regional Manager is the disciplinary authority for the award staff and is empowered to take independent decision considering all the relevant facts, gravity of the lapses proved and circumstances of the case. In case of an employee is not satisfied with the orders of the disciplinary authority, he may prefer appeal to the appellate authority who takes independent decision on the punishment awarded by the disciplinary authority after considering all the facts and circumstances of the case. In the instant case of the Complainant's husband Shri Mohan Singh Anami, both the above steps have been completed and decision has been taken by the competent authorities. The Respondent further submitted that there is no provision for review of the order passed either by the Disciplinary authority or Appellate Authority in case of member of award staff, the case under reference cannot be reviewed. The Respondent further vide its letter no. R-5/Staff/305 dated 09.05.2017 has submitted that the husband of the complainant Shri Mohan Swaroop Anami was appointed as Clerk cum Cashier on 28.12.1984 in the bank and was confirmed on 28.06.1985 after completion of probation period. While working as single window operator at Parkham Branch of the Bank, several irregularities were committed by him, for which a charge sheet no. 391 dated 01.09.2011 was served upon him, wherein four charges were leveled by the answering party (Bank) and opportunity to submit reply to charge sheet was afforded to the Complainant's husband thereafter

to bring true facts in light, domestic enquiry was ordered by the then disciplinary authority after considering his reply as unsatisfactory. Subsequently enquiry findings dated 27.03.2012 were sent by the Enquiry Officer to the disciplinary authority for taking necessary action in the matter. It is appropriate to mention here that all the charges were found proved against Shri Anami by the Enquiry Officer. Moreover, it is essential to assert here that after giving personal hearing under the provision of bipartite settlement dated 10.04.2002, the final order dated 11.04.2012 was passed by the disciplinary authority, by which punishment of dismissal without notice was imposed to maintain discipline in the financial institution. Furthermore, it is added here that an appeal was rejected by the then Appellate Authority after applying his mind carefully and punishment inflicted upon the Complainant's husband by the disciplinary authority was upheld. The Respondent further stated that in the light of serious lapses committed by the Complainant's husband at Parkham Branch in the year 2009-2010, it was decided to transfer him to Tarauli Branch of the bank vide letter dated 09.09.2010. Being aggrieved, a writ petition no. 66138 of 2010 was preferred in Hon'ble Allahabad High Court by Shri Anami alleging that the transfer order is contrary to policy made for persons with disabilities in the year 1990. An Order dated 10.11.2010 was passed by the Hon'ble Bench of Allahabad High Court with a direction to grant liberty to the Complainant's husband to make a representation to the Bank for seeking an appropriate disposal in accordance with Law. The Respondent stated that on 13.11.2010 a representation was sent by Shri Anami along with order passed by Hon'ble High Court, Allahabad and after analyzing entire facts mentioned in the representation, detailed order dated 23.12.2010 was passed by the then Asstt. General Manager (Admn.) in which it was made clear by the referred authority that transfer is due to administrative need and subsequently instructed to join Tarauli branch immediately. It is added here that Shri Anami never challenged order passed on 23.12.2010 before Hon'ble High Court. The instant complaint has only been filed by the complainant to abuse and misuse of provisions of law of the land as well as to create illegal pressure upon the bank's management whereas there is no room for any sympathy in the present matter.

5. Upon considering the respondent's reply dated 09.03.2017, a hearing has been scheduled in the matter on 06.06.2017 at 11.00 Hrs.

6. During the hearing the complainant submitted vide her written submissions dated 06.06.2017 that the Respondent Bank is guilty of concealment and distortion of true facts as such she denies each and every allegation. The Complainant in her submission reiterates the facts stated in reply and also reiterate that the whole facts stated in the complaint are true and correct. The applicant's husband was not provided the material defence documents and thus the Principle of Natural justice was not followed as the opportunity of effective defence was denied. The findings of Inquiry Officer Shri Rakesh Maheshwari of the Disciplinary Authority were biased and were given under the influence of the Disciplinary Authority. The enquiry was concluded exparte. The Complainant also submitted that the directives of this Court's Order dated 23.06.2011 and 23.04.2012 and by the Chief Information Commissioner Order dated 10.05.2011, 04.04.2011 and 26.02.2013 were deliberately disobeyed otherwise truth would have emerged. The complainant further submitted that the Appellate Authority did not apply its judicious mind and all the pleas/issues raised by the complainant's husband were neither dealt with or given due consideration and appeal was dismissed mechanically. No reasoned and Legal Order was passed in compliance with Hon'ble High Court's judgment and Order dated 10.11.2010. The Order dated 23.12.2010 was wrong, illegal and malicious and was intended to harass her husband. She also raised the issue that why the material defence documents were not provided eventhough RTI Channel despite Chief Information Commissioner's directions to the then Disciplinary Authority. When these documents were provided by the successor authorities, it disclosed that each and every charge was leveled falsely and frivolous proceedings were initiated against the complainant's husband so as to save the protégé officer, Shri Bhagwan Singh through punishing her husband while making him a scapegoat. The so called personal hearing was 'farce' and conducted in wrong manner as her son who escorted her husband was asked to go out of the Office of Disciplinary Authority leaving and making his father helpless to submit material facts and documents before the Disciplinary Authority as such her husband could not state/produce any document before the Disciplinary Authority. The complainant further requested this Court to give direction to the Respondent to reinstate her husband and to assign the duties keeping in view the

disability of her husband and to post him nearest to his home at Agra and also to grant other favourable reliefs.

7. During the hearing, the representatives of Respondent submitted that the present case is pending before the Hon'ble Allahabad High Court. The Respondent has also submitted a copy of Writ No. A/66232/2012(Agra) filed in the said matter.

8. After considering Respondent's replies dated 04.10.2017 and 23.11.2017, a hearing was scheduled on 12.02.2018 at 12:00 Hrs. On the date of hearing the complainant reiterated submissions made by her earlier during the last hearing. The representative of Respondent reiterated that the complainant had filed the same grievance in Hon'ble High Court of Allahabad and is still pending.

9. As the Complainant had filed a complaint on the same grievance in the Hon'ble Allahabad High Court, therefore, this Court expressed its inability to pass any direction. However, the Court advises the Complainant to follow the Hon'ble Allahabad High Court's direction given vide Writ – A No. 66232 of 2012 Order dated 28.02.2018 to avail an alternative remedy. The Complainant may take the support of the Industrial Tribunal in the matter. However, the Respondent is advised to ensure that the persons with disabilities are not deprived of their legitimate rights.

10. The case is disposed of without any direction.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

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

केस सं. 6650 / 1023 / 2016

R-8334

दिनांक: 01.05.2018

के मामले में :-

सुश्री शशि किरन शुक्ला
 29, चौदगंज गार्डन अलीगंज
 लखनऊ-226020

—वादी

बनाम

यूनाइटेड इंडिया इश्यरेंस कंपनी लिमिटेड
 (द्वारा : अध्यक्ष-सह-प्रबन्ध निदेशक)
 प्रधान कार्यालय
 24, वाइट्स रोड
 चैन्ने-600014

R-8335

—प्रतिवादी

सुनवाई की तिथि: 16.04.2018

उपस्थित — सुश्री शशिकिरन शुक्ला — वादी की तरफ से

श्री भूपेन्द्र नाथ मल्होत्रा, क्षेत्रीय प्रबन्धक — प्रतिवादी की तरफ से

आदेश

सुश्री शशि किरन शुक्ला, 60 प्रतिशत अस्थि दिव्यांग ने उच्च अधिकारियों द्वारा प्रताड़ित करने से संबंधित शिकायत दिनांक 15.06.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 (जो अब दिव्यांगजन अधिकार अधिनियम, 2016 हो गया है) के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत इस न्यायालय के पत्र दिनांक 12.08.2016 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 23.11.2016 एवं 30.08.2016 भी प्रेषित किए गए ।

3. प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में इस न्यायालय के समसंख्यक नोटिस दिनांक 14.03.2018 द्वारा मामलों में दिनांक 16.04.2018 को 15.00 बजे व्यक्तिगत सुनवाई निर्धारित की गयी ।

5. सुनवाई के दौरान प्रतिवादी की तरफ से उपस्थित प्रतिनिधि क्षेत्रीय प्रबन्धक ने उल्लेखित किया कि श्री सुनील कुमार, प्रबन्धक एवं श्रीमती शशि बाला, उप प्रबन्धक दोनों दोषी अधिकारियों में से एक अधिकारी सेवा निवृत्त हो चुके हैं तथा दूसरे का स्थानांतरण क्षेत्रीय कार्यालय से अन्य कार्यालय में कर दिया गया है तथा वर्तमान में अब वादी की शिकायत का निवारण कंपनी द्वारा किया जा चुका है । प्रतिवादी का पक्ष पत्र दिनांक 28.03.2018 द्वारा लिखित में भी प्राप्त हुआ है ।

6. चूंकि प्रतिवादी द्वारा वादी की शिकायत का निवारण किया जा चुका है, मामले में निष्पादन हेतु कुछ शेष नहीं है । मामले को तदनुसार बन्द किया जाता है ।

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(डा. कमलेश कुमार पाण्डेय)
 मुख्य आयुक्त दिव्यांगजन

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सत्यमेव जयते

extra

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

Case No.: 6281/1033/2016

Dated 02.05.2018

In the matter of:

Smt. Sadhana Devi Patel,
 W/o Shri Aranpa Kumar Patel,
 Vill. + Post – Palhari,
 District-Banda, Uttar Pradesh-210021

.... Complainant

Versus

National Handicapped Finance and Development Corporation,
 [Through: The Chairman & Managing Director]
 Unit No.11 & 12, Ground Floor,
 DLF Prime Tower F-79 & 80, Okhla Phase-I,
 New Delhi-110020

.... Respondent No.1

State Bank of Patiala,
 (Now State Bank of India)
 Through: Chairman & Managing Director,
 State Bank Bhawan, Madame Cama Road,
 Mumbai-400021

.... Respondent No.2

Date of Hearing – 23.03.2018 and 04.04.2018

Present:

1. Shri Shankar Sharma, Asst. Manager (Project), National Handicapped Finance and Development Corporation for respondent No.1
2. Ms. Pranati Jena, Branch Manager, SBI Huda Market, Faridabad; and Shri Arvind Sharma, Manager (Law) for respondent No.2
3. None appeared on behalf of complainant.

ORDER

The above named complainant, a person with 80% locomotor disability (Wheelchair User) filed a complaint dated 25.04.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 2015 (PwD Act, 1995) regarding blacklisting her for getting any Govt. help/grant in future and initiation of Legal/Punitive action against her by the National Handicapped Finance and Development Corporation (NHFDC) [Respondent No.1] in the matter of submission of acknowledgement for receipt of scholarship amounting to Rs.61,100/-, which was not disbursed to her by NHFDC.

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2. The complainant also filed the photocopy of her Bank Passbook pertaining to her Bank Account No.31959535141 in State Bank of India, JHRU Branch, Sitapur (UP) of the transactions made in her account for the period from 18.11.2013 to 08.04.2016. She submitted that, in the year 2013-14, for pursuing B.Ed. course from JRHU (Jagadguru Rambhadracharya Handicapped University, Chitrakoot) she had applied for Trust Fund Scholarship Scheme (Regn. No.TF/13/01478) to the respondent No.1. She was sanctioned the scholarship amount but she did not receive the same in her bank account. She further submitted that respondent No.1 vide letter dated 22.12.2015 had threatened to blacklist her if she does not submit the acknowledgment receipt for the amount released to her by respondent No.1. In fact she had not received the scholarship amount.

3. After due verification by this Court from the complainant, the matter was taken up with the respondent No.1, vide this Court's letter dated 02.12.2016 for submission of their comments.

4. The respondent No.1, vide their letter dated 12.01.2017, filed their reply that as per the direction of Scholarship Screening Committee (Trust Fund), the sanctioned scholarship was transferred directly in complainant's bank account No.31959535141 at SBI Branch Chitrakoot from their State Bank of Patiala, Sector 9 Faridabad Branch on 05.02.2014. The State Bank of Patiala (now State Bank of India), Faridabad stated to have informed vide letter dated 14.05.2014 that Scholarship Rs.61,100/- was transferred in her aforesaid bank account. Respondent No.1 intimated that they vide their letter dated 14.12.2016 requested their SBI Faridabad Branch to verify again from their records whether scholarship transferred in her account or not and the requisite information is awaited from their Bank.

5. Upon considering the request made by the complainant vide her letter dated nil (received on 20.04.2017) and the request made by the respondent No.1 vide their letter dated 29.03.2017 to the State Bank of India, Faridabad to check in their records and intimate the respondent No.1, the case was listed for personal hearing on 12.06.2017. The State Bank of India was impleaded as respondent No.2. Notice of Hearing dated 23.05.2017 was issued to the parties.

6. During the hearing on 12.06.2017, the representatives of the respondent No.2 submitted that the amounts which were not accounted for to the beneficiaries were returned to NHFDC through RTGS on 30.03.2014. As regards, credit of the scholarship amount Rs.61,100/- in the Account No. 31959535141 of the complainant, Smt. Sadhana Devi, was yet to be confirmed from the Statement of Account from 02.04.2014. The representatives of the respondent No.2 expressed their inability to take out the statement of account due to merger of State Bank of India and State Bank of Patiala. They requested for grant of more time to sort out the issue.

7. The representative of respondent No.1 reiterated their reply already filed on record and added that NHFDC vide letter dated 14.12.2016, 10.01.2017 and 29.03.2017 had requested State Bank of India, Faridabad to verify again from their records whether scholarship transferred in her account or not. Apart from that NHFDC officials personally visited State Bank of India, Faridabad 6-7 times and requested to sort out the issue. This Court vide letter dated 12.06.2017 has already directed the bank to submit their statement. NHFDC vide letter dated 31.05.2017 had requested the bank again to sort out the issue.

8. In view of submissions made by the respondents, respondent No.2 was advised to confirm to this Court within four weeks from the date of issue of this Record of Proceedings dated 29.06.2017 (for the hearing held on 12.06.2017), whether the scholarship amount of Rs.61,000/- sanctioned by respondent No.1 has been credited to the account of the complainant, Smt. Sadhana Devi Patel or the amount has been returned to respondent No.1 (NHFDC).

9. Respondent No.2 filed their reply dated 21.11.2017 and intimated that respondent No.1 maintains their account (No.55005655068) with Faridabad Sector 9 Branch. Respondent No.1 had advised Respondent No.2 for RTGS of Rs.1,55,98,576/- to a number of students as per list. Out of which Rs.12,89,855/- were returned unpaid and Rs.2,88,075/- were not sent due to wrong IFSC Code or Account Number of the students. Thus on 30.03.2014, a total amount of Rs.15,77,930/- were credited to the account of Respondent No.1, including the amount of Rs.61,100/- pertaining to Smt. Sadhana Devi Patel.

10. Since no statement was found received in their reply dated 21.11.2017 of Respondent No.2, this Court vide letter dated 15.12.2017 advised the Respondent No.2 to submit the statement duly signed.

