

In the matter of:

Ms. Rani Mehta, D/o Mrs. Asha Devi, H-29/3, Ashok Nagar, Gali Side House, New Delhi
– 110018 **.... Complainant**

Versus

The L&D Officer, Land & Development Office, Ministry of Urban Development, Gate
No.4, 'A' Wing, Room No.611, 6th Floor, Maulana Azad Road, Nirman Bhawan, New
Delhi – 110011 **....Respondent**

Date of hearing: 20.11.2019

Present:

1. Miss Rani Mehta, complainant; and Shri Sukhdev, her brother
2. Shri Din Dayal, Dy. L&DO (II); Shri Narender Singh, S&A; and Shri Chanpreet Singh,
Advocate for the respondent

O R D E R

The State Commissioner for Persons with Disabilities, Govt. of NCT of Delhi [SCPD, Delhi] forwarded to this Court a copy of its Order dated 23.08.2019 passed in the Case No.538/1062/2018 for taking up the matter with the Ministry of Urban Development for considering the request of the complainant so that Mrs. Asha Devi, a person with 50% Intellectual Disability (Mental Retardation with Schizophrenia) and Shri Sukhdev, a person having specific learning disability and speech impairment are able to register their share of 60% of the plot along with the complainant within a specified period of time of three months as required under the Rights of Persons with Disabilities Act, 2016 filed by Ms. Rani Mehta on behalf of her mother Mrs. Asha Devi who is a person with 50% Intellectual Disability (Mental Retardation with Schizophrenia) and her brother Shri Sukhdev who also appears to be a person having specific learning disability and speech impairment. The complainant Ms Rani Mehta also submitted her representation dated 17.09.2019 in this regard.

2. The brief of the case is as under:

- 2.1 The grandmother (dadi) Smt. Maya Devi of the complainant Ms. Rani Mehta had a 100 sq. yard plot at H-29/3, Ashok Nagar, Behind Tilak Nagar Police Station, New Delhi. In oral family settlement in the year 1980, Smt. Maya Devi divided the plot in two parts and gave it to her two sons, namely, Shri Om Prakash and Shri Ved Prakash. She gave 40% share of the plot in the front portion to Shri Om Prakash and 60% share of the plot in the back portion to her another son Shri Ved Prakash. Smt. Maya Devi died in 1985. Shri Om Prakash died in 1994 and Shri Ved Prakash died in 1999. In the year 2010, the sons of Late Om Prakash (namely, Shri Vinod Kumar and Shri Rajinder Kumar) filed a suit before the Additional District Judge, West District, Tees Hazari, Delhi claiming that 2/3 portion in the 60 sq. yards property was illegally possessed by the wife, son and daughter of Late Ved Prakash as the two daughters of Smt. Maya Devi, namely, Smt. Kamlesh Malhotra and Smt. Sumitra Sehgal (who got married in 1957 and 1967 respectively) had relinquished their 2/3 share in their favour through a Lease Deed dated 21.05.2008. The Hon'ble Court heard the case and dismissed it on 13.02.2015 against the plaintiff and in favour of defendants Mrs. Asha Devi, her son Shri Sukhdev and Ms. Rani Mehta. The plaintiffs filed an appeal (RFA No.476/2015) before the Hon'ble High Court of Delhi. The Hon'ble High Court of Delhi in its judgement dated 13.04.2018 dismissed the appeal that the plaintiffs are not entitled to partition of the back portion of the property measuring 60 sq. yards and declared the defendants as the owners of the rear portion of the property measuring 60 sq. yards.

- 2.2 SDMC informed that as per Unified Building Bye-laws 2016 the plot measuring 105 sq. mtr. will be dealt under Saral Scheme by the Architect only and no approval is required from SDMC. Accordingly, SDMC has no role to play for sanctioning the building plan. SDMC further informed that 60 sq. yards plot in question out of 100 sq. yards should be first allotted in favour of Smt. Asha Devi, Ms. Rani Mehta and Shri Sukhdev in accordance with the direction of Hon'ble High Court vide order dated 13.04.2018. This is necessary as the online system will not accept sub divided plot for approval of the building plans by the architect until the ownership of the 60 sq. yards is not clear.
- 2.3 The Land & Development Office (L&DO), Ministry of Urban Development was impleaded in that case and was directed to arrange transfer of ownership of the 60 sq. yards portion of the plot to Smt. Asha Devi and others. The L&DO in their reply submitted that L&DO was not bound by the said Decree/Judgement as L&DO was not a party to the decree case.
3. In the light of the facts mentioned above, the case was listed for personal hearing on 23.10.2019 and the parties were summoned vide Notice of Hearing dated 30.09.2019.
4. The representative of the respondent did not file any written submission. However, they submitted that as per policy 60 sq. yd. of the said property cannot be transferred.
5. After hearing both the parties and considering the facts and circumstances of the case and to comply with the judgement/orders dated 13.04.2018 passed by the Hon'ble High Court of Delhi in RFA 476/2015, it is recommended that L&DO, Delhi may consider the request of the complainant as a special case as her mother is a case of intellectual disability and take a policy decision in this matter to register ownership of 60 sq. yds. of the property in favour of Smt. Asha Devi.
6. The case is accordingly disposed of.

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

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In the matter of:

Shri Manoj Ranjit Batule, At – Gangapur BK, Post – Shinoli, Tel. – Ambegaon, District – Pune, Maharashtra – 410516, Email – manojbatule5@gmail.comComplainant

Versus

National Chemical Laboratory, [Through: Director], Dr. Homi Bhabha Road, Pune-411008
....Respondent

Date of hearing: 18th September, 2019

Present:

1. Shri Manoj Ranjit Batule, complainant
2. Shri Paresh Laxmikant Dhepe, Principal Scientist; Smt. R. Nandini Devi, Principal Scientist; Smt. Pooja Kulkarni, Admin. Officer; Smt. Gauri Sachin Kulkarni, Section Officer for respondent

ORDER

The above named complainant, a 40% visual impairment (low vision) student of Ph.D. at CSIR-NCL, Pune, filed a complaint through email dated 29.10.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding derogatory remarks on his disability by his Supervisor. He alleged that his Supervisor openly and frequently comments on his disability in the presence of his colleagues.

2. Under Section 75 of the Act, the matter was taken up with the respondent for submission of their comments.

3. The respondent in their reply dated 13.02.2019 submitted that on receipt of the letter from this Court, an inquiry was conducted. The inquiry revealed that the complainant is a person with 40% visual impairment but he has not been declared as medically unfit by any medical authority for working in a scientific research laboratory. In spite of that he was seen to be absent continuously from the laboratory and had not been working for requisite number of hours which affected his performance in his academic career that created a negative perspective. Although he was being paid fellowship, he accepted a job outside CSIR-NCL. He did not provide any substantial evidence to his claims and allegations. On the contrary, the evidence produced by the guide is indicative of Shri Batule at fault for violation of several other procedures.

4. In his rejoinders dated 13.03.2019 and 15.03.2019 to the reply of the respondent, the complainant said that the respondent made a formal enquiry in the matter. He was neither aware about that enquiry nor did the respondent inform him about that enquiry. The Director, NCL ignored his complaint and refused to conduct the enquiry against the Research Supervisor. Due to the indifferent attitude of the authority, the complainant quit his Ph.D. and filed this complaint. He raised that, if the Director, NCL (Shri Ashwini Kumar Nagia) has some role in his complaint, then how NCL can conduct the enquiry.

5. Upon considering the reply of the respondent and the rejoinder filed by the complainant, the case was listed for hearing on 17.06.2019.

6. During the hearing on 17.06.2019 the complainant reiterated his complaint and filed an application stating that he was not pursuing his research work because of – (i) being insulted in public about his disability status by using abusive words by his Supervisor; (ii) threats given to him about his ability; (iii) asking him to go home; and (iv) socially and publically insulting him regarding his disability condition. The

complainant further alleged that fake inquiry was conducted by the CSIR-NCL on his complaint, in this case. As per him, since January, 2019 he is not getting his Fellowship.

7. The representative of the respondent relied on the reply dated 11/13th February, 2019 already filed.

8. Since the respondent had not filed their comments to the rejoinder dated 13th March, 2019 of the complainant which was forwarded by this Court to the respondent along with the Notice of Hearing dated 13th May, 2019, the respondent was advised that a thorough inquiry be made on the complaint and subsequent submissions of the complainant and submit the Inquiry Report and supporting documents along with comments within 15 days from the date of receipt of the Record of Proceedings dated 24.07.2019. Copies of the representations dated 6th May, 2019 and 16th June, 2019 filed by the complainant were sent to the respondent. Next date of hearing was fixed for 18.09.2019.

9. In compliance, the respondent vide their reply dated 06.09.2019 furnished an Inquiry Report dated 28.08.2019 of the committee constituted by the respondent. In this Inquiry Report, neither the complainant could substantiate his allegations nor did the witnesses deposed before the Inquiry Committee that seem to have stated in support of the allegations labeled by the complainant.

10. During the hearing on 18.09.2019, the representatives of the respondent relied on the reply filed in this case. However, they stated that NCL had been always cooperative to the complainant to get his Ph.D. work completed but the complainant was not coming to the lab nor making sincere efforts to complete his several academic assignments.

11. The complainant at first instance remained silent. On provocation, he could speak with slow and suppressed voice that “मेरे ऊपर जो दाग लगा है उसे मिटाना है, और इस मामले में मुझे independent/outside inquiry चाहिए”। The complainant was insisting for independent/outside enquiry. He was repeatedly saying that fair inquiry has not been made by the respondent.

12. After hearing both the parties, this Court is of the view that there is no need to get the matter inquired into again as insisted by the complainant. However, the respondent is advised to ensure that the officials and staffs are sensitized towards persons with disabilities and ‘reasonable accommodation’ is to be provided to the complainant. He may be given proper counseling. The complainant is advised to immediately report to his supervisor/guide/appropriate authority of the respondent Laboratory for completion of his Ph.D. programme and mutual reciprocity and civility be maintained as a student/guide relationship. The complainant be given a reasonable opportunity to complete his Ph.D. thesis.