11. Respondent No.1 vide email dated 12.12.2017 again intimated that Respondent No.2 had refunded Rs.15,77,930/- vide their letter dated 14.05.2014, however, the name of Smt. Sadhana Devi Patel, the complainant was not there in the list of refunded awardees. In case the Respondent No.2 clarifies that the scholarship is not transferred in her account and refunds that amount of scholarship Rs.61,100/- to NHFDC account, then NHFDC shall immediately release the scholarship to the complainant.

12. Upon considering the replies dated 12.12.2017 of Respondent No.1 and replies dated 21.11.2017, 23.11.2017 and 28.11.2017 of Respondent No.2, the case was again listed for personal hearing on 23.03.2018.

13. During the hearing the representatives of the respondent No.2 reiterated their earlier submissions that the amounts which were not accounted for to the beneficiaries were returned to NHFDC through RTGS on 30.03.2014 which is clear in the Statement of

Account of NHFDC. They filed a copy of the letter dated 23.03.2018 addressed to NHFDC in this regard. From the letter and related documents, it appeared that respondent No.1 received instruction from respondent No.1 to credit Rs.1,55,98,576/- to the accounts of 281 students. Out of which respondent No.2 could not remit Rs.2,88,075/- pertaining to 5 students, either due to wrong IFSC code or Account numbers furnished by respondent No.1 to respondent No.2. Out of remaining 276 students' accounts, 24 entries returned unpaid (including the complainant, Ms. Sadhana Devi Patel) amounting to Rs.13,81,955/-. Out of those 24 entries, an amount of Rs.61,100/- was resent to Shri Vinod Kumar and Rs.31,000/- to Smt. Punamani. The remaining amount [Rs.12,89,855/- + Rs.2,88,075/- = 15,77,930] was credited to the account No.55005655068 on 30.03.2014.

14. The representatives of Respondent No.2 and Respondent No.1, however, sought time to clarify their stand on this issue.

15. In the light of the submissions made by the respondents it appeared that the scholarship amount Rs.61,100/- had been returned by the respondent No.2 and the amount is lying with respondent No.1. Respondent No.1 was advised to submit their concrete version within two weeks. A copy of the letter dated 23.03.2018 (with enclosures) filed by respondent No.2 was also forwarded to the Respondent No.1 along with Record of Proceedings dated 27.03.2018 (for the hearing held on 23.03.2018) and the next date of hearing was fixed for 4th April, 2018 at 1600 Hrs..

16. During the hearing on 04.04.2018, the representative of Respondent No.1 filed a written reply before the Court and stated that based on the statement/details dated 14.05.2014 provided by the respondent No.2, NHFDC released scholarship amount Rs.61,100/- vide cheque No.33876 dated 14.07.2014 to Shri Vinod Kumar one of the awardees. As such, the scholarship amount was released twice to Shri Vinod Kumar.

17. The representatives of Respondent No.2 reiterated their reply and added that the scholarship amount Rs.61,100/- pertaining to complainant has been returned to Respondent No.1 and the same is lying with them.

18. In the light of the facts submitted by the parties to the case, it became clear that the complainant, Smt. Sadhana Devi Patel has not received the sanctioned scholarship amount Rs.61,100/- for the Academic Year 201-14 during her B.Ed. course and the amount is lying with the Respondent No.1. Therefore, during the hearing, the respondent No.1 was advised to release the scholarship amount Rs.61,100/- to the complainant within seven days and intimate to this Court. However, despite lapse of sufficient time, no intimation has been found received till date in this regard from Respondent No.1. It has also been observed that complainant has been suffering since 2014 from deprivation of her legitimate right of getting

the sanctioned scholarship amount as well as Respondent No.1, without proper verifying the related records, issued notice to the complainant to black list her for getting any Govt. help/grant in future if she does not submit the acknowledgement receipt for the scholarship amount, which she never received. Therefore, Respondent No.1 is advised to immediately release the due scholarship amount with the prevailing rate of interest in the Bank from the date of release of the scholarship amount. Further, it is advised to be sensitive towards such cases so that the students with disabilities could not be harassed and deprived of their rights.

19. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities (Divyangjan)

Copy to:

The Branch Manager,
State Bank of India,
Sector-09, Faridabad, Haryana-121006



सत्यमेव जयते

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

Case No.: 6183/1024/2016

R-8312

Dated: 04.05.2018
 Dispatch No.....

In the matter of :

Shri Narender Singh Patwal,
 B-225, B-Type,
 Ayurvigyan Nagar,
 New Delhi – 110 049

.....Complainant

Versus

All India Institute of Medical Sciences,
 (Through the Director),
 Ansari Road,
 New Delhi - 110029

.....Respondent

Date of Hearing : 19.05.2017, 09.12.2016 and 24.11.2016

Present :

1. Shri Narender Singh Patwal – Complainant
2. Shri Elias P.I., Deputy Superintendent, Ms. Kavita, UDA and Ms. Reshma, U.D.C. – On behalf Respondent

ORDER

The above named complainant, a person with 75% locomotor disability had filed a complaint dated 06.04.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding harassment and denial of promotion.

2. The Complainant submitted that he joined AIIMS as LDC on 24.05.1997 under PH quota. In spite of vacancy available under PH quota, AIIMS did not promote him to the post of UDC under PH quota. During the last 18 years of his service, he had been transferred to different departments without any genuine grounds and without informing to him. His promotion to the post of UDC was due in 2006 but he was given the promotion only w.e.f. 12.05.2010, after the delay of 4 years. He was granted MACP from 01.09.2009 instead of 01.09.2008 because of below bench marks in ACR. He applied to several organisations for higher posts but his ACRs were not forwarded to the lending organisations due to which he was not being called for the interview by the organisation wherever he had applied.

2. The matter was taken up with the Respondent under Section 59 of the Act vide letter dated 27.05.2016.

....2/-

3. As no reply was received from the Respondent, a personal hearing was scheduled on 24.11.2016.

4. During the hearing complainant submitted a written submission that he joined AIIMS in 24.05.1997 but he got selected under General category instead of Handicapped category. Thus he lost one year seniority. In 2006 his junior was promoted while he was denied the promotion without giving any genuine reason. He made number of representations to this establishment but not received any reply. He was intimated by AIIMS vide letter No. F.5-1/2005/ACR Cell Estt.I dated 10.04.2006 regarding the adverse remark in ACR pertaining to the year 2002-2003 in 2006, i.e. after a lapse of three years. He was not being intimated about the adverse remarks, if any, pertaining to the year 2006-2007 till date. He was being transferred from one department to another within a short span of time. Adverse remarks on his ACR was made again and again by his establishment. He submitted that he was being mentally harassed at his workplace. When he approached the Court for his promotion in 2010, he was warned and harassed by his establishment and he had to withdraw the case from the Court under the pressure from the Respondent. He was not given any work and kept idle for as long as six months continuously.

5. Representative of Respondent submitted that as per the seniority list of Administrative Cadre circulated vide O.M. dated 24.07.2007, it has been mentioned in the remarks that the complainant is a person with disability. AIIMS does not have any transfer policy as such for any category of staff as on date, but transfer is being made on basis of requirement of departments and for other administrative reasons. The Representative of Respondent submitted that the entire records for transfer/posting of the complainant since his joining is not available, but his postings during the last 2 years were explained. At present the complainant is being posted in the Office of Deputy Secretary since 14.09.2016. The ACR for the period of 2002-03 & 2003-04 (17-11-2003 to 15-04-2004) was communicated to the complainant vide Memo No. F.5-1/2005/ACR Cell Estt.I dated 06.03.2006 and 10.04.2006 respectively. The complainant represented in respect of below bench mark/adverse remarks vide his letter dated 09.05.2006 and the same was considered by the Competent Authority and rejected. The same decision was communicated to the complainant vide letter dated 18.08.2006. The complainant represented against the adverse remarks / below bench mark ACR for the period 2002-03 and 2003-04 (17-11-2003 to 15-04-2004) vide his letter dated 25.02.2008 and the same was considered by the Competent Authority and rejected, the decision of which was communicated to the complainant vide letter dated 04.09.2008. The complainant also submitted his appeal against decision of the Competent Authority vide his representation dated 26.09.2008 and 21.10.2008 . The representation was considered by the Competent Authority, but it was regretted that the same cannot be acceded to. The promotion to the post of UDC was placed before the Departmental Promotion Committee in its meetings held on

06.03.2006, 18.03.2008 and again on 19.01.2009. The complainant candidature was considered by the DPC in its meeting held on 12.05.2010 and he was recommended for promotion to the post of UDC. On the recommendation of the Departmental screening committee, the competent authority granted Financial upgradation on completion of 10 years service to the complainant vide Memo No. F.32-2/2008-Estt.I (Part-I) dated 17.02.2016.

6. The next date of hearing was fixed on 09.12.2016 at 15.00 Hrs.

7. During the hearing, the complainant reiterated his written submissions made in his complaint and submitted that the letter dated 01.12.2016 submitted by AIIMS was given to him without annexures. The reply is not justified. He submitted that why transfer was affected for him only. The explanations given by AIIMS are fictitious and misleading. The O.A. in CAT was withdrawn as AIIMS had told him that seniority and promotion will be restored w.e.f. 2006 as AIIMS had given promotion w.e.f. 2010 instead of 2006 on the grounds that ACRs for the year 2002-2003 AND 2003-2004 was 'Fair' and 'Average'. The AIIMS should have conveyed to him this within month, but it was intimated to him in 2006, after a lapse of 3 years which is not as per DoP&T's guidelines and ACRs should be treated as 'Good'. His representation in this regard was not addressed as per DoP&T's guidelines. He submitted that being a person with disability, the Administration targeted him for approaching to this Court. He prayed to pre-pone his promotion as well as MACP atleast notionally, w.e.f. the date his junior was promoted to the post of UDC w.e.f. 2006.

8. The Representative of the respondent submitted that as DoP&T's guidelines, the ACR for the period 2002-03 and 2003-04 were communicated to the complainant vide Memo dated 06.03.2006 and 10.04.2006 respectively. The Complainant represented against the adverse remarks/below bench mark in ACR for the above period and the same was considered by the Competent Authority and rejected. The Complainant also submitted his appeal against the decision of the Competent Authority vide his representations dated 26.09.2008 and 21.10.2008. The representation was considered by the Competent Authority and the same was rejected. The complainant's candidature was considered by the DPC in its meeting held on 12.05.2010 and he was recommended for promotion to the post of UDC. On the recommendation of the Departmental screening committee, the competent authority granted financial upgradation on completion of 10 years service to the complainant.

9. After hearing the parties, the Respondent was directed to submit the following documents within 15 days from the date of hearing:-

(i) Copy of Recruitment Rules, 2002.

- (ii) Copy of advertisement / indent to Employment Exchange in the year 1997 against which the Complainant had applied.
- (iii) Copy of Reservation Roster made since 1996 for promotion.
- (iv) Whether the Complainant's name was entered under the disability category at the initial joining.

10. The Order will be pronounced on receipt of the documents. The Order was reserved.

11. As all the documents mentioned at serial no. 9 were not submitted by the Respondent, a hearing was scheduled on 01.05.2017 which was later re-scheduled for 19.05.2017 vide this Court's letter dated 18.04.2017.

12. During the hearing, the Complainant vide his written submission dated 15.05.2017 submitted that his name was sponsored by the Employment Exchange for direct recruitment to the post of L.D.C under PH category to AIIMS. He qualified his written test as well as typing test on 06.05.1995. But the complainant submitted that the AIIMS did not give him any reservation under PH category. He was appointed as LDC ON 24.05.1997 under general category. During the time of his appointment, as he was not considered under PH category, his name had not been placed in accordance with the horizontal reservations. Thus he lost his two years seniority. He further submitted that his name was not considered for promotion to the post of U.D.C. by the Departmental Promotion Committee in the year 2002, 2006 & 2008. The eligibility condition for promotion to the post of UDC is LDC with 5 years of regular services. He submitted that he was transferred 15 times during the period 2006 to till date. The O.A. in CAT was withdrawn as AIIMS Authority assured the complainant that his seniority will restored and he will get promotion as his junior w.e.f. 2006.

13. During the hearing the Respondent submitted that the complainant joined the Institute on 24.05.1997. As per records available in Establishment Register, it was not mentioned that the complainant belongs to PH category. They submitted that the final copy of the Roster will be submitted to this Court within 30 days. The cases of all PH employees for backlog vacancies will be considered as per Roster. The file related to recruitment to the post of LDCs for the year 1997 is not traceable. They have already submitted to this Court a copy of Recruitment Rules for promotion to the post of UDC which is in existence since 1992. At the time of initial time of joining, the Complainant was appointed in General Category and not in reserved category. The Respondent stated that the Special Recruitment Drive for persons with disabilities for the post of LDC was made by the Institute in the year 1999 against which 06 appointments were made

whereas the complainant was appointed in the year 1997. The Reservation Rosters for persons with disabilities have not been maintained at the Institute. However, the Institute has extended the benefit of reservation to persons with disabilities in various posts under mode of Direct Recruitment as per percentage prescribed under rules. As regards promotion, the reservation to persons with disabilities has not been extended yet. An exercise has been initiated to prepare reservation roster for persons with disabilities for promotions to Group C posts and accordingly, the benefit of promotion, if applicable, to the complainant and other employees of similar status will be extended.

14. After hearing both the Complainant and Respondent, the Court directed the Respondent to submit the final copy of Roster duly signed by the Liaison Officer. The Court reserved the Order.

15. The Sr. Administrative Officer, AIIMS vide letter no. 9-301/2016-Estt.(RCT) dated 10.03.2017 submitted a copy of the existing Recruitment Rules for the promotion to the post of UDC, which are in existence since 1992. They submitted that that file related to recruitment to the post of LDC for the year 1997 is not traceable. Therefore, it is not possible to provide the copy of the advertisement / indent sent to the Employment Exchange in the year 1997 against which the appointment of the Complainant was made. They further submitted that Shri Narender Singh Patwal joined the Institute on 24.05.1997. As per records available in the Establishment Register, it was not mentioned that the Complainant belongs to PH category.

16. The Court viewed seriously that all the required information/documents as directed vide its Record of Proceedings dated 21.12.2016 has not been submitted by the Respondent. The submissions made by the Respondent that the institute is not maintaining the Reservation Roster for promotion since 1996 is viewed with grave concern by the Court. Therefore, the Court directs the Respondent to consider the promotion of the Complainant to the post of UDC and the Respondent is also advised to ensure that the rights of persons with disabilities are not infringed. The compliance report may be made available to this Court within 15 days after issuance of the Promotion Order.

17. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
For Persons with Disabilities



सत्यमेव जयते

Extra

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

Case No. 8015/1062/2017

R-8681

Dated 07.05.2018

In the matter of:

Shri Abhishek Kumar Sinha,
 S/o Shri Akhilesh Kumar Sinha,
 Sarkar Building, In front of Bharat Petrol Pump,
 Sakchi, Jamshedpur – 831001 (Jharkhand)
 Email – abhishek.k.sinha2017@gmail.com

.... Complainant

Versus

Bharat Petroleum Corporation Ltd.,
 [Through: The Chairman & Managing Director]
 Regd. Office: Bharat Bhavan, 4 and 6 Currambhoy Road,
 Ballard Estate, Mumbai-400001

R-8682

.... Respondent

Date of hearing: 12.02.2018

Present:

1. Shri Niranjana Kumar, Territory Manager – Retail, for the respondent
2. None appeared for complainant

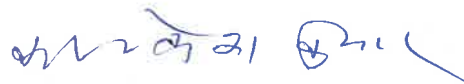
ORDER

The above named complainant, a person with 100% visual impairment, filed a complaint vide email dated 31.03.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding blocking the entrance of his shop by illegally constructing a boundary wall by the Bharat Petroleum Pump, Sakchi, Jamshedpur (Jharkhand).

2. The complainant submitted that he has been running a computer education centre for the last 15 years in front of Bharat Petrol Pump, Sakchi, Jamshedpur (Jharkhand). Before his joining the business, his father and his above two generations also had the same work place for more than 65 years. He alleged that more than a year before the respondent illegally constructed a boundary wall which blocked the entrance of his premises and three more shops were badly affected. He further intimated that a High Court undertaking in the year 1968 had prohibited all permanent construction and had only allowed barbed wire fencing. A petition was also filed in 2013 in the Court to stop any construction in front of the shops, the petition is sub-judice. The respondent has allegedly ignored the legal aspect and allowed the construction.

3. The matter was taken up with the respondent vide this Court's letter dated 22.09.2017 for submission of their comments.

4. The respondent filed their reply dated 20.10.2017 and refuted the allegations labeled by the complainant. They submitted that the said land on which a boundary wall has been raised is leased to them from Tata Steel as Sub-lease with current possession valid from 01.01.1996 to 31.12.2025. No Court Order prohibited for construction of the boundary wall on the back side of the premises of Retail Outlet of the respondent and the construction was done taking all necessary approvals in presence of appointed Magistrate by Sub-Divisional Officer (SDO), Dhalbhum, Jamshedpur. The Misc. Petition No.666 of 2013 filed by the complainant has been quashed by the Sub Divisional Magistrate, Dhalbhum, Jamshedpur. The entry to the shop as described in the complaint is not affected by the said wall and there is a clear passage to the shop. The respondent also filed a copy of the Order dated 10.10.2015 passed by the Sub Divisional Magistrate, Dhalbhum, Jamshedpur for construction of the boundary wall.
5. The complainant filed his rejoinder dated 04.11.2017 to the reply dated 20.10.2017 of respondent and further alleged that during the pendency of the Misc. Petition No.666/2013, Dy. Commissioner & SDO, Dhalbhum was misguided and order dated 10.10.2015 have got issued. In the Inquiry Reports of PS Sakchi dated 18.09.2013, 14.04.2015 and 11.12.2015, it clearly mentioned that earlier there was no wall in front of the shops. Under the agreement there was an open passage for the 6 shops. Barbed Wire fencing has been mentioned in the inquiry report.
6. Upon considering the reply filed by the respondent and the rejoinder filed by the complainant, the case was listed for personal hearing on 12.02.2018.
7. During the hearing on 12.02.2018, none appeared for the complainant.
8. The representative of the respondent filed reply dated 12.02.2018 and reiterated the reply already filed on the record. However, they added that the entrance to the shop has not been blocked and there is a clear passage for entry to the shop. The wall has been raised in accordance to Petroleum and Explosives Safety Organisation (PESO) rules only and has nothing to do with entry to shop.
9. In view of the facts submitted by the parties to the case, it appeared that the dispute is regarding Barbed Wire Fencing and/or to raise a Pucca Boundary Wall to the landed area of the Petrol Pump which comes under the jurisdiction of the State. However, in this regard order issued by District Court has not been filed by any of the parties. No discrimination was found to be done individually by the respondent to the rights of the complainant.
10. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



सत्यमेव जयते

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

Case No.: 7127/1092/2016

Dated: 08.05.2018

In the matter of :

Shri Sivakumar
 Gr.II(4), Propulsion Division
 National Aerospace Laboratories
 Bangalore – 560017

.....Complainant

Versus

National Aerospace Laboratories
 (through: the Director)
 PB 1779, Old Airport Road
 Kodihalli, Bangalore-560017

.....Respondent

Date of Hearing : 18.04.2018

Present :

10. Shri N. Sivakumar - self
11. Shri R Satish Kumar, Advocate - on behalf of the Complainant
12. Smt. Mallika P Kumar, Controller of Administration, NAL – on behalf of the Respondent
13. Smt. Mangla S, Administrative Officer, NAL – on behalf of the Respondent

ORDER

Shri N. Sivakumar, a 40% visually impaired person filed a complaint dated 26.10.2016 in this Court regarding denial to provide the benefits as a person with disability under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act.

2. The matter was taken up with the Respondent under Section 59 of the Act vide this Court's letter dated 30.11.2016.

3. The complainant vide his letter dated 20.01.2017 has reiterated his complaint alongwith some other submissions.

4. On behalf of the Respondent, Controller of Administration, Council of Scientific & Industrial Research, National Aerospace Laboratories, Bangalore vide letter No. ABE(Estt)/52440/PR/2016-17 dated 03.02.2017 has appended the Statement of Submissions that the averments made by Shri N. Sivakumar hereinafter referred to as Complainant are factually incorrect. A letter was sent by Medical Officer, CSIR-NAL way back on 24.08.2000 to Minto Hospital (a Government Eye Hospital), Bengaluru for examination and report based on the request of the Complainant for the change of nature of work was causing stress on the eyes and same is produced as Annexure-1. The Report of the Minto Hospital dated 25.08.2000 stated that his vision in Right Eye is normal and that there is an impairment in Left eye due to Retinal detachment which is long standing and the same is produced as Annexure-2. The Medical Officer, CSIR-NAL considering the report of the Manipal Hospital, Bengaluru dated 12.05.2006 advised for change of work and not may not be involved in machine operation though he was appointed for the post of Machinist and his nature of job is machine operation and the same is produced as Annexure-3. The said advice was considered for his work allocation within the Division. The complainant vide his letter dated 25.05.2009 requested for action of benefits admissible to Visually Challenged Persons as admissible under 6th Central Pay Commission enclosing the copied of Annexures referred to above along with new Medical Certificate issued by Minto Hospital, Bengaluru dated 16.05.2009 which certified that his vision in Right Eye is normal and that there is an impairment in Left eye due to Retinal

detachment which is long standing and this report was same as that of the earlier report dated 25.08.2000. It could be observed from the Medical certificate the definition clearly informs the conditions to be considered for visually handicapped and the eye impairment he had did not fall within that purview and same is produced as Annexure-4. It is also stated that from the Identity Card for Disabled issued by Directorate of Welfare of Disabled and Senior Citizen, Bangalore, Government of Karnataka dated 24.12.2010, it could be observed that the Medical Board of Victoria Hospital(government Hospital) which examined him stated that left eye (retinal detachment long standing) and impairment as 40% and Right eye 6/18 and 'No PH' and same is produced as Annexure-5. Therefore his request was not considered. However, the Complainant in spite of being aware of the facts repeatedly requested for the grant of the allowance admissible to visually Handicapped i.e. double Transport Allowance benefits citing the same old records. The issue was again referred to Medical Officer, CSIR-NAL in 2011 for his expert Opinion on the issue. Medical officer clearly indicated that his vision impairment do not qualify him to be declared as visually handicapped as per Government of India Orders on the subject. The complainant was informed of the non admissibility of the benefits vide O.M. dated 26.09.2011. The Complainant again vide his letter dated 19.10.2011 requested for reconsideration and sanction of benefits admissible under disability. This was reconsidered and the complainant was asked to produce the report of disability from the Medical Board vide CSIR-NAL O.M. dated 09.11.2011. The Medical Board of Minto Hospital, Bengaluru in its Certificate dated 23.11.2011 after his examination reiterated the same that left eye(retinal detachment long standing) and impairment as 40% and right eye 6/18 and 'NO PH'. The Complainant was accordingly informed about his ineligibility for sanction of double the normal transport Allowance clearly informing the reasons vide CSIR-NAL O.M. dated 31.01.2012. The complainant though was informed that he is not entitled to the benefits sought by him as he has been certified to "not be belonging to Disabled Category" again and again he was submitting the requests for granting the benefits admissible to disabled category. He was therefore issued an O.M. dated 29.03.2016 to produce the latest Medical Report certifying that he belongs to disabled category. The Complainant meanwhile approached the State Commissioner for Persons with Disabilities, Bangalore vide his letter dated 11.03.2016 and The State Commissioner sought the report on the issue vide letter dated 26.03.2016. The report was sent to the State Commissioner for Persons with Disabilities, Bangalore by CSIR-NAL dated 02.06.2016 fully explaining the position. The Complainant instead of producing the fresh Certificate as indicated to him produced again old certificates and requested vide his letter dated 18.08.2016 to sanction disability allowances. The request was considered and reiterating the position he was asked to produce the fresh certificate issued by medical authorities which clearly indicates that he falls under the category Handicap so as to extend the disability benefits vide O.M. dated 17.10.2016. The Complainant without producing the Certificate from the Medical Authorities certifying and declaring that he belongs to Handicapped category with his impairment in eyes has approached the Chief Commissioner for Persons with Disabilities, New Delhi vide his letter dated 26.10.2016. It is submitted from the above, that it is very clear that CSIR-NAL considered and reconsidered his requests repeatedly. However, he could not be granted the Transport Allowance at the double the normal rates as the certificates produced by him all along clearly indicated that the impairment in his left eye is 40% due to long standing retinal detachment and whereas in his right eye the vision is 6/18 and " NO PH".

It is further submitted that in "The Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995" the condition for Visually Handicapped has been defined under Chapter 1, Sub clause 2(b) as:

"blindness" refers to a condition where a person suffers from any of the following conditions, namely:-

- (i) Total absence of sight; or
- (ii) Visual acuity not exceeding 6/60 or 20/200(snellen) in the better eye with correcting lenses; or
- (iii) Limitation of the field of vision subtending an angle of 20 degree or worse

Further as per Chapter 1, Sub clause 2(t) "person with disability" means a person suffering from not less than forty percent, of any disability as certified by a medical authority" and as per Chapter 1, Sub clause 2(u) "person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device.

It is also submitted that in "The Rights of Persons with Disabilities Act, 2016" it has been specified in Chapter 1 Sub Clause 2(r) "person with benchmark disability" means a person with not less than forty percent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.

It is submitted that the Ministry of Personnel, Public Grievances & Pensions DoP&T, Govt. of India, vide OM No. 36035/3/2004-Estt.(Res) dated 29.12.2005 under clause 10 has prescribed the method of issue of Disability Certificate by the Medical Board constituted for the purpose and also the format of Certificate should be as per Annexure-1.

It is also submitted as per information available in the website of blind People's Association(India), Gujarat as seen from the internet, in Chapter-1 with Expert comments: Ms. Kain Dijk, New Vision Consultant pertaining to visual impairment states that the Committee of the Ministry of Social Justice and Empowerment on Recommendation of Standard Definition of Disability recommended that one eye-eyed persons should be excluded from the other categories of visual impairment so that facilities and concessions available to severely profoundly visually impaired persons are not eroded. The Committee, however, felt that loss of one eye would not be considered as a disqualification on medical grounds unless a particular post is of such technical nature that it requires a person to have the coordinated use of both eyes or three dimensional vision.

It could be established from the above submissions that CSIR-NAL has not acted in any manner to deprive the legitimate rights of the Complainant. It is submitted that all the Certificates provided by the Complainant including the Government of India prescribed format of Disability Certificate in Annexure-1 clearly indicated the impairment in his eyes but stated "No PH" which was a constraint for CSIR-NAL in extending the benefits admissible to disabled and grant him the Transport Allowance at the double the normal rate as admissible under 6th Central Pay Commission recommendations. However, he has been assigned internally such duties at CSIR-NAL to prevent further stress in his better eye. Therefore CSIR-NAL directed him to produce a fresh Certificate to consider his case for extension of benefits admissible to him under the category of disabled as same is not allowed as per government of India orders in the absence of Medical Certificate certifying that the disability is such that he belongs to Ph category. Thus the actions on the part of CSIR-NAL have been as per the prescribe procedure and have adhered to the orders of Government of India in letter and spirit.

14. The complainant has submitted his rejoinder vide letter dated 16.02.2018 is as under:-

- I. First of all he would like to submit that whatever disability certificate has been submitted so far by him/the complainant, the extent of disability is assessed as 40% permanent disability for him in the category of visually impaired.
- II. The Respondent/CSIR-NAL in their statement are only talking about the category of blindness whereas the complainant is suffering from low vision. Further their demand of certificate mentioning PH(physically handicapped) is totally illegal in view of the present law for disability. Therefore in order to appreciate the disability, which the complainant is suffering, it would be useful to refer to some of the relevant provisions of "the Persons with Disabilities(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995". Section 2(i) defines 'disability' to mean blindness, low vision, etc. Thus, low vision is specifically stipulated as a disability. a person with low vision is defined under Section 2(u) as under:-

"2(u)- "person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device."

A person with disability is defined under Section 2(t) of the said Act as under:-

"2(t) – "person with disability" means a person suffering from not less than forty percent of any disability as certified by a medical authority.

The effect of reading of the aforesaid provisions is that the petitioner, who suffers from low vision of 40%, would qualify as a person with disability of low vision. His case clearly comes under this category. No where in the act it is mentioned that physical handicap should be written on the certificate of a person having low vision disability for granting him disability benefit. The only requirement is the disability should be 40% or more. Further in his case the certificates are for permanent disability so it would always be latest as it would not bear validity period. Therefore demand of the respondent to submit fresh disability certificate is nothing but denial of just right of the complainant.

- III. He would like to refer a judgment of Delhi High Court in Ravi Kumar Arora V/s. Union of India wherein the Hon'ble High Court had discussed with the same category of disability.
- IV. The Respondent referring to the medical certificates in his annexures 2,3,4 &5 has wrongfully interpreted that the complainant does not come under visually impaired person.
- V. That no where in any of the disability certificate it is mentioned that the 40% disability is for the left eye only. The Respondent is wrongfully submitting that 40% impairment is only in left eye because of retinal detachment and right eye is normal. Whereas right eye is useful with spectacles only and also there is colour vision defect in that. Therefore the Medical Board every time gave disability certificate with 40% visual impairment i.e. overall disability and not for left eye only. And the respondent wrongfully interpreted it as 40% impairment in left eye only. And to what extent "No PH" is concerned it is written because the complainant with corrective measures(with spectacles) uses his right eye for work but he has colour vision defect in right eye which can not be corrected.
- VI. The Respondent has referred Section 2(r) of the Rights of Persons with Disabilities Act, 2016 in the last page of statement but the said provision is justifying the claim of the complainant as it also requires 40% disability which is the case of the complainant.
- VII. The Respondent in first para of 2nd page of his statement submits that issue was referred to medical officer for expert opinion and claims that medical officer opined that the complainant is not visually handicapped. But the Respondent has not produced the opinion of the said medical officer therefore contention of the respondent can't be relied upon.
- VIII. The Respondents since beginning every now and then asking the complainant to submit latest disability certificate but they have forgotten that the certificate of the complainant is permanent so there is no need to get another certificate. Further whenever certificate has been submitted in past nothing positive has been done. Therefore the demand of fresh certificate is only for dragging the issue till the time when the respondent will again demand the latest disability certificate. And this will continue till the retirement of the complainant. The Respondent's demand of disability certificate mentioning PH in that, is not justified as the disability act(the provisions mentioned in first para) does not require "PH" to be written on the certificate. It only requires 40% disability in any kind of the disability specified in the act. And this requirement is fulfilled in the case of the complainant as per all the certificates provided in the past. So mentioning of "PH" or "No PH" does not matter at all.
- IX. The respondent has submitted some recommendation taken from the website but that is to be considered by legislature and not by the respondent and therefore that recommendation is not relevant here.
- X. The complainant is suffering from long time because of the adamant attitude of the Respondent.