13. The case is disposed of.

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

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In the matter of:

Shri Bhabajit Bayan, Vill. – Baradi, P.O. – Bhogerpar, District-Barpeta, Assam-781309
....Complainant

Versus

The Joint Secretary, Department of Higher Education (HE Bureau), Ministry of Human
Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi-110001
....Respondent No.1

The Joint Secretary, University Grants Commission, Bahadur Shah Zafar Marg., New
Delhi – 110002
....Respondent No.2

Date of hearing: 18.09.2019

Present:

1. Shri M. Sridhar, Deputy Secretary; Shri Sanjeev Kumar Narayan, Under Secretary;
Mrs. C.P. Gaur, Under Secretary; and Mrs. Nirmala Vennugopal, Section Officer for
the respondent No.1
2. None appeared for the petitioner and Respondent No.2

O R D E R

The above named petitioner filed a representation dated 15.03.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', and submitted that he had lost his one hand when he was a student of Class VI. But despite pangs of his impairment he became able to get appointed as Assistant Professor in a Degree College i.e. Baosi Banikanta Kakati College, Nagaon, Barpeta (Assam). Based on his experience of his challenging journey he felt that there was need to give special focus on ensuring social and economic justice to specially abled category of citizens of India for making them self-dependent and successful the 'Make in India' slogan. The dream of a self-reliant developed nation cannot be fulfilled without the development of persons with disabilities. Government and University Grant Commission have time and again framed some schemes but those are done without proper consideration of the lot of people of his category. He made some suggestions and requested to consider some measures for socio-economic self reliance of the persons with disabilities –

- (i) As per UGC guidelines, teachers with disabilities are required to stay 40 hours in colleges/Universities per week like general teachers. In view of the difficulties of impairments the stay hour should be lessened to 24 hours per week with minimum 4 hours per day.
 - (ii) As per UGC guidelines, fulfillment of minimum API score is necessary at par with general teachers for promotion of Assistant Professors with disabilities, which should be exempted from the purview of the existing API system under CAS of UGC.
 - (iii) Minimum service requirement for promotion to Associate Professor is 14 years (6+5+3) which should be relaxed to 12 years (6+5+1) for Assistant Professors with disabilities.
 - (iv) In Assam, the service holder persons with disabilities are given Travelling Allowance @10% of basic pay to the maximum of Rs.500/- per month. This rate of TA needs to be enhanced in view of dependency on others in travelling. In case of college teachers, the provision of TA be considered for inclusion in the pay structure by UGC
2. The matter was taken up on 16.10.2017 initially with the University Grants Commission (UGC) [respondent No.2] for submission of their comments with a copy to

the Secretary, Department of Higher Education, M/o HRD [respondent No.1] for information and necessary action.

3. Respondent No.2 filed their reply on 04.05.2018 and intimated that “in the 4th amendment of UGC Regulations, 2016, at Clause 3.4.1 of UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Measures for the Maintenance of Standards in Higher Education) Regulations 2010, “A relaxation of 5% may be provided at the graduate and Masters level for the Scheduled Castes/Scheduled Tribes/Differently-abled (physically and visually differently-abled) / Other Backward Classes (OBC) (Non-creamy layer) categories for the purpose of eligibility and for assessing good academic records during direct recruitment to teaching positions. The eligibility marks of 55% marks (or an equivalent grade in a point scale wherever grading system is followed) and the relaxation of 5% to the categories mentioned above are permissible, based on only the qualifying marks without including any grace mark procedures.” They further submitted that except this there was no other provision stipulated in the UGC Guidelines to consider the issue as has been raised by the petitioner.

4. Respondent No.1 vide their Office Memorandum No.15-1/2017-SC/ST dated 02.11.2017 forwarded the matter to their Joint Secretary, HE Bureau, D/o Higher Education for taking appropriate action.

5. The petitioner in his rejoinder dated 29.08.2018, to the reply dated 04.05.2018 filed by Respondent No.2, submitted that it was all the more disheartening to see that during the last 70 years since independence the UGC has remained satisfied by just providing 5% relaxation of marks for recruitment of persons with disabilities and never felt that in view of their disability such persons need to be provided with some facilities during in-service period also. As per the existing UGC Regulations, for promotion of Assistant Professor to Assistant Professor (Senior Grade), a teacher must complete one Orientation Course (OC) and one Refresher Course (RC) within 6 years from the date of joining the service. For promotion from Senior Grade to Selection Grade, a teacher must do one Refresher Course within five years from the date of obtaining senior scale of pay and for promotion to Associate Professor, completion of one Short Term Course (STC) is necessary within 3 years from getting selection Grade scale of pay (6+5+3=14 years). The duration of Orientation Course and Refresher Course and STC is 28 days, 21 days and 5-7 days respectively. These courses are offered at different Academic Staff Colleges of different Indian Universities. The teachers with disabilities need a helper or family member to attend or assist them during the course period, arrangement of which may not be possible all the time. This difficulty more often poses barrier to the completion of the courses in time. On the other hand, irrespective of due date, a college teacher is entitled to promotion only from the date of completion of OC/RC/STC. For example, senior scale of pay is allowed after 6 years in service but if the incumbent completes OC and RC in 10 years, then the promotion to senior scale of pay will be in effect after 10 years and so on. This regulation has appeared to be a curse to the life of teachers with disabilities because it becomes difficult to complete the course within stipulated years when no helper or family member turns out to go with them. So, most often promotion in career is either delayed or remains a distant reality. In view of the above, the petitioner feels that a teacher with disability like him needs to be provided relaxation of one RC and one STC or at least a relaxation in case of delayed completion of RC/OC/STC so that irrespective of the date of completion of OC/RC/STC, he/she can be entitled to the benefit of promotion from due date counted on joining the service. This much relaxation will help the teachers with disabilities to go hand in hand with other college teachers.