6. Upon considering Respondent letter dated 03.02.2017 and complainant's rejoinder dated 16.02.2017, it has been decided to hold a personal hearing in the matter. Accordingly the hearing in matter has been scheduled for 18.04.2018 at 15.00 Hrs.
7. The matter was heard as per schedule.
8. During the hearing both parties reiterated their submissions submitted prior to the said hearing.
9. After perusal of the records available and considering the submissions of both the parties delivered during hearing, it is directed that necessary benefits will be given to the complainant as per the norms of the Govt. of India by the respondent.
10. The case is accordingly disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

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

Case No: 7114/1022/2016

R-8394

Dated : 08 .05.2018

Dispatch No.

In the matter of :

Shri Mukesh Verma,
 51, Kaveri Vihar-II,
 Shamsabad Road,
 Agra – 282 004

..... Complainant

Versus

All India Radio,
 (Through the Director General),
 Akashvani Bhawan,
 Sansad Marg,
 New Delhi – 110 001

R-8395

..... Respondent

Date of Hearing : 27.03.2018

Present :

1. Shri Mukesh Verma, the Complainant along with Shri P.S. Khare, Advocate.
2. Shri Kanwarjeet Singh, Deputy Director, Shri K.M. Rastogi, Sr. A.O., Shri Subir Kr. Mishra, A.S.O. and Shri R.R. Prasad on behalf of Respondent.

ORDER

The above named complainant, had filed a complaint dated 21.10.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding his transfer, regularization of period from 25/01/2016 to 21/09/2016, fixation of pay as per 7th Central Pay Commission with retrospective consequential benefits of enhanced salary till date etc.

2. The Complainant submitted that he was transferred from All India Radio (AIR), Agra to AIR, Mathura in the same capacity of Programme Executive vide letter dated 21.01.2016. The Complainant had earlier filed a case in this Court on 27.02.2016 under Case No. 6024/1022/2016. With the passing of the Order dated 04.08.2016 by this Court, the Complainant's transfer order was cancelled. He further submitted that his establishment did not cancel the transfer order for 40 days even after this Court's Order dated 04.08.2016 till a reminder/direction dated 09.09.2016 was issued to the respondent to comply with the directions given in Order dated 04.08.2016. He joined AIR Agra on 22.09.2016. Due to the regular treatment of multiple diseases in his right lower extremity from S.N. Medical College, Agra, he could not join his new place of posting and he didn't

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draw his salary for 7 months so far. Prior to this transfer, the complainant was transferred from AIR, Agra to AIR Bareilly. That time also due to the intervention of this Court, the said transfer was stopped. The Complainant had submitted that he may be given relief for the following reliefs:-

- i) to regularise the entire period from 25/1/2016 to 21/9/2016 and to treat him on duty from pursuant to 25/1/2016 of his representation as per DoP&T rules till the date of cancellation of the transfer order 21/9/2016.
- ii) to fix his pay with retrospective consequential benefits of enhanced salary till date as per the GOI guidelines given in the 7th Pay Commission.

3. The matter was taken up with the Respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 28.11.2016.

4. The Station Director, Prasar Bharati vide his letter no. Lko/ADG(CR-I)/DP(Agra-Leave)/2016/148 dated 09.03.2017 submitted that there was no malafide intention for not accepting the request for cancellation of transfer. Since the transfer was decided on administrative grounds, therefore, the competent authority after considering the request did not find it liable to be accepted. The Respondent submitted that in compliance of the directions of the Court, the request of the complainant was considered. As soon as the Court ordered to cancel the transfer order and the decision was received in their office, it was brought to the notice of the competent authority and the transfer order was cancelled accordingly. There was no deliberate delay on their part as their office is situated in Lucknow where the competent authority, i.e. ADG is at the Directorate, New Delhi. Therefore, it takes some time for them to obtain approval etc. on such matters. The Respondent further informed that as far as the regularization of intervening order, i.e. from 27.01.2016 to 21.09.2016 is concerned, they had referred it to the Directorate for guidance vide their letter No. Lko/ADG(CR-I)/DP(Agra-Leave)/2016 dated 28.12.2016 and the decision on this subject is being taken separately. The pay of the Complainant has already been fixed with reference to 7th CPC vide AIR, Agra Order No. Agra-1/10/2016-S/80-85 dated 19.01.2017.

5. The Complainant vide his rejoinder dated 11.06.2017 submitted that this case has correlation with his earlier case no. 6024/1022/2016. He submitted that many non-disabled employees have longer stay than the Complainant and they are posted at the same station for more than 02 decades. His transfer from AIR Agra to AIR Mathura was made against DoP&T

instructions. Therefore, the said transfer was cancelled by this Court. Despite two directions of this Court dated 22.03.2016 and 13.06.2016, his transfer order was not cancelled. He further submitted that in order to quench the thirst of his routine needs, he requested Head Office All India Radio Agra dated 06.12.2016 to regularize and adjust the intervention period temporarily from 27.01.2016 to 21.09.2016 with the leave due in his account on the condition – subject to outcome decision/order of the case pending before the Court of CCPD so as to pay his retrospective salary and consequential benefits.

6. The Complainant vide his another letter dated 22.01.2018 submitted that he could not join the duties from 27.01.2016 to 21.09.2016 resulting to arise intervention period from 27.01.2016 to 21.09.2016. He had filed this case in this Court for his regularization and treating him on duty from 27.01.2016 to 21.09.2016. The matter of leave was settled conditionally, notwithstanding after expiry of one year Station Director, O/o Additional Director General (C.R.-1) All India Radio Lucknow has ordered to make recoveries from his salary dated 02.01.2018. He then made a representation dated 15.01.2018 requesting his establishment not to recover his salary as the matter is Sub-judice in this Court, but without considering his representation, AIR Lucknow made an order to recover Rs.1,15,144/-.

7. After considering Respondent's reply dated 09.03.2017 and Complainant's rejoinders dated 11.06.2017 & 22.01.2018, a personal hearing was scheduled on 27.03.2018.

8. During the hearing, the Learned Counsel for the Complainant submitted that the Complainant was transferred from All India Radio, Agra to All India Radio, Mathura in the same capacity as Programme Executive vide Order dated 21.01.2016 and relieved on 25.01.2016. He represented the competent authority to cancel the said transfer order dated 25.01.2016. But the competent authority turned down his representation. He submitted that the Complainant is a patient suffering from Chronic Varicose Veins disease in his right limb and chronic Osteoarthritis in the right knee as well. He has been regularly undergoing treatment in S.N. Medical College. Due to the regular treatment of multiple diseases in his right lower extremity from S.N. Medical College, Agra, he could not join his new place of posting and he didn't draw his salary for 7 months so far.

9. During the hearing the representatives of Respondent submitted that in compliance of the directions of the Court, the request of the complainant was considered. As soon as the Court ordered to cancel the transfer order and the decision was received in their office, it was brought to the notice of the competent authority and the transfer order was cancelled accordingly. There was no deliberate delay on their part. The Respondent further informed that as far as the regularization of intervening order, i.e. from 27.01.2016 to 21.09.2016 is concerned, they had referred it to the Directorate for guidance vide their letter dated 28.12.2016 and the decision on this subject is being taken separately. The pay of the Complainant has already been fixed with reference to 7th CPC vide AIR, Agra Order No. Agra-1/10/2016-S/80-85 dated 19.01.2017.

10. After hearing both the Complainant and the representatives of Respondent the Court directed the Respondent to comply the following;

1. Cancel the Transfer Order of the Complainant to Mathura.
2. Regularise Complainant's leave period of 238 days and
3. Enhancement of salary as per 7th CPC.

11. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

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

Case No: 7057/1011/2016

R-8506

Dated: 09.05.2018

In the matter of:-

Shri Kapil Pal
 Block P -1, Street No. 18
 Home No. 639, Sultan Puri, Delhi – 110086

Complainant

Versus

Safdarjung Hospital
 (Through the Medical Superintendent)
 5th Floor, M.S. Office, New OPD
 Building, New Delhi – 110029

R-8507

Respondent

Date of Hearings: 26.03.2018 and 02.05.2018

Present:

1. Complainant – Shri Kapil Pal
2. Shri Ram Niwas, Admn. Officer and Shri D.C.Bisht, Head Clerk on behalf of respondents

ORDER

The above named complainant filed a complaint dated 10.10.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities Act, 1995, hereinafter referred to as the 'Act' regarding violation of consolidated instructions of DoP&T.

2. Complainant Shri Kapil Pal, a person with 40% OH (OA) has submitted that Safdarjung Hospital has published an advertisement for the post Pharmacist and in the advertisement it has been mentioned that the post will be filled by persons with disabilities i.e. OL & BL only. He further submitted that as per list of identified jobs – 2013 the post of Pharmacist is identified suitable for OA, OL & HH category of disabilities. He further submitted that his application has been rejected by the Medical Superintendent, Safdarjung Hospital without giving any reason for the rejection/refusal.

3. The matter was taken up with the respondent vide this Court's letter dated 27.10.2016 under Section 33 of the Persons with Disabilities Act, 1995.

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4. In response, Asstt. Admn. Officer, Safdarjung Hospital vide letter dated 03.12.2016 has submitted that the post of Pharmacist is identified for persons with disabilities at SI. No. 992 categories of OL, BL disabled suitable for the job and at SI.No. 1233 categories of OA, OL, OAL, HH disabled suitable for the job vide Notification No. 16 – 15/2010 DD-III dated 29.07.2013. Nature of jobs in above both identifications made by Ministry of Social Justice & Empowerment based on its working conditions which are not same. Since the duties and responsibilities match with the nature of job mentioned against identification at SI. No. 992 for the categories of disabilities for the job in respect of OL & BL and advertised accordingly.

5. Complainant vide rejoinder dated 10.09.2017 has inter-alia submitted that he was given admission into pharmacy graduation course through PH reservation in Guru Gobind Singh Indraprastha University and he was certified by Vocational Rehabilitation Centre for Handicapped under Ministry of Labour and Employment, Delhi to pursue this Course.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 26.03.2018. During the hearing the complainant reiterated his written submission and informed that recently Safdarjung Hospital has published an advertisement in Navbharat Times dated 23.03.2018 for the posts of Pharmacist without providing reservation to his type of disability i.e. One Arm. Representative of the respondent reiterated their written submissions. The matter is heard by this Court and the respondent was directed to submit the following information before the next date of hearing:

- (i) Criteria of scrutiny of applications by Screening Committee
- (ii) Why complainant's application was rejected despite the post of identified for his category i.e. One Arm?
- (iii) In the Notification No. 16 – 15/2010 DD – III dated 29.07.2013, the post of Pharmacist is identified for PwD at SI No. 992 is OL and BL categories of disabilities and they have extended reservation to PwD at SI. No. 1233 to OA, OL, OAL, HH categories of disabilities also.
- (iv) Immediately issue a corrigendum against the new advertisement dated 23.03.2018 and provide reservation to OA, OL, BL, OAL & HH categories of disabilities in addition to OL & BL.
- (v) Accept the application of the complainant against the recently advertised post.

7. On the next date of hearing, i.e. 02.05.2016, both parties were present. The representative of the respondent has informed that after approval of Medical Superintendent the point of PwD mentioned at S.No. 1233 i.e. OA, OL, OAL & HH also included in addition to OL & BL and corrigendum has been issued on 25.04.2018 for publication for the post of Pharmacist in Employment Newspaper. The complainant is satisfied with action taken by the respondent and he has already applied for the post of Pharmacist.

8. The case is disposed off as compliance has been received from the respondent side.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



सत्यमेव जयते

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

Case No: 5724/1021/2016

Dated : 09.05.2018
 Dispatch No.

In the matter of :

Shri M. Nazeer Ahmed,
 Old No.68, New No. C 107,
 Rajagramani Garden,
 Raja Annamalaipuram,
 Chennai – 600 028

.....Complainant

Versus

Southern Railway,
 (Through General)
 Headquarter Office,
 Personal Branch,
 Park Town,
 Chennai – 600 003

.....Respondent

Date of Hearing : 23.03.2018

Present :

1. Shri M. Nazeer Ahmed, the Complainant.
2. Shri K. Srinivasulu, Asst. Personnel Officer and Shri P. Sivakumar, Chief Office Superintendent, Southern Railway, Chennai.

ORDER

The above named complainant, a person with 70% locomotor disability ,had filed a complaint dated 06.01.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding reservation in promotion and non implementation of orders by the Railway Board ;

2. Shri M. Nazeer Ahmed submitted that he joined as Group 'D' post under PH quota on 09.07.1990. He was promoted to the post of Clerk on 09.03.1995 and Sr. Clerk on 06.06.2000. He gave representations to his establishment for his promotion to the posts of Office Superintendent and Chief Office Superintendent, but he was not provided with any reply. He was going to retire on 30.06.2017.

3. The matter was taken up with the General Manager, Southern Railway, Chennai vide this Court's letter dated 10.02.2016.

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4. The Chief Personnel Officer/Admn, Southern Railway, Chennai vide his letter no P(S)443/II/Misc.Ministerial dated 18.05.2016 had stated that the Complainant was appointed as Office Peon against the PH quota. He was promoted to the post of Clerk and then to Sr. Clerk on 09.03.1995 and 06.06.2000 respectively. He was given the financial up gradation to the Grade Pay of Rs.4200/-. It was further clarified by the Respondent that the instructions contained in DoP&T's O.M. dated 29.12.2005 referred to in its O.M. dated 26.04.2006 should be taken as applicable to Railways only to the extent the same relate to the reservation for the persons with disabilities in posts filled by direct recruitment from open market. Thus at present there are no instructions to give promotion for persons with disabilities against any relaxation/roster and they can be considered for promotion to the post as applicable to other persons. The Southern Railway had also referred to the case of one Smt. T.M. Girija, a person with visual impairment working as Stenographer and whose case had been referred by them to the Railway Board for further action. Smt. T.M. Girija had filed a case in this Court also which was registered as case no. 2471/1021/2014 (case file attached) and a direction was given in this case by this Court to the Southern Railway, Railway Board and DoP&T vide Record of Proceedings dated 06.02.2015 and 26.03.2015 to submit their comments on the submissions on behalf of the complainant regarding the reason for not reserving vacancies for persons with disabilities in promotion in the Railways, but the Southern Railway didn't adhered to the directions of this Court inspite of repeated reminders to them.

The Chief Personnel Officer/Admn. vide her letter no. P(S) 443/II/Misc. Ministerial dated 07.10.2016 had stated that the claim of the Complainant for promotion against PH quota had been referred by them to the Railway Board vide Railway's letter dated 29.04.2016, 03.06.2016 and 06.09.2016. They haven't received the Railway Board's reply yet.

The Chief Personnel Officer, Admn, Southern Railway vide her letter no. P(S)443/II/Misc. Ministerial dated 03.03.2017 had submitted that the Ministry of Railways has identified posts to be manned by persons with disabilities at the recruitment stage to honour the mandate of the Persons with Disabilities Act. Prior to this, the DoP&T had issued instructions for providing 3% reservation for persons with disabilities in the posts filled by promotion also. These orders were not implemented by the Ministry of Railways in view of operational requirements. She had quoted the Hon'ble Supreme Court Judgment dated 09.07.2009 in the matter of Union of India vs Devendra Kumar Pant, an employee of RDSO of Ministry of Railway & Others. Thus in terms of Allocation of Business Rules, Railways is not bound to adopt the rules made by DoP&T. The Railways have not adopted reservation for persons with disabilities in promotion due to operational

and other requirements while ensuring that there is no discrimination against such persons merely on account of their disability. She further stated that the Railway Administration is not in a position to consider the representations of Ms. T.M. Girija, Jr. Steno/TVC Division and Shri M. Nazeer Admed, Sr. Clerk, COM/O/MAS for considering them for promotion by providing reservation of persons with disabilities.

5. The Complainant vide his rejoinder dated 17.07.2016 had submitted that in practice reservation in promotion was not given even after identifying intermediate grade posts as suitable for persons with disabilities by Railways. He further submitted that the provisions of Para-189 of Indian Railway Establishment Manual Vol.I does not cover the instructions on reservation in promotions in favour of persons with disabilities, on the other hand provisions of para -189 seems to restrict the promotions opportunities available to persons with disabilities only through normal promotion without the provisions of reservations in promotions.

The Complainant vide his rejoinder dated 17.07.2016 the Railways have already identified certain posts in Railways as suitable for persons with disabilities vide Railway Board's letter No.E (NG) II/2014/RC-2/1 list dated 14.02.2014 and the category of Chief Office Superintendent, Office Superintendent, Head Clerks, etc. is listed at S. No.32 of the list of posts. Since the post of Chief Office Superintendent is not having any direct recruitment element and has only promotion quota and LDCE quota the vacancies in the posts should be earmarked for post persons with disabilities. But he submitted that in practice reservation in promotion is not given even after identifying intermediate grade posts as suitable for persons with disabilities. He submitted that the provisions at Para-189 of Indian Railway Establishment Manual Vol.I does not cover the instructions on reservation in promotions in favour of persons with disabilities. On the other hand provisions of this Para -189 seems to restrict the promotions opportunities available to persons with disabilities only through normal promotion without the provisions of reservations in promotions. Therefore, he submitted that reply in this para is not acceptable. He further submitted that even after the Judgment of the Hon'ble Supreme Court dated 08.10.2013 in the matter of Union of India vs National Federation of Blinds & Others and the Railway Board letter No. E(NG) I/2001/PM1/56CC Vol.II dated 21.10.2015, the Southern Railway Administration is not applying the law on reservations in promotions and thereby depriving him the benefits of promotions. Even after identifying the intermediate grade posts like Office Superintendent as suitable for persons with disabilities, promotion to the same under reservation Rules for persons with disabilities is being denied. He submitted that though the CPO/S.Rly, Chennai has given instruction for reservation in

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promotion at para 4 of their Circulation No. P (R)113/P/PWD dated 23.05.2014, the benefit of the same is denied to him quoting earlier communications. The Complainant vide his reply dated 25.02.2017 he submitted that he is eligible for promotion against 3 percent quota in promotion earmarked for employees with disabilities in non-safety category post like Ministerial Staff. He submitted that he is due for superannuation retirement on 30.06.2017.

6. After considering Respondent's replies dated 18.05.2016, 07.10.2016, 03.03.2017 and Complainant's letters dated 23.11.2016, 17.07.2016 and 25.01.2017, a personal hearing was scheduled on 05.10.2018. The hearing was later rescheduled to 23.03.2018 at 11:00 Hrs on the request of the Complainant vide his letter dated 14.12.2017.

7. During the hearing, vide his written Complaint dated 23.03.2018, the Complainant submitted that persons with disabilities are given appointment in Railways against 3% quota. In consultation with Ministry of Social Welfare, the Railways identified certain posts for persons with disabilities and circulated the list of posts and categories suitable for persons with disabilities for appointment vide Rly. Board's letter No.E/(NG/II/2009)RC 2/5 list dated 27.08.2009 & CPO/MAS PBC No.194/2009 dated 22.09.2009. After much experience the list of identified posts was amended by deleting some categories / posts like ASM/SM and including some other posts vide Rly Board's Lr. No. E(NG)/II/2014/RC/2/1/List dated 14.02.2014 & CPO/MAS PBC No.28/2014 dated 07.03.2014. Thus Railway Administration identified the suitable posts for persons with disabilities in all the departments of Railways on two occasions, viz., in 2009 and 2014. He submitted that he belongs to Ministerial Category which includes posts like Clerk, Senior Clerk, Office Superintendent, Chief Office Superintendent etc. and this category has been identified for suitable persons with disabilities. The Complainant submitted that after identifying the suitable posts for persons with disabilities during 2009 and 2014, Railway Administration circulated the DoP&T's O.M. No. 36012/24/2009. Estt. (Res) dated 20.03.2014 through Railway Board Lr. No. 2014-E(SCT)/I/PWD/Misc. information dated 02.05.2014 and CPO/S. Rly PBC No.61/2014 dated 23.05.2014 instructing all Railways, Divisions, and Workshops and other offices to prepare 100 point Roster and give 3% quota in promotion for persons with disabilities. After issuance of above said O.Ms, PBCs etc., the Complainant submitted that he represented to Railway Administration to implement the same and grant him promotion under 3 per cent quota meant for persons with disabilities vide his representation dated 06.07.2015. Since the Railway Administration failed to give him any reply to his representations, he gave representation to this Court on 06.01.2016. Despite his explanations and three Rejoinders, the Railway Administration continued to give

irrelevant and unconnected remarks covering circulars issued during the years 2005-2006, Section 47(C) of Persons with Disabilities Act, 1995. He submitted that since posts have been identified for persons with disabilities for appointment and promotion and the posts of Clerk, Senior Clerk, Office Superintendent, Chief Office Superintendent etc. are identified as suitable for persons with disabilities and Railways had issued detailed guidelines through CPO/S. Rly. PBC No. 61/2014 dated 23.05.2014, he may be promoted as Office Superintendent and Chief Office Superintendent against the 3 % quota earmarked for persons with disabilities in promotion as per rules.

8. The representatives of Respondent reiterated their submissions submitted by the Southern Railway vide their letter no. P(S)443/II/Misc. Ministerial dated 03.03.2017. The representatives of Respondent submitted that the Southern Railway is not following reservation in promotion of its employees. They submitted that only reservation during recruitment is being given to the persons with disabilities.

9. After hearing both the Complainant and Respondent on 23.03.2018, the Court took serious view for not following reservation in promotion of persons with disabilities in Group C and D posts by the Southern Railway. Accordingly Ministry of Railways is directed to look into the matter so that rights of persons with disabilities should not be infringed.

10. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

Copy to :

The Secretary,
Ministry of Railways,
Rail Bhawan,
Rafi Marg,
New Delhi – 11 001

for information and necessary action.



सत्यमेव जयते

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

Case No: 5724/1021/2016

R-8414

Dated : 09.05.2018

Dispatch No.

In the matter of :

Shri M. Nazeer Ahmed,
 Old No.68, New No. C 107,
 Rajagramani Garden,
 Raja Annamalaipuram,
 Chennai – 600 028

.....Complainant

Versus

Southern Railway,
 (Through General)
 Headquarter Office,
 Personal Branch,
 Park Town,
 Chennai – 600 003

R-8415

.....Respondent

Date of Hearing : 23.03.2018

Present :

1. Shri M. Nazeer Ahmed, the Complainant.
2. Shri K. Srinivasulu, Asst. Personnel Officer and Shri P. Sivakumar, Chief Office Superintendent, Southern Railway, Chennai.

ORDER

The above named complainant, a person with 70% locomotor disability ,had filed a complaint dated 06.01.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding reservation in promotion and non implementation of orders by the Railway Board ;

2. Shri M. Nazeer Ahmed submitted that he joined as Group 'D' post under PH quota on 09.07.1990. He was promoted to the post of Clerk on 09.03.1995 and Sr. Clerk on 06.06.2000. He gave representations to his establishment for his promotion to the posts of Office Superintendent and Chief Office Superintendent, but he was not provided with any reply. He was going to retire on 30.06.2017.

3. The matter was taken up with the General Manager, Southern Railway, Chennai vide this Court's letter dated 10.02.2016.

.....2/-

4. The Chief Personnel Officer/Admn, Southern Railway, Chennai vide his letter no P(S)443/II/Misc.Ministerial dated 18.05.2016 had stated that the Complainant was appointed as Office Peon against the PH quota. He was promoted to the post of Clerk and then to Sr. Clerk on 09.03.1995 and 06.06.2000 respectively. He was given the financial up gradation to the Grade Pay of Rs.4200/-. It was further clarified by the Respondent that the instructions contained in DoP&T's O.M. dated 29.12.2005 referred to in its O.M. dated 26.04.2006 should be taken as applicable to Railways only to the extent the same relate to the reservation for the persons with disabilities in posts filled by direct recruitment from open market. Thus at present there are no instructions to give promotion for persons with disabilities against any relaxation/roster and they can be considered for promotion to the post as applicable to other persons. The Southern Railway had also referred to the case of one Smt. T.M. Girija, a person with visual impairment working as Stenographer and whose case had been referred by them to the Railway Board for further action. Smt. T.M. Girija had filed a case in this Court also which was registered as case no. 2471/1021/2014 (case file attached) and a direction was given in this case by this Court to the Southern Railway, Railway Board and DoP&T vide Record of Proceedings dated 06.02.2015 and 26.03.2015 to submit their comments on the submissions on behalf of the complainant regarding the reason for not reserving vacancies for persons with disabilities in promotion in the Railways, but the Southern Railway didn't adhered to the directions of this Court inspite of repeated reminders to them.

The Chief Personnel Officer/Admn. vide her letter no. P(S) 443/II/Misc. Ministerial dated 07.10.2016 had stated that the claim of the Complainant for promotion against PH quota had been referred by them to the Railway Board vide Railway's letter dated 29.04.2016, 03.06.2016 and 06.09.2016. They haven't received the Railway Board's reply yet.

The Chief Personnel Officer, Admn, Southern Railway vide her letter no. P(S)443/II/Misc. Ministerial dated 03.03.2017 had submitted that the Ministry of Railways has identified posts to be manned by persons with disabilities at the recruitment stage to honour the mandate of the Persons with Disabilities Act. Prior to this, the DoP&T had issued instructions for providing 3% reservation for persons with disabilities in the posts filled by promotion also. These orders were not implemented by the Ministry of Railways in view of operational requirements. She had quoted the Hon'ble Supreme Court Judgment dated 09.07.2009 in the matter of Union of India vs Devendra Kumar Pant, an employee of RDSO of Ministry of Railway & Others. Thus in terms of Allocation of Business Rules, Railways is not bound to adopt the rules made by DoP&T. The Railways have not adopted reservation for persons with disabilities in promotion due to operational

and other requirements while ensuring that there is no discrimination against such persons merely on account of their disability. She further stated that the Railway Administration is not in a position to consider the representations of Ms. T.M. Girija, Jr. Steno/TVC Division and Shri M. Nazeer Admed, Sr. Clerk, COM/O/MAS for considering them for promotion by providing reservation of persons with disabilities.

5. The Complainant vide his rejoinder dated 17.07.2016 had submitted that in practice reservation in promotion was not given even after identifying intermediate grade posts as suitable for persons with disabilities by Railways. He further submitted that the provisions of Para-189 of Indian Railway Establishment Manual Vol.I does not cover the instructions on reservation in promotions in favour of persons with disabilities, on the other hand provisions of para -189 seems to restrict the promotions opportunities available to persons with disabilities only through normal promotion without the provisions of reservations in promotions.

The Complainant vide his rejoinder dated 17.07.2016 the Railways have already identified certain posts in Railways as suitable for persons with disabilities vide Railway Board's letter No.E (NG) II/2014/RC-2/1 list dated 14.02.2014 and the category of Chief Office Superintendent, Office Superintendent, Head Clerks, etc. is listed at S. No.32 of the list of posts. Since the post of Chief Office Superintendent is not having any direct recruitment element and has only promotion quota and LDCE quota the vacancies in the posts should be earmarked for post persons with disabilities. But he submitted that in practice reservation in promotion is not given even after identifying intermediate grade posts as suitable for persons with disabilities. He submitted that the provisions at Para-189 of Indian Railway Establishment Manual Vol.I does not cover the instructions on reservation in promotions in favour of persons with disabilities. On the other hand provisions of this Para -189 seems to restrict the promotions opportunities available to persons with disabilities only through normal promotion without the provisions of reservations in promotions. Therefore, he submitted that reply in this para is not acceptable. He further submitted that even after the Judgment of the Hon'ble Supreme Court dated 08.10.2013 in the matter of Union of India vs National Federation of Blinds & Others and the Railway Board letter No. E(NG) I/2001/PM1/56CC Vol.II dated 21.10.2015, the Southern Railway Administration is not applying the law on reservations in promotions and thereby depriving him the benefits of promotions. Even after identifying the intermediate grade posts like Office Superintendent as suitable for persons with disabilities, promotion to the same under reservation Rules for persons with disabilities is being denied. He submitted that though the CPO/S.Rly, Chennai has given instruction for reservation in

promotion at para 4 of their Circulation No. P (R)113/P/PWD dated 23.05.2014, the benefit of the same is denied to him quoting earlier communications. The Complainant vide his reply dated 25.02.2017 he submitted that he is eligible for promotion against 3 percent quota in promotion earmarked for employees with disabilities in non-safety category post like Ministerial Staff. He submitted that he is due for superannuation retirement on 30.06.2017.

6. After considering Respondent's replies dated 18.05.2016, 07.10.2016, 03.03.2017 and Complainant's letters dated 23.11.2016, 17.07.2016 and 25.01.2017, a personal hearing was scheduled on 05.10.2018. The hearing was later rescheduled to 23.03.2018 at 11:00 Hrs on the request of the Complainant vide his letter dated 14.12.2017.