6. Upon considering the reply dated 04.05.2018 of respondent No.2, rejoinder dated 29.08.2018 of the complainant and no reply received from the respondent No.1, the case was listed for personal hearing on 18.09.2019.

7. During the hearing on 18.09.2019, the respondent No.1 filed their reply vide letter dated 11.09.2019 which was taken on record. The representative of the respondent No.1 stated that except for 5% relaxation at the Bachelor's as well as at the Master's level for the candidates belonging to Scheduled Caste/Scheduled Tribe/Other Backward Classes (OBC non-creamy layer)/persons with benchmark disabilities, no other relaxation is given. The UGC is the regulatory body for the purpose. The formulation/notification of regulations for Minimum Qualifications for Appointment of Teachers and other Academic

Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education is done by the UGC in consultation & approval of MHRD. The view of the Ministry in this connection is same as of UGC.

8. Since this is a policy matter, it is recommended that the UGC, being a regulatory authority and Department of Higher Education, Ministry of HRD being the administrative ministry, may look into the suggestions made by the petitioner for providing some relaxation to employees with disabilities for promotion to Associate Professor. Action taken in the matter may be intimated within three months as provided under Section 76 of the Act.

9. The case is accordingly disposed of.

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

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Case No: 5905/1024/2016

Dated : 04.12.2019
Dispatch No.

In the matter of :

Shri Umashankar Verma,
41/5, N.S. Road,
Khatalgali,
1st Floor, Besides Canara Bank,
Post : Rishra,
Dist : Hooghly,
West Bengal - 712248

.....Complainant

Versus

Office of the General Manager (Postal, Accounts and Finance),
(Thru the General Manager (Postal, Accounts & Finance),
West Bengal Postal Circle, Kolkata,
P-36, C.R. Avenue,
'Yogayog Bhawan',
Kolkata – 700 012

.....Respondent

Date of Hearing : 13.11.2019

Present :

1. Complainant - Not present.
2. Respondent - Not present.

ORDER

The above named complainant, a person with 84% locomotor disability has filed a complaint dated 02.02.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, regarding harassment, abuse and humiliation by Officers at his place of working.

2. Shri Umashankar Verma has submitted that he lost his leg in a Tram accident at the age of 10 years in 1974. He is from a poor family and has six sisters. He was appointed as Junior Accountant in the Office of the Director of Accounts (Postal) Kolkata. In 2008 he was transferred to Cash certificates section in Yogayog Bhawan, where the working conditions were pathetic. His work involved a lot of physical movements. He approached ACAO to redress his grievance, but without any outcome. The complainant approached Hon'ble Calcutta High Court and with whose intervention his transfer was revoked and he was posted in his old section. The complainant was given jobs other than that of an Accountant. He was also harassed, abused and humiliated by his

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superior officers. The complainant vide his letter dated 26.08.2019 has submitted that he was deliberately humiliated by Shri Joydeep Debnath S.A., Shri Dwijraj Sanyal S.A. and Shri Bipul Kumar Roy, A.O. He submitted that his one day salary was deducted for a day when he was on compensatory casual leave.

3. The matter was taken up under Section 59 of the Persons with (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide letter dated 29.02.2016.

4. There was no reply from the Respondent.

5. As no reply was received from the Respondent, a personal hearing was scheduled on 13.11.2019.

6. The complainant and the Respondent were not present during the hearing.

3. 7. The Sr. Accounts Officer (Postal), Office of the General Manager (Postal Accounts and Finance), West Bengal Postal Circle vide letter dated 11.11.2019 informed that the complaint dated 02.02.2016 of Shri Uma Shankar Verma was amicably settled and dropped vide the Report of the Committee at its meeting held on 21.10.2019. The Respondent further submitted that complainant's earlier complaint/representations were also been settled amicably. The complainant has withdrawn his complaint dated 02.02.2016 twice, once with his representation dated 12.04.2016 and again vide letter dated 21.10.2019.

8. The complainant vide email dated 13.11.2019 informed this Court and attached a copy of a letter he submitted to GM (PAF), West Bengal Postal Circle that his complaint bearing no. 5905/1024/2016 have been settled by the Grievance Redressal Cell.

9. Since both the complainant and the respondent have informed that the complaint has been settled, the case is disposed of without any recommendation.

(Shakuntala Doley Gamlin)
Chief Commissioner
or Persons with Disabilities

Case No. 11258/1022/2019

Dated : 11.12.2019
Dispatch No.

In the matter of :

Shri Narendra Singh Negi,
Manager,
Bank of Maharashtra,
A-136, Gujranwala Town,
New Delhi - 110009,

.....Complainant

Versus

The Managing Director & CEO,
Bank of Maharashtra,
Central Office,
Lok Mangal,
1501, Shivaji Nagar,
Pune,
Maharashtra – 411 005

.....Respondent

Dates of Hearing : 13.11.2019 and 16.10.2019

Present on 13.11.2019:

1. Shri Narendra Singh Negi, Complainant.
2. Ms. Gauri Deshpande, Bank of Maharashtra, ZO: Delhi, on behalf of Respondent.

Present on 16.10.2019:

3. Shri Narendra Singh Negi, Complainant.
4. Respondent – Absent.

ORDER

The above named complainant has filed a complaint dated 17.06.2019 under Rights of Persons with Disabilities Act 2016, against his transfer from Delhi to Bengaluru and instead to retain him in same place of posting to look after his wife, a person suffering from 50% locomotor disability.

2. Shri Narendra Singh Negi has submitted that he is working as Manager with Bank of Maharashtra in Delhi. His native place is Nainital, Dist. Uttarakhand which is near to his present place of posting. His wife is a person with 50% locomotor disability and is also suffering from psychological disorder for which she is undergoing treatment in Delhi and for the same he has come to Delhi from Lucknow Zone upon request transfer. He has further three years term in the Zone, but this year in the annual transfer plan, he was transferred to Bengaluru Zone, about 2000

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Kms away from the present posting. He submitted that as far as his performance is concerned, he has got 84,75,76,75 in the last 4 years annual appraisals. He contributed a lot for the business development of the bank. He represented his case with the management of his bank, but his request has not been considered till now. His wife who is a person with disability is dependent on him. He has requested this Court to cancel his transfer order and to retain him in at his place of posting.

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 10.07.2019.

4. The Dy. General Manager, Bank of Maharashtra vide letter no. AX1/HRM/TR/2019 dated 18.07.2019 has submitted that Shri Narendra Singh Negi was appointed in the Bank on 29.04.2013 as Scale I officer. He was promoted in June 2016. He was initially posted at Lucknow and later on was transferred to Delhi Zone. He was continued to be posted in Delhi Zone even after his promotion. As per the Bank's record both the places are not his home state / town. The complainant has claimed that his spouse is suffering from locomotor disability and has claimed exemption from transfer. The Respondent submitted that the Bank of Maharashtra has 1832 branches out of which more than 1000 branches are located in Maharashtra. Their Bank's presence is very scarce in other centers. They have only 72 branches in Delhi Zone. Hence, they face huge constraint in accommodating most of the officers' request for their posting in Delhi and Northern Zone. The complainant has been transferred to Bengaluru Zone where most of the branches are in urban centers and where the treatment of complainant's spouse is easily possible.

5. The complainant vide his rejoinder through his email dated 07.08.2019 submitted that he was appointed as Probationary Officer (Scale I) in the bank on 29.04.2013 and was initially posted in Rampur branch of Lucknow Zone. Later on, he was transferred to Gujranwala Town Branch in Delhi Zone in June 2016. He was promoted to the post of Manager (Scale II) on 06.12.2016. He submitted that both the above places where he was transferred, are not his hometown or home State, but it is also a fact that Bank of Maharashtra does not have any branch in his hometown. His home town is in Lucknow Zone and Delhi is also well connected from his hometown. He submitted that he will be more happy if the bank posts him in his hometown or near to it. The bank has about 72 branches and an administrative office, in Delhi Zone where approximately 250-300 Officers are performing their duties. Some employees are working in the same seat for the last 8-9 years. He submitted that about 65-80 Officers have been transferred to Delhi Zone in the same annual transfer plan 2019. He submitted that he has been transferred to Bengaluru Zone which is about 2000 kms from his present place and the Bank is depriving him of his legitimate right provided by the GOI.

6. After considering Respondent's reply dated 18.07.2019 and complainant's rejoinder dated 03.08.2019, a personal hearing was scheduled on 04.09.2019. The hearing was re-scheduled to 16.10.2019 vide letter dated 29.08.2019.
7. During the hearing the Complainant submitted that he is working as a Manager with Bank of Maharashtra in Delhi. His wife is a person with 50% locomotor disability and is also suffering from psychological disorder for which she is undergoing treatment in Delhi. Presently he is working in Delhi. During the annual transfer plan, he was transferred to Bengaluru Zone. Being a care-giver for his wife, he made a representation to the management for his retention in Delhi but his request has not been considered. He was also being harassed by the management.
8. No representative from the Respondent side was present during the hearing.
9. The Court fixed the next date of hearing on 13.11.2019 at 11:00 Hrs.
10. The complainant submitted that his transfer order to Bengaluru may be cancelled and he may be retained at Delhi Zone or any nearby branches near to his hometown so that he can take care of his wife, who is suffering from 50% locomotor disability.
11. The representative of Respondent submitted that the complainant had taken stay in the transfer from High Court of Karnataka and on the basis of the High Court's order, the complainant was kept in Delhi Region at Gurgaon.
12. Since the case is sub judice in the Hon'ble High Court of Karnataka, there is no need of any intervention by this Court. The complaint is disposed of accordingly.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 11163/1022/2019

Dated : 27.12.2019

Dispatch No.

In the matter of :

Ms. Anju Mehra
C-20, Neel Kantha Apartments,
I.P. Extension,
Patparganj,
Delhi – 110 092

.....Complainant

Versus

The Chairman,
Syndicate Bank,
Manipal,
Udupi Dist.,
Karnataka – 576 104

....Respondent

Date of Hearing : 20.11.2019

Present :

1. Ms. Anju Mehra, Complainant and Shri V.K. Gupta, Advocate
2. Shri Vijaya Kumar, General Manager and Shri Ashish Saxena, Sr. Manager, on behalf of Respondent.

ORDER

The above named complainant, a person with 90% locomotor disability has filed a complaint dated 20.05.2019 under Rights of Persons with Disabilities Act, 2016 against her transfer to Teela Mor, Farukhnagar, U.P. instead of posting her near to her place of residence in Delhi and non-payment of Transport Allowance at double the normal rate.