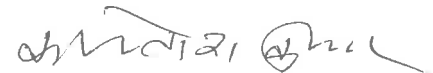
7. During the hearing, vide his written Complaint dated 23.03.2018, the Complainant submitted that persons with disabilities are given appointment in Railways against 3% quota. In consultation with Ministry of Social Welfare, the Railways identified certain posts for persons with disabilities and circulated the list of posts and categories suitable for persons with disabilities for appointment vide Rly. Board's letter No.E/(NG/II/2009)RC 2/5 list dated 27.08.2009 & CPO/MAS PBC No.194/2009 dated 22.09.2009. After much experience the list of identified posts was amended by deleting some categories / posts like ASM/SM and including some other posts vide Rly Board's Lr. No. E(NG)/II/2014/RC/2/1/List dated 14.02.2014 & CPO/MAS PBC No.28/2014 dated 07.03.2014. Thus Railway Administration identified the suitable posts for persons with disabilities in all the departments of Railways on two occasions, viz., in 2009 and 2014. He submitted that he belongs to Ministerial Category which includes posts like Clerk, Senior Clerk, Office Superintendent, Chief Office Superintendent etc. and this category has been identified for suitable persons with disabilities. The Complainant submitted that after identifying the suitable posts for persons with disabilities during 2009 and 2014, Railway Administration circulated the DoP&T's O.M. No. 36012/24/2009. Estt. (Res) dated 20.03.2014 through Railway Board Lr. No. 2014-E(SCT)/PWD/Misc. information dated 02.05.2014 and CPO/S. Rly PBC No.61/2014 dated 23.05.2014 instructing all Railways, Divisions, and Workshops and other offices to prepare 100 point Roster and give 3% quota in promotion for persons with disabilities. After issuance of above said O.Ms, PBCs etc., the Complainant submitted that he represented to Railway Administration to implement the same and grant him promotion under 3 per cent quota meant for persons with disabilities vide his representation dated 06.07.2015. Since the Railway Administration failed to give him any reply to his representations, he gave representation to this Court on 06.01.2016. Despite his explanations and three Rejoinders, the Railway Administration continued to give

irrelevant and unconnected remarks covering circulars issued during the years 2005-2006, Section 47(C) of Persons with Disabilities Act, 1995. He submitted that since posts have been identified for persons with disabilities for appointment and promotion and the posts of Clerk, Senior Clerk, Office Superintendent, Chief Office Superintendent etc. are identified as suitable for persons with disabilities and Railways had issued detailed guidelines through CPO/S. Rly. PBC No. 61/2014 dated 23.05.2014, he may be promoted as Office Superintendent and Chief Office Superintendent against the 3 % quota earmarked for persons with disabilities in promotion as per rules.

8. The representatives of Respondent reiterated their submissions submitted by the Southern Railway vide their letter no. P(S)443/II/Misc. Ministerial dated 03.03.2017. The representatives of Respondent submitted that the Southern Railway is not following reservation in promotion of its employees. They submitted that only reservation during recruitment is being given to the persons with disabilities.

9. After hearing both the Complainant and Respondent on 23.03.2018, the Court took serious view for not following reservation in promotion of persons with disabilities in Group C and D posts by the Southern Railway. Accordingly Ministry of Railways is directed to look into the matter so that rights of persons with disabilities should not be infringed.

10. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

Copy to :

The Secretary,
Ministry of Railways,
Rail Bhawan,
Rafi Marg,
New Delhi – 11 001

- for information and necessary action.



सत्यमेव जयते

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

Case No.: 8761/1022/2017

R-8488

Dated: 10.05.2018

In the matter of :

Shri Roop Kumar S Gupta
 c/o Shri Suraj Pal Gupta
 28 State Bank Colony
 Premier Nagar, Aligarh
 Uttar Pradesh

.....Complainant

Versus

North Central Railway
 {through: the Divisional Railway Manager(P)}
 Agra, Uttar Pradesh

R-8489

.....Respondent No. 01

North Central Railway
 {through: the General Manager(P)}
 Headquarter Office
 Allahabad, Uttar Pradesh

R-8490

.....Respondent No. 02

Date of Hearing : 18.04.2018

Present :

5. Shri Sita Ram Gupta – on behalf of complainant
6. Shri Sunil Mittal – on behalf of complainant
7. Shri B.K. Chaubey, Advocate – on behalf of Respondent No. 01
8. Shri Kamlesh Kumar – on behalf of Respondent No. 01
9. None appear on behalf of Respondent No. 02

ORDER

Shri Roop Kumar S Gupta, a person with 100% Hearing Impairment submitted a representation in this Court regarding inter Railway own request transfer to native place under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act.

2. The matter was taken up with the Respondents vide this Court's letter dated 04.12.2017 followed by letter dated 06.02.2018.

3. Despite lapse of sufficient time no reply was received and a hearing was scheduled on 18.04.2018 at 12.00 hrs.

4. The Divisional Personnel Officer, North Central Railway, Agra vide letter dated 22.03.2018 has enclosed a copy of letter dated 01.02.2018 addressed to the DRM(P), Solapur Division CST advising that Shri Roop Kumar S Gupta working as a Peon PB-1 Grade Pay Rs. 1800/-(Level-1) in Solapur Division of Central Railway may be accommodated in Agra Division North Central Railway against direct recruitment quota on bottom seniority.

5. The matter was heard as per schedule.
6. During the hearing both the parties reiterated their written submissions submitted earlier in the case.
7. The matter is disposed off with the direction to Nagpur Division to relieve him at the earliest and intimate to this Court within 15 days from the date of receipt of this Order.

(Signature)

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

copy to:
DRM(P),
Solapur Division CST
Central Railway

R-8491

DRM(P)
Nagpur Division
Central Railway

R-8492

w.r.t. letter no. P/कार्मिक/अ०म०-अ०रे०/
स्था०/भाग-5 dated 01.02.2018 with the direction
that appropriate action may be taken in the matter
and intimate the Court accordingly within 15 days.

for compliance.



सत्यमेव जयते

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

Case No.:8364/1102/2017

Dated: 11.05.2018

In the matter of :

Shri Abhishek Shrivastava
 abhishek90du@gmail.com

.....Complainant

Versus

Bank of Baroda
 {through: the Chairman & Managing Director}
 Baroda Corporate Centre
 Plot No. C-26, G – Block
 Bandra – Kurla Complex
 Bandra(East), Mumbai - 400051

R-8493

.....Respondent No. 01

Bank of Baroda
 (through: the Branch Manager)
 Branch Kingsway Camp GTB Nagar
 Delhi

R-8494

.....Respondent No. 02

Date of Hearing : 19.04.2018

Present :

1. Shri Abhishek Shrivastava – on behalf of complainant
2. Shri Nitin Choudary – on behalf of complainant
3. Shri R.M. Mathur, Sr. Branch Manager – on behalf of Respondent No. 01
4. Shri Pradeept Bhardwaj, Sr. Manager(Legal) – on behalf of Respondent No. 02

ORDER

Shri Abhishek Shrivastava, a person with 100% Visual Impairment filed a complaint dated 13.07.2017 in this Court regarding inconvenience in getting of cheque book facility under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act.

2. The matter was taken up with the Respondents vide this Court's letter dated 07.11.2017.
3. The General Manager(Operations & Services), Bank of Baroda vide letter no. HO:OPS:109:1337 dated 30.11.2017 submitted the bank's guidelines as under:

(a) Opening of an Account:

- I. Visually impaired person must come in person for opening the account.
- II. He/She may be allowed to open the account either singly/jointly, whom he /she considers reliable.

- III. The Officer/Manager of the branch should read out the rules of business and other terms and conditions in the presence of a witness known to the bank. The signature of the witness, for having done this be obtained in the account opening form.
- IV. Two passport size photographs of the visually impaired person be obtained and affixed one each on the Account Opening Form and Passbook.
- V. Even in case of literate visually impaired person, in addition to his signature, thumb impression should be obtained on the Account Opening Form.
- VI. The account has to be clearly marked as "the account holder is visually impaired"
- VII. Cash payments to a visually impaired person should always be made in the presence of a person known to the bank who should sign as a witness. While such a witness should be preferably customer of the Bank, a Bank official other than the paying cashier may also sign as a witness.
- VIII. Considering each case on its merits, discretion to the next of kin of a visually impaired customer to operate his/her account as a representative of the visually impaired person by taking necessary precautions, such as obtention of letter of authority/mandate to operate the account may be allowed.
- IX. Passbook should always be brought by visually impaired person for withdrawal and the entries and balance should be read out to him in confidence.
- X. Operations are restricted to self-withdrawals through withdrawal slip only. In exceptional cases, cheque books may be issued.

(b) Cheque Book facility:

Cheque Book facility is available to persons with disabilities.

- I. Issue of requisite number of postdated cheques to visually impaired persons for the purpose of availing financial assistance can be permitted.
- II. A written request shall be obtained from such persons indicating the details of loan facility availed by them and the number of installments payable etc.
- III. A copy of the sanction, wherever possible, of such financial institutions, should also be obtained.
- IV. The applicant should affix his LHTI/RHTI on the request letter and attested by a customer well known to the bank
- V. Upon review of the need for issuance of cheque books to the applicant and after verification of the photograph, branch manager should specifically authorize the number of cheque leaves to be issued.

- VI. The cheque leaves should be drawn payable in favour of the financial institution's account of so and so(e.g. _____ Bank Ac/. Sri/Smt.....). The amount and date on the cheque leaves also should be filled up.
- VII. The issue of cheque leaves should be recorded in the cheque book issued register and applicants' LHTI/RHTI should be got affixed and the same should be got attested.
- VIII. Supervisor should note the particulars of such cheque leaves on the letter of request clearly indicating that they are drawn in favour of the Financial Institution.
- IX. Issue of cheque books be done through FINACLE.
Full particulars of the cheques issued including the serial numbers, beneficiary, amount, date etc. should be recorded under General Details page in Customer Master through HCUMM menu.
- X. The branch manager/authorized officer should ensure that the required number of cheque leaves are issued and the LHTI/RHTI of the applicant is affixed on the cheque leaves which should be attested by the branch officials as per the text given in circular No. HO:BR:105:234 dated 06.11.2013 which is reiterated below:-
- XI. When the cheques are received for payment, they should be scrutinized in all respects and ensure that the cheques are paid only in favour of financial Institutions.

(c) ATM Facility:

Persons with Disabilities and Visually challenged persons have not been debarred from availing the facility of ATM. all our ATM machines have special in-built system/facility for the help/convenience of visually challenged persons.

For the convenience of persons with disabilities, 2561 ATMs are having ramp and for remaining ATMs ban is in process of providing this facility.

(d) Net Banking:

Branches can issue Net Banking facility to all eligible persons except following five categories:

- Illiterate account holder
- Dormant accounts
- Inoperative accounts
- Minor account holders(note that guardian can avail the facility)
- Accounts where garnishee/attachment order is received.

(e) Locker facility:

Locker facility is available to persons with disabilities. For visually impaired persons following procedure is dopted.

- 1) Visually impaired person may be provided with a locker facility. He/She must be a customer of the branch, having SB account.

- 2) Suitable locker convenient for operations maybe allotted.
- 3) Apart from Locker agreement, suitable indemnity should also be obtained, depending upon the mode of locker operation.
- 4) He may be given the following options for operation of locker:
 - a) Operation – Singly
 - b) Operation – Singly with the assistance of a reliable person, as per the choice of the applicant.
 - c) Operation – Jointly

Branches may encourage the applicant to singly operate the locker, if the applicant, so desires.

a. Operation – Singly:

- i. The applicant may be clearly informed that Bank is not responsible for the contents kept in the locker. A suitable letter of undertaking may be obtained in the beginning.
- ii. Locker can be operated by the locker holder singly.
- iii. It should be informed to the customer that any operation carried out in the locker by the locker holder is at his/her own risk and Bank is not liable for any claim made at a future date.
- iv. If the applicant is confident of operating the locker, without any assistance, he/she may do so.
- v. In case of necessity, supervisor in-charge of lockers may accompany the locker holder and assist him/her for locker operations.
- vi. For each and every locker operation made, a separate attendance register be maintained wherein the mode of operation should be clearly recorded. In case the supervisor accompanies an assists the locker holder the supervisor's signature should also appear in the attendance register, along with the LTHI/RTHI of the locker holder.
- vii. As soon as the locker operation is over, supervisor-in-charge of lockers should go personally to the locker room and verify that the particular locker cabinet is securely locked and that no item has been left out in the locker room. This has to be done, before allowing any other person to carry out their locker operations.
- viii. The supervisor should inform the customer before he/she leaves the branch premises, that he has verified the locker cabinet and that it has been securely locked and that no item has been left out in the locker room. This would enhance the confidence of the locker holder.
- ix. A declaration from the applicant for being informed by the bank official on the above lines may be obtained duly countersigned by the Supervisor-in-Charge of lockers.

b. Operation – Singly with the assistance of a reliable person, as per choice of the applicant:

- i. The name and address of the person, his relationship to the applicant, if any, etc., shall be provided by the locker applicant and the same should be recorded in the locker register.
- ii. The photograph of the person who is nominated for assistance should be obtained and affixed in the locker register.
- iii. Whenever the nominated person accompanies the locker holder his/her identity has to be first verified through his/her photo and signature and then only operation has to be allowed.
- iv. Locker attendance register should bear the signatures of both, the locker holder and the nominated person.
- v. For each operation, the same nominated person alone should accompany the locker holder. In other words, different persons accompanying the locker holder on varying occasions should not be allowed.

C. Operation – Jointly:

- i. Visually impaired person may have joint operation facility.
- ii. The joint locker holder should not be a visually impaired person.
- iii. The joint account holder should never be permitted to operate the locker without the presence of the visually impaired account holder.

(f) Credit Cards:

There is no discrimination for issuance of credit cards(BOBCARDS) to persons with disabilities including visually challenged.

(g) Retail Loans:

There is no discrimination in providing Retail loans to the persons with disabilities. However, the same will be admissible subject to Product specific eligibility norms and other scheme guidelines.

4. The complainant vide his e-mail dated 21.12.2017 enclosed a letter dated 19.12.2017 reiterated his complaint.
5. Vide this Court's letter dated 02.01.2018 copy of respondent's reply dated 30.11.2017 sent to complainant for submission of his comments/rejoinder.
6. The complainant vide his e-mail dated 20.01.2018 has submitted that Bank of Baroda have violated the RBI guidelines which states that all the banking facilities such as cheque book facility

including third party cheques, ATM facility, Net banking facility, locker facility, retail loans, credit cards etc. are invariably offered to the visually challenged without any discrimination.

7. Upon considering Respondent letter dated 30.11.2017 and complainant's rejoinder dated 19.12.2017, it has been decided to hold a personal hearing in the matter.

8. During the hearing, the representatives of the Respondent have stated that they are ready to give the cheque book to the complainant without any discrimination.

9. The case is disposed off with the direction to the Respondent Bank that the Bank may offer all the banking product/facility to the persons with visual impairment without any discrimination following relevant RBI guidelines in letter and spirit. It may be ensured that persons with disabilities shall not be deprived of their legitimate rights.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



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

Case No: 7434/1022/2017

Dated : 15.05.2018
 Dispatch No.

In the matter of :

Smt. Pooja,
 H. No.604/1,
 Sector 41 A,
 Chandigarh
 Email<dhirajpuri.legal@smlisuzu.com>

R-8668

.....Complainant

Versus

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

R-8669

.....Respondent

Date of Hearing : 27.03.2018

Present :

1. Complainant – Absent
2. Dr. Rajiv Kumar Singh, AC (Estt.I) and Shri Krishan Gaur, SO (Estt.I), on behalf of Respondent.

ORDER

The above named complainant, had filed a complaint dated 03.01.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding her transfer from JNV Patiala to JNV Chandigarh on the basis of medical treatment of her 16 month old daughter Dhivisha Puri, a child suffering from 75% locomotor disability.