2. Ms. Anju Mehra has submitted that she is working as Senior Manager in Syndicate Bank and was earlier posted at Nirman Vihar Branch in Delhi. She was appointed under PH quota. Her husband, who is also a person with disability, is working in Air India in New Delhi. She was transferred to Teela Mor, Farrukhnagar, U.P. on 22.05.2019. Before this order she was directed to join Hyderabad Zone vide Order dated 29.04.2019. Now she is posted at Teela Mor, Faruukhnagar, U.P. She is not able to self drive any vehicle due to her disability and has to depend on public transport to reach the Bank. She submitted that it is impossible for her to

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commute to Teela Mor branch by changing mode of transport three times in a single journey from her residence. She has given representations against these orders vide letters dated 30.04.2019, 13.05.2019 and 16.05.2019, but received no response from the bank. She has requested to cancel her posting to Teela Mor and post her near to the place of her residence in Delhi within 3 to 5 Kms.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 13.06.2019.

4. The Dy. General Manager (HR), Syndicate Bank vide his letter no. CO/HRD/PAD/2946/4633 dated 06.07.2019 submitted that the complainant was promoted from MMGS II to MMGS III on 01.04.2019. As per Bank's policy it is compulsory that the general officer in MMGS-II completes three years of their total service in Rural/Semi-Urban areas (including Rural service rendered in JMGS-I) to become eligible for promotion to MMGS-III. The stipulation is relaxed with the condition that such candidates shall be posted in Rural/Semi-Urban areas, as the case may be, immediately on promotion, to complete the remaining tenure. Failure to complete the Rural/Semi-Urban service shall make the officer ineligible for promotion to next higher scale. However, the respondent submitted that they have posted the officer to nearest possible urban Branch to complete the mandatory rural/semi-urban service. He submitted that with regard to the additional transport allowance, they are giving the same as per bank policy to the complainant.

5. The complainant vide her rejoinder dated 25.08.2019 has submitted that the Syndicate Bank is not following Government of India guidelines in posting of persons with disabilities to the nearest place of their residence. She submitted that the mandatory rural/Semi Urban service is applicable for the general category as the same has been exempted for the employees with disabilities. The complainant submitted that she was promoted on 29.05.2019 and is presently posted at Teela More, Farrukhnagar in Uttar Pradesh which is under Ghaziabad Region. In spite of the fact she is a person with 90% disability and is a resident of Delhi (Patparganj) she was posted at far of place in U.P. She submitted that no convenient mode of transport is available directly to Teela More. She is unable to drive the vehicle herself due to her disability. It is impossible for her to commute to her office at Teela More every day by changing mode of transport three times in a single journey. She is facing lot of difficulties in commuting to office and back due to which she is having swelling in legs and arms. In view of the difficulties being faced by her, she has requested for cancellation of her transfer order to Teela More and post her near to the place of her residence.

6. After considering Respondent's reply dated 06.07.2019 and complainant's rejoinder dated 25.08.2019, a personal hearing was scheduled on 23.10.2019 which due to unavoidable circumstances was later scheduled to 20.11.2019.

7. During the hearing, the representative of Respondent submitted that as per Bank's policy it is compulsory for the general officers in MMGS-II who completes three years of their total service in Rural/Semi-Urban areas (including Rural service rendered in JMGS-I) to become eligible for promotion to MMGS-III. Failure to complete this posting shall make the officer ineligible for promotion to next higher scale. The respondent submitted that they have posted the complainant to the nearest possible urban Branch to complete the mandatory rural/semi-urban service. The Respondent submitted that they are giving the additional transport allowance to the complainant as per bank policy.

8. In view of the difficulties faced by the complainant to reach her Bank at Teela More, Farrukhnagar in Uttar Pradesh from her home in Delhi, it is recommended that posting and transfer of employees with disabilities needs to be done sensibly so as to ensure that they participate in the governing process with desired level of efficiency in an equitable platform as enshrined under the Rights of Persons with Disabilities Act, 2016. The request of the complainant for posting near her place of residence in Delhi may be considered at the earliest. The compliance report is to be sent to this Court within 90 days of date of issuance of this Order.

9.. The case is disposed of.

(Shakuntala Doley Gamlin)
Chief Commissioner
for Persons with Disabilities

Case No: 10270/1011/2018

Dated: 11.12.2019

In the matter of:-

Shri Prashant P Ingale
<ingaleprashant870@gmail.com>

Complainant

Versus

Department of Posts
Through the Secretary
Dak Bhawan, New Delhi – 110015

Respondent

Date of Hearings: 31.07.2019 & 08.11.2019

Present 08.11.2019:

1. Shri Prashant P Ingale – complainant
2. Shri A.Kamal Basha, ADRS on behalf of respondent

ORDER

The above named complainant Shri Prashant P Ingale, a person with 54% locomotor disability filed a complaint dated 05.09.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non allotment of any seats to physically handicapped candidates in the recruitment result of Maharashtra Gramin Dak Sevak;

2. The complainant in his complaint submitted that on 07.04.2017, the notification for the posts of Gramin Dak Sevak in Maharashtra Circle was published on the official website of Gramin Dak Sevak (GDS) and in that notification, out of 1789 posts, no seats were allotted to persons with disabilities. He further submitted that in the month of November 2017, another notification for updating the category of Maharashtra PH candidate was published on the official website of the Maharashtra of the Gramin Dak Sevak and in that notification Department of Posts had asked to update the category of Maharashtra persons with disabilities so he updated his category from Unreserved (UR) to Unreserved-Physically Handicapped (UR-PH) on 18.11.2017 by uploading the scanned copy of his handicapped certificate but in the final result, there was no seats allotted to persons with disabilities. The main grievance of the complainant is to provide 4% reservation to persons with disabilities out of total 1789 seats.