2. The Complainant submitted that that she is working as TGT (Maths) in Jawahar Navodaya Vidyalaya (JNV) since December 2003. Recently she has been transferred from JNV, Village Sandhuan, Dist.. Ropar to JNV, Vill. Fatehpur Rajputan, Distt. Patiala. She further submitted that her 16 month old daughter is suffering from Arthrogryposis, (75% locomotor disability) a genetic disorder due to which she cannot move her upper limbs. Her child is undergoing regular physiotherapy of her upper limbs, splinting, surgery and a number of routine tests for her treatment in Govt Medical College and Hospital (GMCH) and at PGI, Chandigarh. In case proper treatment under the expert guidance of the doctors as well as the physiotherapists of PGI as well as GMCH is not given to the baby, it will lead to development of contractures and further worsen her

....2/-

condition. After 14 months from now, she would also have to start her schooling for which she has to put in a Special School for her education. She submitted that the present JNV School in Patiala is located in a remote area where no specialized hospital is located. The Complainant has requested this Court to help her get her transfer from her current place of posting, I.E. JNV, Patiala to JNV Chandigarh.

3. The matter was taken up with the Respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 31.01.2017.

4. The Assistant Commissioner (Estt.II), Navodaya Vidyalaya Samiti vide his letter dated 2-18/TGT-Maths/2015-NVS(Estt.II)/5232 dated 15.02.2017 submitted that the Complainant while working at JNV, Ropar (Punjab) had requested for her transfer in the Annual Transfer Drive 2016 to Jawahar Navodaya Vidyalaya, Fatehgarh Sahib/Patiala/Karnal. Her request for transfer to JNV, Patiala was considered. She joined at JNV, Patiala on 27.07.2016. The Respondent submitted that the request for transfer to JNV, Chandigarh is not feasible as the incumbents working there has not yet completed the normal tenure there. There are two TGT (Maths) serving at present in JNV, Chandigarh. One Smt. Shitanshu Sharma has been working with effect from 14.05.2012 and Shri Anup Kumar with effect from 25.08.2015. The normal tenure is 10 years as per the provisions of Transfer Policy. Therefore, the Respondent submitted that it is administratively not feasible to agree to the request of the Complainant.

5. The Complainant vide her rejoinder dated 19.12.2017 submitted that earlier she had requested for her transfer during the Annual Transfer Drive 2016 to Jawahar Navodaya Vidyalaya Fatehgarh Sahib/Patiala/Karnal. She vide her application dated 28.03.2016 requested Principal Jawahar Navodaya Vidyalaya, Ropar (JNV, Ropar) for considering her transfer either to JNV Chandigarh or to retain her at her present place of posting, i.e. JNV, Ropar. The Complainant's husband met Mr. Pahwa, Asst. Commissioner, Regional Office, Chandigarh regarding her transfer on the medical condition of her daughter. Shri Pahwa assured her husband that she will be transferred as per choice of posting. The Complainant took the opinion of the doctors and a revised application was filed keeping in view the advice of the doctors that the patient can only improve with regular treatment to be preferably taken at GMCH 32 or PGI Chandigarh. The NVS has neither considered her choice of posting to JNV Chandigarh nor has accepted her request for retaining her at JNV Ropar. She was transferred from JNV Ropar to JNV Patiala in complete violation of the DoP&T. O.Ms dated 06.06.2014, 17.11.2014 and 05.01.2016. She denied that she joined at her choice of posting. Her choice of posting was JNV Chandigarh and not JNV Patiala. She was constrained to join her duties in JNV Patiala as another teacher from JNV Una had joined in JNV Ropar in place of the Complainant and she was immediately relieved from her duties. She

submitted that the NVS stated that the normal tenure of stay is 10 years as per the transfer policy. But they have not stated the minimum period for transfer of an employee. She submitted that there is an improvement in the condition of her daughter due to regular treatment which is being undertaken at GMCH-32, as advised by the doctors. She has requested this Court to attach her with the Regional Office, Navodaya Vidyalaya Samiti, Sector-31, Chandigarh or with JNV Chandigarh or further extend her attachment with the Navodaya Leadership Institute (NLI) Chandigarh till the time her transfer application is considered and transfer orders are issued.

6. After considering Respondent's reply dated 15.02.2017 and Complainant's rejoinder dated 19.12.2017, a personal hearing was scheduled on 27.03.2018.

7. The Complainant was absent during the hearing.

8. The representatives of Respondent vide their written submission dated 27.03.2018 submitted that the case of transfer of differently abled employees (and employees having differently abled dependents), the Samiti duly follows the rules and guidelines of GOI as per DoP&T O.M. No. : AB 14017/16/2002-Estt.(RR) dated 13.03.2002 & O.M. No.42011/3/2014-Estt.(Res). dated 06.06.2014. First priority in transfer is accorded to employees belong to PH category (and employees having differently abled dependents). Also, exemption from transfer is given to such employees, if they do not wish to be transferred from their present place of posting. Transfers of the employees of the Samiti are effected through a process of automation by calling online applications from employees on designated Transfer Portal every year. Software worked out the transfers based on the factors and guidelines framed to consider transfer. Respondent submitted that the Complainant herself availed transfer from JNV Ropar (Punjab) to JNV Patiala (Punjab) on request basis in Annual Transfer Drive 2016 and her request for transfer to JNV Chandigarh could not be acceded to for want of actual as well as deemed vacancy of TGT (Maths) in the Vidyalaya. However, to provide immediate relief to the Complainant, a representation preferred by her dated 23.06.2017 enclosing a copy of disability certificate of her daughter issued on 17.10.2016 with the request to consider her transfer to JNV Chandigarh or temporary attachment to the RO Chandigarh or JNV Chandigarh to enable her to take treatment of her daughter, was duly considered by the Samiti and vide Order dated 23.06.2017, she was attached to NLI Chandigarh for a period of six months. Request from the Complainant for further extension, if any, has not been received in their office. If such request is received from the Complainant, the same will be considered favourably. They submitted that as regard to the Complainant's request for transfer to JNV Chandigarh, she is advised to apply for transfer online in Annual Transfer Drive 2018 which is going to commence very shortly and being on first priority category (PH), her request against the available vacancies (actual as well as deemed) will be considered alongwith all other similarly placed employees through designated Transfer Portal by a process of automation.

9. After the hearing, the Court came to the conclusion that there is no violation of any provisions of Rights of Persons with Disabilities Act, 2016. The Court advised the Complainant to apply for transfer online in Annual Transfer Drive 2018.

10. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief 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: 9341/1023/2018

R-8880

Dated: 18.05.2018

In the matter of:-

Dr. Raman Khanna

Sr. Medical Officer

CGHS Dispensary, C4E, Janakpuri 2

North Zone, New Delhi – 110058

Complainant

Versus

CGHS Dispensary, C4E

(Through the Chief Medical Officer)

Janakpuri 2, North Zone, New Delhi – 110058

R-8881

Respondent No. 01

Central Govt. Health Scheme (CGHS)

(Through the Director, CGHS)

Room No. 545, 'A' Wing

Nirman Bhawan, New Delhi

R-8882

Respondent No. 02

Central Govt. Health Scheme

(Through the Additional Director)

CGHS HQ Delhi, 3rd Floor, Sector – 12

R.K. Puram, CGHS Wellness Centre, New Delhi

R-8883

Respondent No. 03

Date of Hearing: 19.04.2018 and 02.05.2018

Present:

1. Dr. Raman Khanna - Complainant
2. Dr. Bharat Singh, CMO & Dr. Mohan Lal, Add. Director, CGHS, North Zone on behalf of Respondents

ORDER

The above named complainant filed an e-mail dated 12.02.2018 before the Chief Commissioner for Persons with Disabilities under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding harassment by CMO incharge, Janakpuri 2, CGHS Welfare Centre.

2. Complainant namely Dr. Raman Khanna, Sr. Medical Officer, a person with haemophiliac and OH has submitted that he has reported to Janakpuri 2 dispensary WC CGHS on Tuesdays and Fridays and he is also, Secretary Finance Joint Action council for service Doctors Organizations, recognised by DoP&T. He further submitted that two days back their 200 officers were promoted to HAG level. Dr Bharat

Singh (his In Charge) name was not in the list because of his below bench mark ACRs time to time and he is a notorious personality posted out of CGHS and surrendered back time to time. His In-charge wanted to fight his case through Association but he told him Association doesn't fight individual cases. After that In-charge started harassing him and told him to work on faulty computer giving reason that *"you have a faulty disabled body. Then told go away I don't have any work for you and you leave. When he asked him where should I sit and don't give any remarks on my physical condition then he said 'tere jaise bahut dekhe hai' Again I said be in your limits. He told me to leave from his room."*

3. The matter was taken up with the respondent vide this Court's letter dated 16.02.2018 under Section 38 (1) of the Rights of Persons with Disabilities Act, 2016.

4. In response, Respondent vide letter dated 07.03.2018 has inter-alia submitted that the allegation of harassment against him by Dr. Raman Khanna is totally false and baseless. (1) The allegation to told to work on faulty computer giving a reason that he has a faulty disabled body is totally false, baseless hypothetical and beyond his imagination. He only told him politely that there is no problem with the printer because previous day Dr. Shweta has already seen more than 80 patients on that computer if still there is some problem he is sending data operator to rectify that fault. (2) The allegation of asking for his favour to fight his NFU Up- gradation for HAG Level is again totally false and baseless, he never ask him for such favour as there was no need to fight his case through association because his NFUUp-gradation could not be done due to not traceable of his ACR which were misplaced by Ministry and was not due to below benchmark ACR this can be verified from ministry RTI reply which he got from the Ministry RTI reply which is available to him (3) He further submitted that Dr. Raman threatened him that he is a Secretary Finance JAC of service doctor organization, recognized by DOPT, so he should be given privilege to attend fewer patient as well as allowed to him leave wellness centre time to time for association works. (4) the reasons behind his allegation of harassment charge is because he asked him to mark the arrival time and departure time in attendance register of CGHS Wellness centre and also inform him at the time of departure from wellness centre if he left the Wellness centre earlier to closing time but he refuse to mark the arrival and departure time in attendance register on the pretext that there is no need to mark the time of arrival and departure for OH person so he never mark the time of arrival and departure from wellness centre and never inform him that he is leaving the wellness centre earlier to the actual closing time. (5) Dr. Raman Khanna [SMO] also did a character assassination as he used a malicious and derogatory word like a notorious personality doctor posted out of CGHS and surrendered back time to time against him without any documentary evidence which proves that he is notorious personality doctor.

5. Complainant vide rejoinder dated 23.03.2018 has inter-alia submitted that All the replies given by Dr Bharat Singh are lies and can be proven by evidence. Firstly Dr Bharat Singh Joined in Janak Puri 2 Dispensary as in charge, not even 15 days back, when he disgusted me, so there can't be friction from

his side and he is posted to JP 2 WC only for 2 days a week. (1) he works as nodal officer preventive health in Shalimar Bagh WC and JP 1 WC for rest 4 days a week, this responsibility of preventive health was given to him because of his specialization in Community Medicine and he uses various types of software of public health to draw conclusions from the raw data. He visits JP 2 WC twice a week so what could be constraints from his side when he is not having regular dealing with In-charge or even other staff.

(2) He asked Dr Bharat Singh to which room he have to sit, on 9th February and he said room 8 and he said the computer is faulty it automatically switches off and printer is not working. He said it is like your body and you see only 2 patients a day and Dr Shweta Sharma would sit with him (with Dr Bharat Singh), while there is only one computer in in-charge's room and data entry operator also sits there. In-charge's room is quite small. Dr Shweta Sharma is Junior most in WC, while we have 1 re-employed retired in-charge of CGHS (Dr Raman Mehta) and 1 re-employed retired Medical Superintendent of GB Pant Hospital (Dr Khurana), if any advice is needed they are in any case more competent. he told him you are using derogatory and un-parliamentary language, then he said I worked CGHS for 33 years and I know how to deal with PEOPLE like you. I said get my computer corrected or I will give in writing, he said go sit in 8, get me NFU SAG & HAG plus my promotion first from 2008, you are in association what the hell you do. (3) His allegation of not marking attendance is baseless ,even in pictures of attendance register which he sent to court clearly shows my signatures (PS: I visit twice a week) and he even hid the register. How many others marked the timings in that register. Whole of the CGHS is now updated to Biometric system. You can get the records any time including Dr Bharat Singh's and all others. Order him to bring records of all the staff of JP-2 WC. Then the picture will be clear that what is truly going on.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 19.04.2018. During the hearing, complainant reiterated his earlier written submissions and the respondent i.e. Dr. Bharat Singh, CMO has also reiterated his written submissions. Dr. Mohan Lal, Add. Director, CGHS, North Zone has informed that they have enquired the matter on receipt of the complaint from Dr. Bharat Singh, CMO and an enquiry Committee has been constituted. He reiterated that he recently received the enquiry report and brought up with him. He informed further that after analyzing the report, they will submit a copy of the report to this Court. He mentioned that the issue of repairing/replacing of lift with the concerned Department will be taken care of and they are in the process of making barrier free environment. After hearing the both parties, the respondents are directed to submit the following information:-

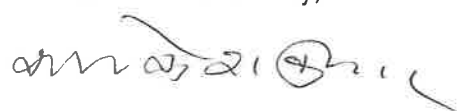
- a. to submit the name and details of Agency which is authorized for access audit of the dispensaries.
- b. to ensure barrier free environment for PwDs.
- c. immediately shift Dr. Raman Khanna to another accessible room within the premises of Dispensary.
- d. to submit the final enquiry report after analyzing,

7. On the next date of hearing on 02.05.2018, representative of the respondent has handed over the report. In the report, it was mentioned following points:

- Regarding faulty computer in Room No. 08, Dr. Bharat Singh, Sr. CMO I/C of JP2 WC, Dr. Shweta Sharam, MO who usually sits in Room No. 08 other than Tuesday and Friday (Dr. Raman Khanna sits in Room No. 8 on Tuesday and Friday), Data operator Mrs. Swinki denied any major problem in computer and did not produce any receipt of computer repair. On the day of their visit Dr. Shweta Sharma was seeing her patients on the same computer. Thus it could not be verified whether computer was working on 09.02.2018 or not as no patient was seen by Dr. Raman Khanna on that day.
- Room No. 8 is located on the same floor (2nd) but on the other (opposite side) of staircase of JP2 wellness centre and it might be causing inconvenience to Dr. Raman Khanna thus Dr. Bharat Singh CMO I/C JP2 may be advised to accommodate him in a room that is closer to lavatory and other facilities.
- Regarding faulty lifts, there are two lifts in wellness centre but on the day of their visit only one was working. The lifts are being maintained by CPWD and the whole building comes under the purview of Sr. CMO I/C of JP1 WC.
- In attendance register of JP2 WC, there was over writing on the day of incidence is 09.02.2018 on the initial of Dr. Raman Khanna however he marked his attendance in attendance register of JP1 WC also.

8. The representative of the respondent has also informed that report has been analyzed and Dr. Raman Khanna's room has been changed, rubber stamp provided to him and in principle approval has been obtained from IFD to make dispensaries physically disabled friendly and conveyed to CPWD for necessary action.