3. The matter was taken up with the respondent vide letter dated 01.11.2018 under Section 75 of the RPwD Act, 2016.

4. In response, ADG (Pen.) & Link Officer (SCT), Department of Posts, New Delhi vide letter dated 08.01.2019 inter-alia submitted that GDS Section of this Department had issued an Order on 21.06.2017 as per which all recruiting authorities shall maintain percentage of reservation for PwDs as applicable in regular appointments in Group 'C' Cadre to all categories of GDS posts except for benchmark disability 'Blind' (for all categories of GDS) and percentage of reservation may be maintained as in the case of SC, ST and OBC categories in GDS posts. This Order came into force from the date of issue i.e. 21.06.2017. As per the report received from Maharashtra Circle of this Department, the Notification for filling up of 1789 GDS posts through online recruitment procedure was published on 07.04.2017 which is before 21.06.2017 and therefore, percentage of reservation for PwDs was not maintained for 1789 GDS posts in Maharashtra Circle. However, the percentage of reservation to PwDs was taken into consideration in the subsequent Notification dated 04.12.2017 for 284 posts in Maharashtra Circle.

5. The complainant vide rejoinder dated 20.02.2019 inter-alia submitted that the result of Maharashtra Gramin Dak Sevak was declared on 06.08.2018 but there were no seats allotted to persons with disabilities.

6. After considering the respondent's letter dated 08.01.2019 and the complainant's letter dated 20.02.2019, it was decided to hold a personal hearing in the matter; therefore, the case was listed for personal hearing on 31.07.2019. On the date of hearing, the respondent was directed to submit a detailed reply and the hearing was re-scheduled for 08.11.2019.

7. During the hearing on 08.11.2019, the complainant reiterated his written submission and the representative of the respondent submitted a detailed reply and informed that Shri Prashant P Ingale from Amravati had applied for the post of GDS of the BOs under Amaravati Division under Nagpur Region. However, he had not been selected for any post due to lesser percentage of marks (89.06%). The percentage of marks of selected candidates are as under:

Name of BOs	Name of Divn	Percentage of Selected candidate
Sayat BO	Amravati Divn	92.66
Chincholi BO	Amravati Divn	93
Dhanora Gurav BO	Amravati Divn	91.53
Pimpri Nipani BO	Amravati Divn	92.61
Sawalapur BO	Amravati Divn	91.73

Notification to fill up 1789 Gramin Dak Sevak Posts through 1st Cycle online recruitment was issued vide notification No. Estt/4-1/GDS online selection/2017 dated 07.04.2017, there were no seats reserved for PwDs. However, 10 years age relaxation in their respective category was given. The averment of the complainant that in the month of November 2017, another notification for updating the category of Maharashtra persons with disabilities was published on the website of the Gramin Dak Sevak is denied as no such notification was issued by the respondent department in continuation of the notification dated 07.04.2017. In fact the subsequent notification dated 01.12.2017 was issued for filling of 284 Gramin Dak Sevak posts in LWE (Left wing Extremes Districts) and in the said notification, 14 posts were reserved for PwD (i.e. PwD – OH – 04 posts, PwD-HH-6 posts & PwD-VH-4 posts) as per the instructions contained in Directorate letter dated 21.06.2017. The reservation for PwDs in engagement of GDS posts was issued by Directorate vide OM dated 21.06.2017 and in the said OM, it was mentioned in para no. 06 that "*these orders will come into force from the date of issue*" (i.e. 21.06.2017).

8. He further informed that recently, notification for 2nd Cycle Gramin Dak Sevak was issued online on 01.11.2019 for filling up of 3650 GDS Posts, wherein they have provided reservation to PwDs (LV-31, HH – 31, OH – 44 & Specific learning disability - 15) and the complainant may apply online by registering his candidatures.

9. After hearing the parties and perusing the documents made available to this Court, it is recommended that Department of Posts may clear the backlog vacancies meant for persons with benchmark disabilities at the earliest and needs to maintain the reservation roster for persons with benchmark disabilities according to the DOP&T's instructions.

10. The case is disposed of accordingly.

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

Case No: 10495/1011/2018

Dated: 12.12.2019

In the matter of:-

Shri Sanjeev Kumar

<rkvasupihu@gmail.com>

Complainant

Versus

Union Public Service Commission

Through the Secretary

Dholpur House, Shahjahan Road, New Delhi

Respondent No.01

Directorate General of Mines Safety

Through the Director General

Dhanbad – 826001

Respondent No. 02

Date of Hearing: 23.08.2019, 11.10.2019 & 08.11.2019

Present on 08.11.2019:

1. Shri Subhash Chandra Vashishth, Advocate on Complainant
2. Shri Madhiskar, Director of Mines on behalf of respondent.

ORDER

Shri Sanjeev Kumar, a person with 45% locomotor disability filed a complaint dated 20.10.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding reservation for persons with disabilities in Directorate General of Mines Safety;

2. The complainant in his complaint submitted that UPSC had published an advertisement

for the post of Dy. Director of Mines Safety without providing reservation to persons with disabilities.

3. The matter was taken up with the respondent vide letter dated 02.01.2019 under Section 75 of the RPwD Act, 2016.

4. In response, Director General of Mines Safety, Delhi vide letter dated 06.03.2019 inter-alia submitted that Dy. Director of Mines Safety (Electrical) of his Directorate on appointment are authorized to work as Electrical Inspector in such conditions under sub-section (1) of Section 162 of the Electricity Act, 2003 and as an Inspector of Mines under Section 5(1) of the Mines Act, 1952. They exercise the powers and functions as Electrical Inspector in the above stated conditions within local limits of their respective jurisdiction under the control of DGMS that includes opencast and underground mines. Mining is considered as one of the most hazardous industries. Inspection of Mines require arduous travel, both in underground and opencast mines. The travelling roadways in mines are undulating. Inspection of mines requires travelling up and down steep gradients. Inspection of the mining machineries requires physical exertion. Machines have to be climbed for inspection. The environment in underground mines is not at par with normal atmospheric conditions. The environment in underground mines is confined, dark, hot and humid. Work is carried out under artificial illumination. Person going underground has to wear personal protective equipment like cap-lamps, self rescuers, helmets mining shoes/boots etc. He further submitted that the post of Dy. Director of Mines Safety is not covered for person with disabilities of Group 'A' post (Designation Electrical Engineers) list published vide Notification dated 29.07.2013 .

5. Complainant vide rejoinder dated 20.03.2019 inter-alia submitted that he had got information through RTI Act, 2005 from ONGC and Coal India Ltd and according to the replies, ONGC has appointed 07 officers in electrical discipline under PwD category and Coal India Ltd have 04 officers in electrical discipline under PwD category.

6. After considering the respondent letter dated 06.03.2019 and the complainant's letter dated 20.03.2019, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on 23.08.2019.

7. During the hearing on 23.08.2019, the complainant reiterated his earlier written submission and stated that ONGC and Coal India Ltd are major Oil Mining Companies and they are appointing persons with disabilities officer in electrical discipline and the respondent also reiterated his earlier written submissions and stated that the post of Dy. Director of Mines Safety (Electrical) is not identified for persons with disabilities as per the list published vide Notification No. 16 – 15/2010-DD-III dated 29.07.2013. After hearing both the parties, the respondent no. 2 was advised that if any Department/ Ministry considers it necessary to exempt any establishment partly or fully from the provision of reservation for persons with disabilities, it may make a reference to the Ministry of Social Justice and Empowerment giving full justification for the proposal. The grant of exemption from the purview of Section 34 of the Rights of Persons with Disabilities Act, 2016 shall be considered by an Inter-Departmental Committee set up by the Ministry of Social Justice and Empowerment. Till such exemption is granted, persons with disabilities cannot be denied the benefit of appointment/reservation/relaxation against advertised posts. The case was adjourned to 11.10.2019 and thereafter for 08.11.2019.

8. During the hearing on 08.11.2019, the Counsel for the complainant submitted additional reply and stated that the post advertised by UPSC vide Advertisement No 19/2018 had invited applications for Recruitment of 23 posts of Dy Director of Mines Safety (Electrical) and the complainant met all the requisite criteria for the post. However, despite being the Regulatory Agency of the Govt. of India for safety in Mines and Oil Fields, it was not implementing the provisions of the Rights of Persons with Disabilities Act 2016 and had not appointed a single Officer with disabilities in the Electrical Engineering Branch. The post of Electrical Engineers from junior to senior ranks stands identified for the category of the complainant i.e. locomotor category (OL) & HH from SI No. 362 to 386 in the List of Identified posts published by Govt of India in 2013. It is the settled principle that for the purpose of identification of posts, all posts

with same, equivalent or different nomenclatures will be deemed to be identified. Also, if the post in feeder cadre is identified, the next promotional post will also be deemed to be identified. In the instant case, the Post of Deputy Director of Mines Safety (Electrical) was thus an identified post for OL and HH categories. He further submitted that the post of Electrical Engineer, being an identified post for OL and HH, several officers with disabilities were already appointed and working in other national mining companies such as Coal India Limited, ONGC etc. The RPwD Act, 2016 is a beneficial legislation and have an overriding effect on all employment legislations when it comes to equal rights to employment for persons with disabilities on the posts identified and held suitable to be held by them. The respondent claimed to have sought exemption from the purview of the RPwD Act from filling up the identified posts for persons with disabilities during the pendency of the present case, on grounds that were untenable and did not stand the scientific analysis already made by the Inter-departmental Expert Committee that identified the post of Electrical Engineers for OL and HH.

9. After hearing the parties and perusing the documents made available to this Court, it is observed that Office of Directorate General of Mines Safety has not obtained exemption from Section 34 (1) of the Rights of Persons with Disabilities Act, 2016, the provision of reservation for persons with benchmark disabilities will be applicable as per DoP&T circular dated 15.01.2018. As such, it is recommended that Office of Directorate General of Mines Safety may provide reservation to persons with benchmark disabilities and re-advertise the post accordingly.

10. Case is disposed of.

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