9. The case is disposed of with the direction to the respondent to ensure that persons with disabilities shall not be deprived of their legitimate rights and be more sensitive towards persons with disabilities to ensure a conducive and accessible work environment for the complainant alongwith all infrastructure including information technology such as broad band etc. All such facilities will certainly support the complainant to maintain the pace of performance. Further, it is also advised that there should not be any further harassment of the complainant. Each support needed for smooth discharge of duty must be provided by CGHS to the complainant so that complainant become an assets for the society, as a medical professional.



(Dr. Kamlesh Kumar Pandey)
Chief 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: 8580/1011/2017

R-8884

Dated: 18.05.2018

In the matter of:-

Shri A. Ajaykhanna ME

No. 05, Kutchery Road, Sri Ram Apartment

Mylapore, Chenna, Tamilnadu – 600004

Complainant

Versus

Defence Research & Development Organization

(Through the Medical Superintendent)

DRDO Bhawan, Rajaji Marg, New Delhi – 110054

R-8885

Respondent

Date of Hearing: 06.04.2018 & 10.05.2018

Present:

1. Complainant – Rajeshwar Singh, Advocate
2. Respondent – Shri T. Sundup, Joint Director, Ms. Mona Wadwa, TO 'A' RAC, Shri R.R. Sinha, Dy. Director, Ms. Gurmit Kaur, S.O.

ORDER

The above named complainant filed an e-mail dated 20.09.2017 before the Chief Commissioner for Persons with Disabilities under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding recruitment to the post of Scientist 'B' under HH quota.

2. Complainant in his complaint submitted that he had attended the DRDO special drive interview for the post of Scientist B (Computer Science Engineering) on 12-06-2015 at RAC, Lucknow since he had not been selected. Further, under RTI dated 01.08.2015, he had asked some information from the CPIO about his non selection. The CPIO had instructed him on 02.09.2015 to address the 1st Appellate Authority, as per the instructions on 12.09.2015, he appealed to the 1st Appellate Authority under RTI. The Central Information Commission as per the letter dated 02.06.2017 had conducted a hearing through video conferencing and as per the RTI information furnished, the DRDO had not selected any HH candidate against one vacancy out of the two candidate (including him) appeared for the interview on 12.06.2015. He further submitted that on 11.08.2017, he has submitted an online grievance petition to the Centralized Public Grievance Redress and Monitoring System (CPGRAMS) to offer the Scientist – B post to him, considering his genuine grievance sympathetically, but DRDO rejected his request stating that even under Special Recruitment Drive the candidate has to score minimum 60% in the interview. He further submitted that he was able to score 45% because of the incomplete translator engaged by the DRDO as mentioned in his RTI application.

3. The matter was taken up with the respondent vide this Court's letter dated 23.11.2017 under Section 34 of the Rights of Persons with Disabilities Act, 2016.

4. In response, Director, Defence Research & Development Orgn vide letter dated 04.12.2017 has submitted that recruitment of Scientist 'B' through Advt. 117 was carried out as per the standard practices against the approved QRs with due approval from the competent authority. The contention of the candidates Shri A. Ajay Khanna is regarding the competence of the interpreter provided by RAC. In this regard, it is submitted that RAC had provided an Interpreter with appropriate skills and competence to facilitate the candidate. The Interpreter provided to the candidate had formal degree in Special Education and Psychology with certificate course in Sign Language for deaf people – Level 'A' and 'B'. He further submitted that the candidate on the date of interview/immediately after the interview (on 12/06/2015) did not raise any issue/objections regarding the competence of interpreter and he scored 45 marks in the interview while minimum threshold for selection was 60 marks (out of 100). Further, Respondent vide letter dated 02.02.2018 has inter-alia submitted the reservation roster for PwDs being maintained as per DoP&T instructions.

5. Complainant vide rejoinder dated 08.12.2017 has inter-alia submitted that the interpreter engaged for interview was a sign language teacher without any Computer Science Engineering knowledge and technical back ground. So that Technical communications between him and the interview panel were not smart because the interview was purely technical in Nature. The queries and information sought by him under RTI about the interpreter engaged for interview were yet to be revealed by the DRDO. He further submitted that he scored 45% marks in the interview against the required marks of 60%. With all the limitations and lapses in the interview arrangement, he has scored good marks of 45% and all the learned gentlemen would accept it as a good performance. The 60% interview mark limits may be applicable to the normal candidates and not to the hearing handicapped candidates like him.

6. After perusal of the replies of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 06.04.2018. During the hearing the complainant reiterated his written submission and respondent was absent. Therefore, case adjourned to 10.05.2018.

7. On the next date of hearing, i.e. 10.05.2018, the representative of the respondent has informed that they had published Special Recruitment Drive for OBC, SC & ST and out of 04 vacancies of Computer Sc. & Engg., 02 vacancies were reserved for PwDs (01-OH & 01-HH) and 60% interview marks limit was applicable to OBC, SC & ST/PwD candidates also. He further submitted that 02 hearing

impaired candidates were appeared for interview and out of two, one was complainant who had scored 45% marks and another person scored 46% marks, therefore, both persons with hearing impairment was not found suitable hence not selected for the said post.

8. After hearing and material available on record, the case is disposed off accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

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

भारत सरकार / Government of India

Dated : 22.05.2018

Case No: 8072/1024/2017

Dispatch No.

In the matter of :

Dr. Nirmala Srinivasan,
C-358, Jalvayu Vihar,
Kalyan Nagar,
Bangalore - 560 043

.....Complainant

Versus

Central Organisation ECHS,
(Through the Managing Director)
Maude Lines,
Cavalry Road,
Near Blood Bank,
Sadar Bazar,
Delhi Cantt - 10010

.....Respondent

Date of Hearing : 19.12.2017 and 16.03.2018.

Present :

1. Complainant absent.
2. Col. Rahul Mudgil, Joint Director, Complaints and Litigation, on behalf of Respondent

ORDER

The above named complainant, had filed a complaint dated 22.05.2017 under the Rights of Persons with Disabilities Act, 2016 regarding denial of ECHS benefits to her son Shri Tilak Srinivasan (ECHS Card No. HY0007965), a person suffering from 65% chronic mental disability.

2. Dr. Nirmala Srinivasan vide her complaint dated 22.05.2017 has submitted that she is a widow of IAF Officer Wg Cdr. A.J. Srinivasan. Her son Shri Tilak Srinivasan is a person suffering from 65% chronic mental disability associated with MI based on which he was enrolled as a dependent handicap member under Ex-Serviceman Contributory Scheme. His ECHS Card No. is HY0007965. He is unmarried and does not have any regular job. She submitted that as per ECHS Circular dated 10.02.2017 she has to declare in the Self Attested Proforma that her son is unemployed and has no income for claiming ECHS benefits. She further submitted while he is unemployed, she cannot falsely declare that he has no income as he has income from his own savings from stipend and allowances and Fixed Deposits accruing from monetary gifts from near relatives. But in view of ECHS letter dated 10.02.2017, her son's entitlement to ECHS benefits were withdrawn because he has income eventhough he is unemployed. She made representations to the MD, ECHS in Ministry of Defence. She got the reply saying that 'The affidavit is a must. Any son / daughter can only be dependent if normally staying with the basic

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beneficiary and every less than prescribed limit per month. It could be from any source/or any type, pay, rental, stipend, interest, pension etc. Sons after age 25 are not eligible unless they qualify as per the rules.' The complainant's contention is that the monthly medicine bills and hospitalization is an ongoing part of the disability associate with MI. Inspite of ECHS entitlement, there are times when she spent from her own pocket for hospital bills.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 31.10.2017.

4. The Offg Dir (C & L), Central Organisation ECHS vide his letter dated 24.07.2017 has enclosed a copy of letter no. B/49708-E/AG/ECHS/2017 dated 21.07.2017 of Dir (Ops & Control), Central Organisation ECHS, Adjutant General's Branch wherein it is stated that MD, ECHS is responsible for administration of the Scheme, which includes ensuring eligible individuals are granted ECHS facilities and no ineligible persons are able to misuse the benefits. The CO ECHS letter no. B/49711-SC/AG/ECHS dated 10.02.2017 is only a self attested annual certification by the basic beneficiary for continued benefits and in no way denial of treatment or discriminates with disabled person. The eligibility criteria for dependents of ECHS benefits is as per GOI, MH&FW O.M. No. 4-24/96-C&P/CGHS/CGHS(P) dated 31.05.2007 which stipulates, CGHS norms for dependent are applicable for ECHS. The guidelines for dependent son are as follows:-

- i) Earning less than Rs.9000/- plus DA.
- ii) Unmarried
- iii) Less than 25 years of age.
- iv) Persons with Disabilities Act, 1995, benefits are extended beyond 25 years of age, if meeting all other criteria of eligibility.

5. The complainant vide her rejoinder dated 09.08.2017 submitted that based on the information furnished about the beneficiary of her son Tilak Srinivasan, she request for a clarification from MD, ECHS that if her son is eligible for ECHS benefits or not so that her son does not face problems in an Emergency admission. Her son is an ECHS White Card holder and as far as she know, ECHS has not made any exception to the Income rule, but she believe White Card is an entitlement for permanent eligibility for ECHS. She submitted that ECHS letter of 24/7 mentions in Sec 3.c that ECHS benefits is as per MH&FW OM dated 31.05.07 which stipulates that CGHS norms for dependents are applicable for ECHS. She would like to know if a similar self-attestation proforma has been issued for CGHS beneficiaries as well and if issued, on what date. She submitted that if need be, in extraordinary cases, a reasonable additional one-time payment or annual fee may be charged.

6. A personal hearing was scheduled on 24.11.2017 which was later postponed due to some unavoidable circumstances to 19.12.2017 at 15:00 hrs and intimated the same to both the parties vide this Court's letter dated 16.11.2017.

7. During the hearing the representatives of Respondent vide their written submission dated 19.12.2017 submitted that on analysis of the petition of the complainant it is clarified that the Central Organisation ECHS letter No. B/49711-SC/AG/ECCHS dated 10.02.2017 is only a self attested annual certification by the basic beneficiary for continued benefits and in no way denial of treatment or discrimination with a disabled person. The eligibility criteria for dependents of ECHS benefits is as per Government of India, Ministry of Health and Family Welfare O.M. No. 4-24/96-C&P/CGHS(P) dated 31.05.2007 which stipulates, CGHS norms for dependent are applicable for ECHS. The guidelines for dependent son are as follows :-

- i) The Persons with Disabilities Act, 1995 benefits extended beyond age of 25 year, if meeting all other criteria of eligibility.
- ii) Marital status subject to fulfillment of Dependency Criteria's (In this connection Govt. of India, Ministry of Defence, Dept. of Ex-Servicemen Welfare letter No. 22D(15)/2017/WE/D(Res-I) dated 05.12.2017.
- iii) Earning less than Rs.9,000/- excluding D.A.

8. After hearing the Respondent and perusal of the documents submitted by the Complainant, the Court directed the complainant to submit an affidavit in respect of the income of her son Shri Tilak Srinivasan to the Respondent endorsing a copy to this Court within 30 days from the date of receipt of this Record of Proceedings to take a final decision of the case.

9. The Lt. Col vide his letter no. B/49714-CC/Gen/AG/ECHS dated 19.12.2017 has stated that the Complainant in her petition raised the following question :-

- (a) Denial of treatment to disabled son (65% disability) due to income from FDs temp employment and monthly payment from Complainant's pension.
- (b) Withdrawal of benefits due to yearly affidavit as even if he is unemployed, he has income.
- (c) She intends that he meets criteria of benefits as per documents enclosed with her pension.

The Respondent submitted that on analysis of the petition of the Complainant the following were clarified :-

- (a) Central Organisation ECHS letter No. B/49711-SC/AG/ECCHS dated 10.02.2017 is only a self attested annual clarification by the Basic beneficiary for continued benefits and in no way denial of treatment of discriminates with disabled person.
- (b) Eligibility criteria for dependents of ECHS benefits is as per Govt. of India, MH&FW O.M. No. 4-24/96-C&P/CGHS(P) dated 31.05.2007 which stipulates, CGHS norms for dependent are applicable for ECHS. The guidelines for dependent son are as follows:-

- (i) Persons with Disability (PwD Act 1995) benefits extended beyond age of 25 years, it meeting all other criteria of eligibility.
- (ii) Married status subject to fulfillment of dependency criteria's (In this connection, Govt. of India, Ministry of Defence, Dept. of Ex-Servicemen Welfare letter No.22D(15)/2017/WE/D(Res-I) dated 05.12.2017.
- (iii) Earning less than Rs.9,000/- excluding D.A.

10. The Complainant vide her email dated 09.01.2018 submitted that MoHFW OM mentioned salary, ECHS affidavit is asking for 'Income of Tilak Srinivasan'. It is oversight or does ECHS want to know her son's income? She submitted that as per OM, ECHS can only ask for Salary and not Income. The Complainant vide her email dated 15.03.2018 has submitted that the norms of the scheme laid down by MoHFW is itself flawed. They have stipulated three conditions, viz. marriage, employment and disability. The first two conditions are acceptable for dependent children who are not disabled. For those who are disabled, full support in treatment must be given. Probably, it is wise to link it up with % disability, for e.g. those upto 50% will not get it because they also stand a good chance of getting a job. A blanket disqualification based on Income minus salary is untenable.

11. A personal hearing was scheduled on 16.03.2018 vide Notice of Hearing dated 13.02.2018.

12. During the hearing the Complainant was absent. She vide her email dated 15.03.2018 informed this Court that she is unable to be present in the hearing as she is unable to depute any representative in her place. She submitted that she could not make any suitable arrangements for her son. Her son's anxiety is also severe on account of the proposed hearing and she so she did not want to leave him alone for two days. She submitted that the norms of the scheme laid down by the Ministry of Health and Family Welfare is itself flawed. They have stipulated three conditions, viz. marriage, employment and disability. The first two conditions are acceptable for dependent children who are not disabled. For those who are disabled, full support in treatment must be given. Probably, it is wise to link it up with % of disability, for e.g. those up to 50% will not get it because they also stand a good chance of getting a job. A blanket disqualification based on Income minus salary is untenable.

13. During the hearing the representative present on behalf of Respondent reiterated that the declaration regarding the income of ECHS beneficiary should be furnished in the beginning of every calendar year. The Complainant has not produced an affidavit in respect of her son about his

income from all sources which should not be more than Rs.9,000/- per month excluding D.A. in order to avail the ECHS benefits. The Respondent required this undertaking within two weeks of receipt of this Record of Proceedings. Accordingly, Court directed the Complainant to submit the affidavit regarding the income/salary of her son Shri Tilak Srinivasan from all sources to the Respondent within two weeks of receipt of the Record of Proceedings.

14. The Complainant vide her letter dated 25.04.2018 had requested the Chief Commissioner that in view of her inability to be present for hearings and her inability to nominate representatives for Court hearings, to close the case. Further she requested vide her letter dated 23.04.2018 for withdrawal of case and issue a letter accordingly.

15. In view of the request of the Complainant, the case is allowed to be withdrawn and is closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities