

In the matter of:

Shri Kamaruddin, S/o Shri Munshi, A-39, Pul Prahaladpur, New Delhi – 110044

**.... Complainant**

Versus

West Central Railway, [Through: The General Manager-Personnel], Kota Division, Kota,  
Rajasthan-324001

**....Respondent**

**Date of hearing: 13.12.2019**

Present:

1. Shri Ajay Pachauri, Advocate on behalf of the complainant  
None for the respondent

### **ORDER**

Shri Kamaruddin, a person with 55% locomotor disability (lower limb) filed a complaint dated 04.07.2018 stating inter-alia that on 22.11.2016 he applied online for apprenticeship under Railway Act Apprentice Recruitment to the Office of Divisional Rail Manager, Personnel Branch, Kota, West Central Railway for Electrician trade at B.T.C. Tughlakabad, New Delhi. He submitted that he was fulfilling all the eligibility criteria sought in the application form. But he was neither called for the interview nor was informed of further procedure regarding the apprenticeship. He made enquiries through RTI and other mode of communication but failed to understand the reason for not providing the opportunity to him.

2. The matter was taken up with the General Manager (Personnel), West Central Railway, Kota Division, Kota (Rajasthan).

3. Upon considering the reply dated 10.05.2019 filed by the respondent and the rejoinder dated 14.05.2019, the case was listed for hearing on 06.11.2019.

4. During the hearing on 06.11.2019, the respondent filed a written submission stating inter-alia that the complainant has filed a case before Central Administrative Tribunal (P.B.), New Delhi – O.A. No.2019/2019 in this matter and has made Dy. Chief Commissioner for Persons with Disabilities one of the parties.

5. The complainant also filed a written submission and inter-alia affirmed that he has filed a case in this matter before CAT, New Delhi. He requested that he may be allowed to withdraw the case with a liberty to file again.

6. Since the complainant has already approached CAT, New Delhi, no further intervention is required in this case and the case is accordingly closed in this Office.

7. The Court agrees to the request of the complainant to withdraw his complaint.

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

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Case No: 10556/1022/2018

Dated : 12.02.2020  
Dispatch No. ....

In the matter of :

Shri Sunil Kumar Sawhey,  
H.No.87A, Near Water Tanks,  
Rajpura Road,  
Subash Nagar,  
Jammu – 180 005  
Email<sawheysk@gmail.com>

.....Complainant

Versus

State Bank of India,  
(Thru Chairman)  
State Bank Bhavan,  
Madame Cama Road,  
Nariman Point,  
Mumbai – 400 021

.....Respondent

Date of Hearing : 27.12.2019

Present :

1. Shri Sunil Kumar Sawhney, Complainant.
2. Shri Arvind Sood, DGM & CDO, SBI, Ahmedabad, Shri Piyush N. Shah, AGM (HR), SBI, Ahmedabad and Shri Shrikant Khisti, AGM, Ahmedabad, for Respondent.

### ORDER

The above named complainant had filed a complaint dated 01.11.2018 under the Rights of Persons with Disabilities Act, 2016 regarding transfer of his son Shri Rajan Sawhney, a person with 75% visual impairment from Vadodara to Jammu on compassionate ground.

2. Shri Sunil Kumar Sawhney submitted that his son Shri Rajan Sawhney was employed in State Bank of India at SME Centre, Vadodara under PH quota. He was promoted to the grade of OJMGS-I. His son was suffering from rare disease called Retinitis Pigmentosa and had 75% visual impairment. Being a blind person he was not able to live alone as he required proper personal attention in day to day activities. His wife remained with him for three-four months to support him in his livelihood but she could not remain with him all the time as she was working in a vocational department and she had to look after her young unmarried daughter. His son escaped from the accident thrice while staying at Vadodara. The complainant has requested for his son's transfer to his parent circle, i.e. Chandigarh Circle for his posting to his home station, i.e. Jammu on compassionate grounds.

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3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 01.05.2019.

4. The Chief General Manager (HR), SBI vide letter no. HR/CM/ICT/2019-20/262 dated 28.05.2019 submitted that Shri Rajan Sawhney joined the Bank as clerk on 15.12.2010 and remained posted at Jammu till 11.01.2018. He was then promoted from Junior Associate to Assistant Manager w.e.f. 01.01.2018 under Bank's Special Dispensation Scheme as a pre-condition to promotion, the promotee has to serve a minimum period of three years in the transferred deficit Circle (Ahmedabad in case of the complainant) before becoming eligible for repatriation to his/her parent Circle. Therefore, complainant's repatriation to Chandigarh Circle, under the prevailing policy guidelines, was not possible before completion of minimum stipulated three year service in Ahmedabad Circle. Shri Sunil Sawhney persistently insisted upon transfer of his son back to Chandigarh Circle. The Bank, therefore, re-examined the issue and taking cognizance of Shri Rajan Sawhney's inability to continue at Ahmedabad Circle, offered Shri Rajan Sawhney the option to forego his promotion to Officer Cadre and opt for reversion to Clerical cadre. Once his reversion to Clerical cadre is approved, the Respondent submitted that they might be in a position to transfer him back to Chandigarh Circle.

5. The complainant vide his rejoinder dated 02.10.2019 submitted that after two years of promotion to Officer's cadre, asking for the reversion to the old cadre has landed Shri Rajan Sawhney in extreme depression. The complainant and his son have personally rejected the proposal of reversion. The complainant had requested the Bank to transfer his son with the present grade of officer only and not to kill time upto 3 years by drafting tactics as it was further deteriorating the condition of his son. He further submitted that his grievance was not against any senior executive of the bank but was only regarding his son's ICT to Chandigarh and it should be with the present grade only. The complainant had requested the Management of the Bank to issue general notice to the staff not to taunt him as he was a person with disability.

6. After considering Respondent's replies dated 28.05.2019 and complainant's rejoinder dated 02.10.2019, a personal hearing was scheduled on 27.12.2019.

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7. During the hearing the complainant submitted that his son, a 75% visually impaired person had been posted at Vadodara which comes under Ahmedabad Circle since last 2 years. Being a visually impaired person, his son was finding it difficult to manage the day-to-day activities alone. He had requested his bank to post his son to Chandigarh Circle for his further posting at Jammu, which is his native place. He submitted that his grievance was not against any senior executive of the bank but it was only regarding his son's ICT to Chandigarh Circle with the same grade of Officer on which his son is working at present. He stated that Shri Rajan Sawhney's sister was residing in Ahmedabad.

8. During the hearing the representatives of Respondent submitted that Shri Rajan Sawhney was posted at Baroda which is a comfortable place. As per Bank's policy, he will have to serve in Baroda atleast for a minimum period of 3 years and he has to forego his promotion in case of ICT transfer to Chandigarh Circle.

9. The Court observed that the Bank was pressurizing Shri Rajan Sawhney to forego his promotion in case he is to be transferred to his native place, i.e. Jammu. The Court wondered why a person with disability should forego his promotion in case he requests for his transfer to his native place. The Court felt that some empathy should have been shown to the complainant who is a person with 75% visual impairment and he should not be meted out inhuman treatment.

10. The Court recommended the Respondent to consider posting Shri Rajan Sawhney for one year at Ahmedabad where his sister resides, who can take care of him. Once he completes three years in Ahmedabad Circle, the Respondent is recommended to post him in his native Circle/Zone.

11. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Case No: 10783/1022/2019

Dated : 13.02.2020

Dispatch No. ....

In the matter of :

Shri Santanu Mukherjee,  
29/1, Buxarah Road,  
Howrah,  
West Bengal -711 110

.....Complainant

Versus

Tea Board,  
(Thru the Chairman)  
14, B.T.M. Sarani,  
Brabourne Road,  
Kolkata – 700 001

.....Respondent

Date of Hearing : 27.11.2019

Present :

1. Complainant – Absent.
2. Ms. Ruby, Advocate, on behalf of Respondent.

Date of Hearing : 20.09.2019

Present :

3. Complainant – Absent.
4. Ms. Ruby, Advocate, on behalf of Respondent.

#### ORDER

The above named complainant, a person with 50% locomotor disability filed a complaint dated 02.01.2019 under Rights of Persons with Disabilities Act, 2016 against his posting at Quality Control Laboratory, Siliguri, about 565 Km away from his native place, i.e. Kolkata.

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

3. After considering Respondent's reply dated 22/24.04.2019 and complainant's rejoinder dated 27.05.2019, a personal hearing was scheduled on 20.09.2019.

4. The hearing scheduled on 20.09.2019 could not be held due to some administrative exigencies. The next hearing was fixed on 11.10.2019 and was postponed to 15.11.2019. The said hearing was finally rescheduled to 27.11.2019 due to administrative exigencies.

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5. The complainant was not present during the hearing.
  
6. During the hearing the Learned Counsel for Respondent vide a written reply dated 11.10.2019 submitted that the complainant had filed a writ petition in the matter registered as W.P. No.491 of 2017. The complainant has filed another Writ Petition (WP 348 of 2019) before the Hon'ble High Court of Calcutta wherein Office of the Deputy Chief Commissioner, Court of Chief Commissioner for Persons has been arrayed as Respondent no.7 and hence this Court has no jurisdiction to entertain the complaint till the pendency of the writ petition in the Hon'ble High Court. The Hon'ble High Court while hearing the writ petitioner no. 348 of 2019 has observed in its order 25.07.2019 that a litigant is not entitled to approach two separate parallel forums on the same cause of action. That the answering respondent has not violated any of the Office Memorandum issued by DoP&T as none of these circulars prohibits transfer on administrative requirement. All those circulars were duly considered by the competent authority of the Board while passing the speaking orders dated 28.12.2018.
  
7. As the matter is Sub-judice in the Hon'ble High Court of Calcutta no intervention of this Court is required.
  
8. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Case No: 9937/1021/2018

Dated : 13.02.2020

Dispatch No. ....

In the matter of :

Shri Harish Kumar Garg,  
B-3/203, First Floor,  
Paschim Vihar,  
New Delhi – 110 063  
Email<harishgarg\_1966@yahoo.com>

.....Complainant

Versus

Central Provident Fund Commissioner,  
EPFO Organisation,  
Bhavishya Nidhi Bhawan,  
14, Bhikaji Cama Place,  
New Delhi – 110 066

.....Respondent 1

Employees Provident Fund Organisation,  
(Through Regional Provident Fund Commissioner-1)  
Regional office Delhi (North),  
Bhavishya Nidhi Bhawan,  
28, Community Centre,  
Wazirpur Industrial Area,  
Delhi – 110 052

....Respondent 2

Dates of Hearing : 20.11.2019 and 28.08.2019.

20.11.2019

Present :

1. Shri Harish Kumar Garg, Complainant.
2. Shri Anil Kumar Jain, Shri S.C. Sharma and Shri A.K. Mittal

28.08.2019

Present :

1. Shri Harish Kumar Garg, Complainant and Shri Ashish Kumar Singh.
2. Shri S.C. Sharma, on behalf of Respondent No. 1.
3. Shri A.K. Jain, on behalf of Respondent No. 2.

24.06.2019

Present :

1. Shri Harish Kumar Garg, Complainant.
2. Shri D.K. Malhotra, RPFC-I, on behalf of Respondent No.2.

### ORDER

The above named complainant, a person with 50% visual impairment has filed a complaint under the Rights of Persons with Disabilities Act, 2016 regarding his promotion from Sr. SSA to SS. ....2/-

2. Shri Harish Kumar Garg submitted that he is working as a Senior Social Security Assistant in Employees Provident Fund Organisation at its Dwarka office. He is an ex-serviceman. He became disabled during his employment in the Air Force. He was re-employed in EPFO after his

service in IAF. He joined EPFO on 03.12.2010. This post is equivalent to UDC. The eligibility condition for promotion from SSA/Sr. SSA to Section Supervisor is 3 years of service as SSA/Sr. SSA. He has referred to the judgment of Hon'ble Supreme Court dated 10.12.2013 in the case titled as MCD vs Manoj Kumar Gupta upholding the judgment of the Hon'ble High Court which declared that Section 22 of the Persons with Disabilities Act, 1995 provided for reservation in promotion for persons with disabilities in Group A and Group B also. He further submitted that as he has completed 3 years of service, he should be considered for promotion as the last PH promotion from SSA/Sr SSA to SS was given to PH employee and now promotion turn is for deaf and dumb or Visually impaired person of Delhi region.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 06.08.2018.

4. The Regional P.F. Commissioner-1, EPFO vide letter no. Adm.2(2)/50/Vol.II/1366 dated 28.12.2018 submitted the complainant Shri Harish Kumar Garg was appointed in the post of Social Security Assistant (SSA) on 03.12.2010 under UR-ExSm (VH) direct recruitment. He made a complaint to this Court for grant of promotion to the post of Section Supervisor under PH (VH) category. He submitted that as per Employees' Provident Fund Organisation, Section Supervisor, Recruitment Regulations, 2017, the post of Section Supervisor is classified as Group 'B' post. Hence the provision of reservation under PH category in promotion does not apply in the cadre of Section Supervisor. He submitted that the contention of the complainant that he would have been granted promotion to the post of Section Supervisor w.e.f. 01.02.2017 under PH(VH) category does not have any merit. He submitted that since there is no provision for reservation under PH category in promotion in Group 'B' category (Section Supervisor cadre for the instant case), the question of preparation /maintenance of reservation roster for pwds in Section Supervisor cadre does not arise. Also, as per Recruitment Rules, there is no method for direct, recruitment to the post of Section Supervisor, hence, reservation roster for PH category is not required to be maintained. The Regional P.F. Commissioner, EPFO vide letter no. Adm.2(2)/50/Vol.II/1558 dated 25.02.2019 submitted that since there is no provision for reservation for persons with benchmark disabilities in promotion in Group 'B' category ( Section Supervisor cadre for instant

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case), the question of preparation/maintenance of reservation roster for persons with benchmark disabilities in Section Supervisor cadre does not arise. Also, as per Employees' Provident Fund Organisation, Section Supervisor Recruitment Rules, 2018 for SS, there is no method for direct recruitment to the post of Section Supervisor, hence, reservation roster for persons with benchmark disabilities is not maintained.

5. The complainant vide his rejoinders dated 04.01.2019 and 07.02.2019 has submitted that EPFO, RO, Delhi (North) Wazirpur has not provided the information knowingly as asked by this Court in its letter dated 06.08.2018 because there are a lot of irregularities in Rosters. He submitted that in earlier letter dated 28.12.2018, EPFO, RO, Delhi (North) Wazirpur stated that as per DoP&T O.M. No.36035/16/91-Estt.(SCT) dated 18.02.1997 and 36035/3/2004-Estt.(Res) dated 29.12.2005, reservation in promotion cannot be provided, but when he updated regarding Hon'ble Supreme Court order, then they changed their stand. EPFO, RO, Delhi (North) Wazirpur has provided reservation in promotion from Sr SSA to SS for pwd employees but not as per correct procedure. He has requested this Court to instruct his establishment for his promotion from Sr. SSA to Section Supervisor w.e.f. 01.02.2017 with the arrears.

6. After considering Respondent's replies dated 28.12.2018 & 25.02.2019 and complainant's rejoinder dated 07.02.2019, a personal hearing was scheduled on 24.06.2019. The scheduled hearing on 24.06.2019 could not be held due to unavoidable circumstances and the next hearing in the case was fixed on 28.08.2019.

7. During the hearing on 28.08.2019, the complainant submitted that he is working as Senior Social Security Assistant in Employees Provided Fund Organisation in its Dwarka office. He is an ex-serviceman. He became disabled during his employment in the Air Force. He was re-employed in EPFO after his service in IAF. He joined EPFO on 03.12.2010. This post is equivalent to UDC. The eligibility for promotion from SSA/Sr. SSA to Section Supervisor is 3 years of service as SSA/Sr. SSA. He has referred the judgment of Hon'ble Supreme Court dated 10.12.2013 in the case titled MCD vs Manoj Kumar Gupta upholding the judgment of the Hon'ble High Court which declared that Section 22 of the Persons with Disabilities Act, 1995 provided for reservation in promotion for persons with disabilities in Group A and Group B also. He further submitted that as he has completed 3 years of service, he should be considered for promotion as the last PH promotion from SSA/Sr SSA to SS was given to PH employee and now promotion turn is for deaf and dumb or visually impaired person of Delhi region. He submitted five representations to Cadre Controlling Authority, but did not get any reply from his establishment.

8. The representatives of Respondent has requested for one month time to file a detailed reply in the matter.

9. The next date of hearing was fixed on 23.10.2019 which was later re-scheduled to 20.11.2019.

10. During the hearing on 20.11.2019, the complainant submitted that EPFO states that reservation in promotion for PH is not applicable in Group 'A' and 'B', whereas as per Persons with Disabilities Act section 33 provides the reservation in promotion for employees with disabilities in Group 'A', 'B', 'C' and 'D'. On the basis of the PDA Section 33, this Court of CCPD had passed a similar judgment in the Case No. 2471/1021/2014 dated 27.04.2017 in the case of Ms. Girija T.M. vs Southern Railway. Despite the order passed by this Court 15 months earlier, the respondents are playing delaying tactics on one pretext or other with ulterior motive to deprive the right of the petitioner. In the present case petitioner is entitled for reservation in promotion as per DoP&T O.M. No. 36035/16/91-Estt (SCT) dated 18.02.1997 and 36035/3/2004-Estt. (Res) dated 29.12.2005 and as per Hon'ble Supreme Court judgment dated 10.12.2013 in the case titled MCD vs Manoj Kumar Gupta. The complainant reiterated that the eligibility for promotion from SSA/Sr. SSA to Section Supervisor is 3 years of services as SSA/Sr. SSA. He has been denied the promotion on the basis of his disability. Therefore, he should be considered for promotion from SSA/Sr. SSA to Section Supervisor under PH quota.

11. The Respondent vide their written submission submitted that the complainant has already been intimated by the department vide official letters that there is no direct recruitment to the post of Section Supervisor. This post is filled up by the department by two modes only, i.e. first through seniority quota amongst eligible senior SSAs to the extent of 66.1/2% and secondly through limited departmental examination to the extent of 33.1/2% . All eligible officials are promoted to SS strictly as per seniority maintained by the department, in view of their bench marks and availability of the posts and there is no discrimination against any person. Further, the post through limited departmental examination are filled up by the department by holding examination in accordance with the recruitment rules and in accordance with the merit list / panel. Thus there is no provision for direct recruitments to the post of Section Supervisor. The Respondent submitted that DoP&T vide O.M. No. 36035/02/2017-Estt. (Res) dated 15.01.2018 issued instructions to implement the Rights of Persons with Disabilities Act, 2016. In case of direct recruitment, four percent of the total number of vacancies to be filled up by direct recruitment, in the cadre strength in each group of posts, i.e. Group A, B and C shall be reserved for persons with benchmark disabilities. Against the posts identified for each disabilities, of which, one percent each shall be reserved for persons with benchmark disabilities under clause (a), (b) and (c) and one percent under clauses (d) and (e) unless and otherwise excluded under the provisions of Para 3. hereunder :-

- (a) Blindness and low vision
- (b) deaf and hard of hearing
- (C) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy.
- (d) autism, intellectual disability, specific learning disability and mental illness.
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf blindness.

(iii) As per the aforesaid O.M., reservation to persons with disabilities has been provided under direct recruitment only and not under promotion quota in Group A, B and C.

12. As the case is sub-judice in the Hon'ble Supreme Court of India, no intervention by this Court is required.

13. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Case No: 11066/1022/2019

Dated : .01.2020  
Dispatch No. ....

In the matter of :

Shri Rameshwar Thakur,  
C/o. Shri Surendra Singh,  
Near Jhanda Chowk,  
Swastik Bihar,  
Shivanand Nagar,  
Sector 3,  
Raipur,  
Chhattisgarh – 492 008

.....Complainant

Versus

Eastern Railway,  
(Through the General Manager),  
17, N.S. Road,  
Fairly Place,  
BBD Bagh,  
Kolkata – 700 001

.....Respondent

Date of Hearing : 03.01.2020

Present :

1. Shri Rameshwar Thakur, Complainant – Present
2. Smt. E.S. Simick, IRPS, Workshop Personnel Officer, Eastern Railway Workshop, Kanchrapara, West Bengal – On behalf of Respondent.

### ORDER

The above named complainant, a person with 50% visual impairment has filed a complaint dated 26.03.2019 under the Rights of Persons with Disabilities Act, 2016, regarding discrimination in transfer in accommodating him at KPA Workshop, near to his place of residence.

2. Shri Rameshwar Thakur submitted that he is employed with SSE/Bogieshop/WRS/Raipur as Tech-3 (Painter). He was selected for Helper-2 post under VH quota. His date of appointment is 08.04.2013. He made a request for his transfer from WRS/Raipur to KPA Workshop/ER on 08.04.2017. His family is staying at Kalyani and he is the only earning member in his family. Being a person with visual impairment, he is facing lot of problems staying alone. He was informed by his establishment that his transfer is not possible as he is 41 years of age and he has crossed

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the upper age limit of 33 years for appointment by transfer of Group 'D' staff. He submitted that this is discrimination towards a person with disability by the WPA Workshop. He has requested to take action against the Railway management and give direction so that he may be accommodated

at KPA Workshop which is near to his home.

3. The matter was taken up under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 29.04.2019.

4. The Dy. Chief Personnel Officer (HQ), Eastern Railway vide letter no. E.1160/IR/CCPD/2019/01 dated 12.06.2019 informed that the complainant had applied for his request transfer to Kanchrapara Workshop which is registered on Priority Register against serial No. 01 as Helper. At present Shri Thakur is working as Tech-III/Painter. He submitted that as such a letter was issued to Chief Works Manager/Wagon Repair Shop/Raipur/South East Central Railway to confirm as to whether Shri Thakur is still willing to be transferred as Helper, if so then his consent for accepting reversion may be forwarded or if he desires to take transfer as Tech-III, then the complainant has to be asked to submit fresh application for Inter Railway Own Request Transfer as Tech.III, thereafter further action will be taken.

5. The complainant vide his email dated 15.07.2019 has enclosed a letter written by him to the Workshop Personnel Officer, Wagon Repair Shop, Raipur agreeing to reversion to the post of Helper-II on request transfer at Kanchrapara Workshop. It seems that in view of his giving option, he was not yet transferred to Kanchrapara Workshop.

6. After considering Respondent's reply dated 12.06.2019 and complainant's rejoinder dated 15.07.2019, a personal hearing was scheduled on 03.01.2020.

7. During the hearing the complainant submitted that Eastern Railway is ready to release him to join at Kanchrapara Workshop as Helper on reversion, but CWM/Wagon Repair Shop/Raipur is not releasing him from the present place of work.

8. The representative of Respondent submitted that the Chief Works Manager, Kanchrapara has already agreed to accommodate Shri Rameshwar Thakur in Kanchrapara Workshop as Helper on reversion at his own request transfer accepting bottom seniority against PwD/VH Quota and their office has accordingly requested CWM/Wagon Repair Shop/Raipur to release the complainant vide CWM/KPA's letter no. PB/E-2(L)/9/18/Transfer dated 13.11.2019.

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9. As the Chief Works Manager/Kanchrapara has agreed to accommodate Shri Rameshwar Thakur in Kanchrapara Workshop as Helper on reversion, on his request for transfer, the Respondent is recommended to relieve Shri Rameshwar Thakur so that he can join at Kanchrapara Workshop and the compliance report shall be sent to this Court within 45 days from the date of issuance of this Order. This Court within its ambit and scope of jurisdiction exercisable under the Rights of Persons with Disabilities Act, 2016 and relevant rules, advises the respondent to be more sensitive towards persons with disabilities and ensure that rights of persons with disabilities are not infringed upon.

10. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Copy to :  
General Manager,  
Office of the General Manager,  
South East Central Railway,  
Zonal Headquarter,  
Railway Colony (New Annexe Building),  
5<sup>th</sup> Floor,  
Dist : Bilaspur (C.G.),  
Chhattisgarh – 495 004

- for necessary action.

Case No: 7742/1023/2017

Dated : 19.02.2020

Dispatch No. ....

In the matter of :

Shri C.K. Chandan,  
AAO,  
Life Insurance Corporation of India,  
11C, F-19, United India Building,  
3<sup>rd</sup> Floor, Block-F,  
Connaught Place  
New Delhi – 110 001

.....Complainant

Versus

Life Insurance Corporation of India,  
(Thru the Executive Director (Personnel),  
Central Office,  
5<sup>th</sup> Floor, West Wing,  
Yogakshema,  
Jeevan Bima Marg,  
Nariman Point,  
Mumbai – 400 021

.....Respondent

Date of Hearing : 11.12.2019

Present :

1. Shri Chandan Kumar Chandan, Complainant.
2. Ms. Kavita Manmohan, on behalf of Respondent.

ORDER

The above named complainant, a person with 55% locomotor disability filed a complaint dated 27.02.2017 under the Rights of Persons with Disabilities Act, 2016, regarding non implementation of DoP&T O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014 by LIC of India for its employees with disabilities.

2. Shri Chandan Kumar Chandan submitted that he was working in Life Insurance Corporation of India as an Assistant Administrative Officer since March 2012. He submitted that he was being denied various rights and facilities mentioned in Dop&T O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014 by his employer. In this regard, he gave representations to LIC requesting

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to provide him the facilities as stated in the above referred O.M.. The Regional Manager (P&IR), ECZO of LIC of India gave him a reply vide letter dated 31.12.2015, but did not mention the amenities/benefits to be given to an employee with disabilities. He further submitted that despite directions of DoP&T and Deptt. of Financial Services, no compliance had been initiated by the LIC of India on the above referred O.M.

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 05.10.2017.

4. The Executive Director (Personnel), LIC vide letter no. CO/PER/ER/WC-3(III)NZ dated 15.11.2017 submitted that they have identified jobs for persons with disabilities in Class I, III & IV posts. However, they submitted that the individual capacity to perform various jobs as that of other employees without disabilities can be measured by the office where he/she works and the office can decide to entrust jobs other than those not identified for the post. The pre-promotional training was being given to employees with disabilities and post Recruitment Trainings were being given to the employees of all the cadres depending upon the individual training needs as well as organizational requirements. The LIC is in the process of providing aids and assistive devices to its employees with disabilities. They are in the process of providing accessibility and barrier free environment at workplace. The employees with disabilities were being given preference in government accommodation. For redressal of grievances of such employees, LIC had designated Manager (Personnel) & Industrial Relations) in all the Divisional Offices of the LIC as Staff Grievance Redressal Officers. The employees with disabilities were being given Special Casual Leaves for participating in Conferences/Seminars/Trainings/Workshops etc. arranged by LIC. The employees with disabilities were given preference in their transfer/posting etc.

5. The complainant vide his rejoinder dated 30.12.2017 submitted that the employees with disabilities were given twice the work of a normal employee. He was reshuffled from Claims Deptt. to the NB & OS department along with the work of Nodal Officer RTI & Legal matter wherein prior to his joining, NB was looked after by two AOs and OS. It only showed the discriminatory and contradictory attitude of the management. He submitted that there was a Staff Grievance Redressal Officer for redressal of grievances but not for the differently abled employees. The Respondent was not giving any training to the employees with disabilities/Officers in the matter of disability. He submitted that the Liaison Officers appointed by the LIC were least bothered for



the welfare of the employees with disabilities. The LIC was deliberately delaying the benefit to the disabled employees so that the autocracy of some officials could continue without any challenge to their authority and persons with disabilities get discriminated and harassed permanently. The complainant submitted that till that day, he had not heard of any kind of conferences/seminars/trainings/workshops being arranged for persons with disabilities by the Respondent as admitted by them in their reply. He submitted that while he was posted in Gaya -2 branch of LIC which was on the 2<sup>nd</sup> floor, that branch did not have any ramp or lift which contradicted the Respondent's reply. He had seen many physically sound officers in Patna D.O.-1 and ECA who were remained posted at the same place for many years but employees with disabilities were being thrown to far flung areas.

6. After considering Respondent's reply dated 15.11.2017 and Complainant's rejoinder dated 30.12.2017, a personal hearing was scheduled on 11.12.2019.

7. During the hearing the complainant vide his written submissions submitted that he had been denied the four extra casual leaves by his establishment. He submitted that 55 employees were transferred to Delhi but the same was denied to him. Many a time he requested the management of his establishment to provide a barrier free environment in the branch office after his joining the Branch in October 2012 but all his efforts went in vain. He submitted that when he took charge of HoD in November 2012 along with additional charge of RIT & Legal matters, he was given only two HGA and one Assistant. This was further reduced to two HGAs. During this period his NEFT percentage settlements of SB and maturity claims along with the death claim were among the best and he received many appreciation letters and even won many cash prizes.

8. The representative of Respondent submitted that the complainant has moved the Court for his promotion. His CR has been rectified and was given an excellent remark. Presently the complainant is posted in Hissar.

9. Considering the disability of the complainant, the Court recommends that the Respondent may consider posting the complaint to Delhi and the compliance report shall be sent to this Court within 90 days of issuance of this Order. The Respondent is also advised to provide certain facilities in respect of persons with disabilities for efficient performance of their duties as per guidelines given in DoP&T O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014. The Respondent is further advised to ensure that the rights of the persons with disabilities are not infringed.

10. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Case No: 2945/1024/2014

Dated : 19.02.2020  
Dispatch No. ....

In the matter of :

Dr. Nitesh Kumar Tripathi,  
H. No. B-241,  
'B' Block,  
Sant Nagar Burari Delhi,  
Delhi – 110084.

.....Complainant

Versus

Directorate General of Health Services (CGHS),  
Ministry of Health & Family Welfare,  
446-A, Nirman Bhawan,  
Maulana Azad Road,  
New Delhi – 110 011

.....Respondent

Dates of Hearing : 20.11.2019 and 30.08.2019

20.11.2019

Present :

1. Complainant – Absent
2. Shri Kamlesh Kant Madan, Office Superintendent, CGHS (H.O), on behalf of Respondent.

30.08.2019

Present :

1. Complainant – Not present
2. Respondent – Not present.

### ORDER

The above named complainant, a person with 65% locomotor disability has filed a complaint dated 16.10.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding providing CGHS Health facilities, maternity benefits and other benefits to persons with disabilities who are working as Resident Doctors.

2. Dr. Nitesh Kumar Tripathi has submitted that CGHS health facilities, maternity benefits and other benefits are not being provided to the persons with disabilities who are working as Resident Doctors. The Doctors with disabilities who work as resident Doctors in Government Hospitals discharges same duty as other doctors like Medical Officers and Senior Resident Doctors and have to face more difficulties than that of Medical Officers who have same qualification. The Resident

....2/-

Doctors who are persons with disabilities are already allowed the benefit of the T.A. at Double the normal rate and Special CL.. The complainant has requested for grant of CGHS Health Facilities & Maternity benefits and other benefits to Resident Doctors who are persons with disability and working on the same grade pay.

3. The matter was taken up under Section 59 under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 16.12.2014.

4. The Additional Director (HQ), CGHS vide letter no. 1-41/2015-CGHS/C&P/8927-28 dated 23.11.2015 has submitted that the matter was taken up with the Directorate of CGHS, Ministry of Health & Family Welfare and that CHS benefits to Junior Resident Doctors were not available. However, they and their spouses can avail free hospitalization in the Hospital they are serving.

5. The complainant vide his rejoinder dated 09.04.2019 has referred to Section 24 (j) of Rights of Persons with Disabilities Act 2016. He submitted that there is no merit to deny the health insurance for the Junior Resident Doctors irrespective of nature of recruitment (Regular, Contractual and Ad hoc basis) since there is no demarcation in the Rights of Persons with Disabilities Act 2016 based on nature of employment and mode of recruitment. He submitted that the health insurance that is an unavoidable need for a person with disability must be provided to Junior Resident Doctors with disabilities as well as to all the employees entitled for the same and those who are not covered under any government sponsored health insurance scheme as per the spirit of Rights of Persons with Disabilities Act 2016.

6. After considering the Respondent's reply dated 23.11.2015 and complainant's rejoinder dated 09.04.2019, a personal hearing was scheduled on 26.06.2019 which was cancelled due to unavoidable circumstances. The next hearing in the case was fixed on 30.08.2019.

7. Neither the Complainant nor any representatives from the Respondent attended the hearing on 30.08.2019. Therefore hearing was adjourned to 23.10.2019 and the same was further rescheduled to 20.11.2019.

8. The complainant was not present during the hearing on 20.11.2019.

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9. The representative of Respondent reiterated that CHS benefits to Junior Resident Doctors are not available. However, Resident Doctors and their spouses can avail free hospitalization in the Hospitals they are serving.

10. The benefit of Central Government Health Scheme is governed by the principle of the scheme guidelines, which is a policy matter. Moreover, the Central Government Health Scheme benefits are not given to all Junior Resident Doctors including Junior Resident Doctors with disabilities. As such there is no case of discrimination could be perceived with reference to Junior Resident Doctors with disability. Therefore, the case is dismissed without any recommendation to the Respondent.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities

Case No: 10614/1022/2018

Dated : 26.02.2020  
Dispatch No. ....

In the matter of :

Shri Surendra Prasad,  
B-5, IHSS / PMD,  
BARC,  
Vasvi Complex,  
Sector-20,  
Vashi,  
Navi Mumbai – 400 075  
Email<sprasad12@rediffmail.com>

.....Complainant

Versus

Bhabha Atomic Research Centre,  
(Thru the Director),  
Trombay,  
Mumbai – 400 085

.....Respondent

Date of Hearings : 20.12.2019 and 06.11.2019

20.12.2019

Present :

1. Complainant – Absent.
2. Shri K. Venkat Subramanian, Deputy Establishment Officer, on behalf of Respondent

06.11.2019

Present :

1. Shri Surendra Prasad, Complainant.
2. Shri K. Venkat Subramanian, Deputy Establishment Officer, on behalf of Respondent.

### ORDER

The above named complainant, has filed a complaint dated 13.12.2019 under the Rights of Persons with Disabilities Act, 2016 against his posting from PMS/RPAD, Anushaktinagar to IHSS/PMC, Vashi, Mumbai.

2. Shri Surendra Prasad submitted that he is an employee of Bhabha Atomic Research Centre. He is presently working at Industrial Hygiene & Safety Section (IHSS)/PMD, Vashi, Mumbai after his transfer from Personnel Monitoring Section (PMS)/RP & AD, Anushaktinagar, Mumbai on 30.08.2018. For reaching his new transferred place at IHSS/PMD Vashi, he has to walk early from his house, cross multiple railway tracks to catch local train and thus endangering

....2/-

his life in the process. The nature of job at PMD Vashi is to collect very high toxic Beryllium samples from different locations which again involved walking, changing of shoes or wearing shoes covers and climbing staircase as there is no lift. Earlier when he was in PMS/RPAD, he was able to carry out all works independently whereas at the new place of transfer, he is not able to carry all works independently. He had requested for his transfer to old place, i.e. PMS/RPAD CTCRS building Anushaktinagar as he is finding extreme difficulties in his new place of work. He submitted that the working environment at the new place of posting is not suitable for him as it involved climbing stairs and ladders. When he apprised the problem faced by him at the present place of working to the management, his seniors warned him that they will transfer him again to Odisha. He and his wife both are working in Mumbai and they have one 9 years old daughter. The officers had also downgraded his APPAR confidential report which lead to monetary loss to him.

3. The matter was taken up under Section 75 (1) under Rights of Persons with Disabilities Act, 2016 vide letter dated 29.01.2019.

4. The Chief Administrative Officer (P), BARC vide letter no. BARC/Estt.IV/NG/704/133/92902 dated 15.05.2019 submitted that the complainant Shri Surendra Prasad was selected as a Trainee ( CAT-1) for admission for training in Health Physics Discipline at Health Physics Laboratory at Tarapur, Maharashtra subject to successful medical examination by a Medical Officer of this Research Centre. The complainant was examined and declared medically fit by Medical Officer In-Charge BARC's Research Centre. As per the requirement of the Department, the complainant was transferred in the Constituent Units of the Deptt. from time to time, in public interest. In order to grant enhanced Transport Allowance, he was advised to submit the Medical Certificate from BARC Hospital, Mumbai.

5. The complainant vide his rejoinder dated 07.12.2018 submitted that he had written many times regarding difficulties being faced by him at the new place of posting, i.e. IHSS/PMD Vashi, Mumbai after his transfer from PMS/RPAD, Mumbai. He is facing difficulty in movement and climbing staircase due to physical and neurotic deformity. He was suddenly transferred to TLD Unit Tarapur on 10.04.2018, which is nearly 100 Kms away from his residence at Mankhurd for few months. He was in a shock and tried to commit suicide at his work place i.e, CTCRS Building, Anushaktinagar. He was called back to BARC Mumbai after completion of work and he was then transferred to IHSS/PMD Vashi, Navi, Mumbai complex on 24.08.2018. For reaching IHSS/PMD Vashi, he has to leave early from house and cross multiple railway tracks to catch local train endangering his life whereas his earlier working place, i.e. PMS/RP&AD, CTCRS Building located at Anushaktinagar, Mumbai, is just a few minutes walking distance from his place of residence. The PMD Vashi office is located at higher floor and there are no lifts, therefore, the complainant

has to climb staircase to reach other floors. He has submitted an application to his establishment for grant of enhanced transport allowance, but till date he has not received the enhanced transport allowance. He has also requested this Court for restoration of internet facility and zero dialling facility on his official telephone. He has also requested this Court to consider his application for his posting at PMS/RPAD CT&CRS Building, Anushaktinagar, Mumbai.

6. After considering complainant's rejoinder dated 07.12.2018 and Respondent's reply dated 15.05.2019, a personal hearing was scheduled on 06.11.2019.

7. During the hearing the complainant reiterated the submissions made by him in his rejoinder dated 07.12.2018 as stated in para (5) above.

8. The representative of Respondent submitted that the complainant was transferred to IHSS/PMD Vashi, Navi-Mumbai complex on 24.08.2018, which is hardly 20 Kms away from his place of residence. He submitted that present posting of the complainant is well connected with public transport.

9. After hearing both the complainant and Respondent, the Court advised the Respondent to provide accessible and barrier free environment at workplace to the complainant and employees with disabilities in general and necessary aids and appliances which are suitable to the need of the complainant so that he can perform his duties efficiently. The Respondent is also advised to give performance incentive due to the complainant as per Government of India Rules.

10. The Court fixed the next date of hearing on 20.12.2019 at 11:00 Hrs.

11. The complainant was not present during the hearing. However, he vide his email dated 18.12.2019 submitted that he may not be able to attend the hearing. His transfer was done in a fit of rage and to punish from him due to some unforeseen personal reasons. His performance incentives were not given to him till date. He submitted that he has to cross railway tracks several times before reaching office. Further, at PMD Vashi, he is always graded low in APAR as he is unable to climb ladders to collect toxic Beryllium samples and mixing it and handling concentrated sulphuric acid and other chemical reagents. As reasonable barrier free access is not provided, his performance is being hampered.

12. The representative of Respondent vide their written letter dated 19.12.2019 submitted that the transfer of Shri Surendra Prasad was issued in public interest and distance between his residence (i.e. Mankhurd, Mumbai) and place of work (i.e. Power Metallurgy Division, Vashi, Navi Mumbai) is approximately 10.8 Km. The complainant has been provided adequately accessible and barrier free environment with necessary aids and appliances that are required for employees with disabilities at workplace. The Performance Related Incentive wherever eligible has been paid to Shri Surendra Prasad.

13. Most of the grievances of the complainant have been redressed by the Respondent as submitted by the Respondent during the hearing on 20.12.2019 vide letter dated 19.12.2019. However, keeping in view the complainant's disability, the Respondent is hereby recommended to consider his request in due course. The Respondent is also advised to be a little more sensitive towards persons with disabilities. Further to ensure a conducive and accessible work environment to the complainant specific to his disabilities in general and provide him a level playing field, so that his rights and dignity is maintained as provided under the Rights of Persons with Disabilities, Act, 2016.

14. The case is disposed of.

(Shakuntala Doley Gamlin)  
Chief Commissioner  
for Persons with Disabilities



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7- l qokbz fnukad 30-08-2019 ds fnu f"kd; rdrkz us dgk fd mlga 07 o'kz i dZ LoSPNd l ok fuofrr ns nh x; h D; kfd mlgkaus cfd l s l puk ds vf/kfu; e] 2005 ds rgr dN l puk; ekach FkhA mDr l ok fuofrr grrq mu ij cgr NkV&NkV/s pktZ yxk; s x; s tksd bl izdkj dh dk; bkg h ds fy, mi ; pr ugha gA oknh us ; g Hkh mYys[k fd; k fd fn0; kark gkus ds ckotm mudk LFkkukarj.k ugha fd; k x; k vksj muds }kjk vihy djus ds ckotm dkbZ dk; bkg h ugha dh x; hA l qokbz ds nksj ku oknh us bPNk 0; Dr dh fd og ukxi g dh ctk; Hkksi ky tk l drs gA ifroknh dh rjQ l s mi fLFkr i rrfuf/k; ka us l qokbz ds nksj ku of.kzr fd; k fd oknh ij yxk; h x; h pktZ'khV dk tokc ugha nus ds dkj.k cfd }kjk muds fo: } mDr dne mBk; k x; k gS mlgkaus dgk fd oknh ds }kjk vuf/kNir NqVV; k yh x; h vksj ofj'B vf/kdkfj; ka ds l kFk nq; bkgj Hkh fd; k x; kA mudk ; g Hkh dguk Fkk fd vuodka efgyk de pki j; ka }kjk oknh ds f[kykQ f"kd; r i ktr gpbZ FkhA oknh ds inkhufr ds l e; ukxi g ea dkbZ fjDr ekStm ugha Fkh] bl fy, mudk utnhdh LFkkukarj.k; ij LFkkukarj.k fd; k x; kA oknh }kjk ukxi g dk; kzy; ea tcjnLrh ?kd dj de pki j; ka@vf/kdkfj; ka ds l kFk xkyh&xyk p fd; k x; kA oknh dks mudk i {k j[kus ds fy, dkQh vol j inku fd, x, A nuka i {ka dks l qus ds i "pkr} cfd dks ; g l ykg nh xbZ fd vxyh l qokbz ij oknh dh l ok ea oki l h l cfd/kr l Hkkoukvka dk mYys[k dja rkd oknh dks mudh l ok ds l Hkh ykHk i dbr~dh Hkkar ; Fkor i ktr gka l dA vxyh l qokbz fnukad 23-10-2019 dks fu/kkZjr gpbZ i jarq iz'kkl fud dkj.kka l s fuf"pr fnukad dks ugha gks i kbZ bl fy, fnukad 20-11-2019 dks l quf"pr dh xbA

8- l qokbz fnukad 20-11-2019 ea i kFkhZ us vius fyf[kr dFkuka dks nkgjk; k vksj dgk fd ifroknh }kjk ekuf l d mRi hMue ds dkj.k oknh dks vuq'kkl fud & dkj bkbZ ea "krfey gkus dk eksdk ugha feyk vksj fu.kz , DI & i kVhZ gqvkA i kFkhZ vixs dguk gS fd mlga

mPpkf/kdkfj; ka }kjk gj o'kz xksi uh; &fj i kVZ ¼ h-vkj-½ ea Exceptional vkj Excellent fjekDI Z  
 fn, x, gS; fn mudk 0; ogkj bruk gh [kjk gkrk rks mudh mPpkf/kdkjh] ftI ea efgyk, a  
 Hkh "kkfey jgh gA , s fjekDI Z ugha nra le; IsI kr I ky igys vfuok; &I dkfuofRr  
 ndj cM; Is cMk vkfkd upl ku igpk; k x; kA ; fn le; ij I dkfuor gvk gkrk rks, d  
 ek/s vuoku ds erfkcd mudh i rku yxHkx 80]000@& gkrhA

9- Representative of the respondents has inter-alia submitted that as per Regulation 50 (h) of RBI Staff Regulations, 1948 states that, "Every appeal shall comply with the following requirements- it shall not repeat an appeal already rejected by the authority to whom the appeal is addressed, unless it discloses any new points or circumstances which afford grounds for reconsideration." Therefore, Shri Sharma's request for reinstatement in service and other demands cannot be acceded to.

10- nksuka i {kka dks I us , oalnLrkostka dks ns[kus ds i "pkr} ; g [kMu ugha tk I drk  
 dh i kFkhZ dks mPpkf/kdkfj; ka }kjk gj o'kz xksi uh; &fj i kVZ ¼ h-vkj-½ ea Exceptional vkj  
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 vkokl u vkj I epr vojksk eDr RkFkk I gk; d okrkoy.k miyCk dja\* oknh ij yxk,  
 x, vkjki bruh Hkh xkhj ugha fks fd mudks le; IsI kr o'kz i nZ I dkfuor fd; k tk, A  
 mi jkDr ds vkykd ea ; g vuqkd k dh tkrh gSfd oknh ds I dkfuor ij i q% fopkj dja

¼'kdqryk Mh- xkefyu½  
 eq; vk; Dr ¼fn0; kxtu½

Case No: 11531/1014/2019

Dated: 26.02.2020

In the matter of:-

Shri K. Lalith

S/o K. Kanaka Rao

B – 43, 1<sup>st</sup> Floor, Sector – 20

Noida – 201301 (Uttar Pradesh)

Complainant

Versus

Department of Personnel & Training

Through the Joint Secretary-2

Ministry of Personnel, Public Grievance & Pension

North Block, New Delhi – 110001

Respondent

Date of Hearing: 20.12.2019

Present:

1. Shri K. Lalith - complainant
2. Shri A. Lahiri, Section Officer on behalf of respondent

### ORDER

Shri K. Lalith, a person with 100 % visual impairment, filed a complaint dated 08.09.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding change of allocated IIS into IFS;

2. Complainant's grievance was against his service allocation on the basis of CSE-2018 (IIS). He alleged that despite being eligible for IFS as one IFS post was earmarked for visually challenged candidates and was not allotted to any of the visually challenged candidates under CSE – 2018, he was not allotted the IFS post. He further submitted that he was the 5<sup>th</sup> candidate among visually challenged, out of which 03 candidates were allotted IAS and 4<sup>th</sup> candidate from top was allotted IRS (C&CE) and he was at 5<sup>th</sup> position from top but he was not allotted IFS despite the fact that IFS was his 2<sup>nd</sup> preference.

3. The matter was taken up with the Department of Personnel & Training vide letter dated 25.09.2019 under Section 75 of the RPwD Act, 2016 but despite the lapse of sufficient time, no response was received from the DoP&T, therefore, the case was listed for hearing on 12.12.2019, but due to some administrative exigencies, it was rescheduled for 20.12.2019.

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4. During the hearing on 20.12.2019, the complainant submitted that he had raised a grievance against his service allocation under CSE-2018 (IIS), he had opted (1) IAS (2) IFS (3) IRS (IT) (4) IRS (C&CE) & IIS & So on. He further submitted that as per note no. 03 of Ministry of Social Justice & Empowerment notification dated 29.07.2013 – *if a post is already held by a person with disability, it shall be deemed to have been identified* and as per the said note, he was eligible for Indian Foreign Service because there was already a precedence that the Cadre Controlling Authority (CCA) had allocated IFS to a fully blind candidate namely Ms. NL Beno Zephine (CSE-2013) in 2015. Furthermore, IFS service is allocated to Ms. Reeta Meena, an ST candidate with AIR – 663 in the 1<sup>st</sup> list itself. She is 37<sup>th</sup> rank and in the inter se seniority placed below him. He further submitted that on 23.10.2019 under CSE-2018, the IFS service was allocated to a visually impaired candidate Shri Atheeth Sajeevan (Low vision candidate) with AIR 737 who was 111 ranks lower to him.

5. During the hearing on 20.12.2019 the representative of the respondent informed that the complainant had already filed an application before Central Administrative Tribunal, New Delhi and in O.A. No. 3298/2019.

6. After hearing both the parties and perusing the documents available on record, the case is closed as the matter is subjudice before the Hon'ble Central Administrative Tribunal, New Delhi.

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



Case No: 10121/1013/2018

Dated: 27.02.2020

In the matter of:-

Shri Ankur Ramachandra Nrupathunga  
533, Vinaya Marga, 9<sup>th</sup> Cross  
Siddhartha Nagar, Mysore – 570011

Complainant

Versus

Coal India Ltd  
Through the Chairman-cum-Managing Director  
Head Office, Coal Bhawan, Premise No. 04  
Mar Plot No. AF – III, Action Area – 1A  
New Town, Rajarhat, Kolkata

Respondent

Date of Hearing: 11.12.2019

Present:

1. Shri Subhash Chandra Vashishth, Advocate on behalf of the complainant
2. Dr. Harsh Pathak, Advocate and Shri Mohit Choubey, Advocate on behalf of respondent.

### ORDER

Shri Ankur Ramachandra, a person with 76% hearing impairment filed a complaint dated 27.07.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding denial of Management Trainee job by the Coal India Ltd;

2. The complainant in his complaint submitted that he is a hearing impaired candidate and he had applied for the job of Management Trainee(civil) in Coal India limited through PwD(HH)-GEN quota on February 2017 and cleared the test followed by interview on august 2017. He was called for medical test three times, first time i.e, in February 2018 when the doctors made him temporarily unfit and told to get MRI of brain along with neurophysician's opinion. On second medical test, the doctors made him unfit for employment, reason being MULTIPLE SCHWANNOMA (lesions) which is stable and there is no evidence of disease progression. But the doctors misunderstood his

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condition and made him unfit thinking that lesions require lifelong treatment. He further submitted that he had applied for re-medical test and was referred to neurologist in Bilaspur, but the neurologist didn't ask anything about medical history and made him unfit by stating that the lesions are progressive in nature. He further submitted that the lesions which are in his body were partially removed by surgery in 2010 and 2014 as fully removing the lesions might create more complications like paralysis. More importantly the neurologist whom he had consulted expressed that the lesions were stable and there was no evidence of disease progression observed after surgery and these lesions were not affecting his health condition and he was perfectly healthy and fit to discharge the job duties.

3. The matter was taken up with the respondent vide letter dated 02.11.2018 under Section 75 of the RPwD Act, 2016.

4. In response, General Manager (Pers./Rectt.), Coal India Ltd vide letter dated 08.12.2018 has inter-alia submitted that Shri Ankur applied on 30.01.2017 through online mode of application for the post of Management Trainee in Civil discipline under General category with PwD (HH). After qualifying the written examination and being shortlisted, Shri Ankur was called for personal interview. He appeared in the interview and was empanelled for selection to the post of MT (Civil). He further submitted that Shri Ankur being a PwD in HH category candidate was medically examined thrice but as he was found suffering from "*multiple schwannoma lesions with CP angles tumor bilateral which is progressive in nature*" he was declared medically unfit for the post of Management Trainee (Civil) discipline.

5. Complainant through his Counsel submitted rejoinder dated 10.05.2019 and stated that the respondent was trying to mislead the Court by ascribing to him additional disabilities other than the hearing impairment, which was wrong and strongly denied. He further submitted that the complainant was medically fit and that there was no physical or mobility impairment involving lower limbs or in his mobility.

6. After considering the respondent's letter dated 08.12.2019 and the complainant's letter dated 10.05.2019, it was decided to hold a personal hearing in the matter and, therefore, the case was listed for personal hearing on 11.12.2019.

7. During the hearing on 11.12.2019, the Counsel of the complainant submitted that the complainant was selected as a Management Trainee (Civil) by the respondent in the Disability quota; however, he was not able to join the job as he was stuck in the medical fitness exam process, where the respondent medical boards have declared him medically unfit. He further submitted that the complainant had undergone surgery in 2010 and 2014 for having Tumors in brain and spinal cord, which were partially removed by surgery as fully removing the tumors could be very dangerous as per medical advice. As per board doctor's suggestion, the complainant got MRI of his brain plus chest done from HCG Bangalore and sought the neuro-physician's opinion regarding his present condition. The doctor's report clearly states that complainant's health condition is completely stable, the tumors are not affecting his health condition, and no abnormalities detected in MRI. The MRI report dated 30.05.2018 of neuro-physician at HCG Bangalore who had performed surgeries on the complainant in the year 2010 for multiple acoustic schwannoma and in 2014 (spinalcord surgery) clearly opines that "the present condition of the complainant is completely stable, Since then the patient has been on regular follow up and his recent MRI on 14.12.17 shows no evidence of disease progression. The Medical Board of the respondent who conducted his medical exam were explained about his surgeries due to which he lost his hearing and has a slight foot drop but has a stable condition. However, the doctors somehow declared him medically unfit. There is nothing specified in medical norms of Coal India limited that multiple schwannoma or lesion is reason for rejection. Subsequently all the medical authorities he was referred to in appeal have been reiterating what the first doctor said without even examining him properly or obtaining the opinion of neuro-physician. In fact, the medical authorities of the respondent even declared his condition progressive and that he would be a burden on the company, which is completely incorrect and puts the future of the complainant in jeopardy. The complainant feels that despite giving all the necessary documents including MRI and neuro-physician opinion, the doctors of the respondent really could not understand the complainant's present health condition. They have abruptly come to the conclusion that the Schwannomas or tumors require life long treatment and will be burden on the company. The complainant is medically fit and has no physical or mobility impairment involving lower limbs of an extent to label him as person with physical disability. And his condition is fully stable and non-progressive. The complainant prays that his future career be not hampered merely because of misinterpretation of his present condition. For this complainant is prepared to present himself for medical examination before an independent medical board, preferably in any of the following hospitals:

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- a. AIIMS (All India Institute of Medical Sciences), Delhi,
- b. MMCRI (Mysore Medical College & Research Institute)
- c. BMCRI (Bangalore Medical College & Research Institute)

8. After hearing the parties and perusing the documents made available to this Court, it is recommended that Coal India Ltd may take final opinion from AIIMS, Delhi in this matter and take a fair decision in the case of Shri Ankur Ramachandra accordingly.

9. Case is disposed of.

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

Case No: 10791/1012/2019

Dated: 27.02.2020

In the matter of:-

Dr. Ajit Kumar  
<ajitchem@gmail.com>

Complainant

Versus

National Institute of Foundry & Forge Technology  
(Through the Director)  
Near Kanchnatoli, Hatia, Ranchi, Jharkhand - 834003

Respondent

Date of Hearings: 17.06.2019, 06.09.2019, 18.10.2019 and 04.12.2019

Present 04.12.2019:

1. Dr. Ajit Kumar - Complainant
2. Shri U.C. Prasad, Registrar and Shri K.P. Panigrahi, Dy. Registrar on behalf of respondent

### ORDER

Dr. Ajit Kumar, a person with 60% locomotor disability filed a complaint dated 03.01.2019 under the Rights of Persons with Disabilities Act, 2016, hereafter referred to as the RPwD Act, 2016 regarding appointment to the post of Assistant Professor in National Institute of Foundry & Forge Technology (NIFFT), Hatia.

2. Complainant in his complaint submitted that he had applied for the post of Assistant Professor (Applied Chemistry) in DASH Department of NIFFT, Hatia and the list of shortlisted candidate had been published on Institute website on 20.12.2018 but his name was not there. Although, as per shortlisting criteria, he could not fulfil point 02 i.e. candidates should have throughout 1<sup>st</sup> Class. He alleged that he had maintained good academic record throughout his career with more than 55% marks and that the respondent has not provided relaxation in marks to him.

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3. After perusal of the complainant, the matter was taken up with the National Institute of Foundry & Forge Technology, Jharkhand vide letter dated 22.02.2019.

4. In response, Director, National Institute of Foundry & Forge Technology vide letter dated 15.03.2019 submitted that the Minimum eligibility criteria furnished in the advertisement was – *"A Ph.D Degree with First Class at M.Sc. or M. Tech. Degree with First Class at Bachelor's or Master's OR First Class at M.Sc. with NET qualification in appropriate branch with a very good academic record throughout career."* The advertisement considered the eligibility criteria furnished in AICTE Notification dated 04.01.2016 published in the Gazettee of India on 06<sup>th</sup> January, 2016, wherein the qualification/eligibility conditions for the post of Assistant Professor/Associate Professor/Professor in Humanities and Sciences has been defined as *"Master's degree in relevant subject of Humanities and Sciences with first class or equivalent, at Bachelor's or Master's Level from any recognized India University."* The Committee found the application of Dr. Ajit Kumar as Non Eligible and his name did not appear in the list of candidates to appear before the screening Committee as published by the Institute vide Notice dated 20.12.2018 in the Institute website on 20.12.2018. Dr. Ajit Kumar Submitted his claim for relaxation in eligibility criteria based on the benchmark disability. Keeping the criteria based of benchmark disability into consideration the Institute provisionally allowed Dr. Ajit Kumar to appear before the Screening Committee with relevant documents to examine his claim and prevailing rules in this regard. The Institute also included one observer for reservation from the approved panel of experts in the recruitment process. The Expert examined the application of Dr. Ajit Kumar and opined the *"Educational Qualification eligibility is not matching as per advertisement."*

5. Complainant vide rejoinder dated 30.03.2019 has inter-alia submitted that AICTE, New Delhi which is the regulatory Authority for technical education in India which also contains reservation/relaxation provision for different category of candidates in its AICTE Notification dated 04<sup>th</sup> January, 2016 published in the Gazettee of India on 06<sup>th</sup> January, 2016. Wherein under clarification of issue mentioned in serial number 04 of Heading A dealing with issues related to qualification which runs as: *"Rules relating to reservation for the respective category including relaxation in minimum qualification criteria of the concerned State/UT/Central Govt. as applicable from time to time would be applied. He further submitted that if his educational qualification was not matching as per the advertisement then how they accepted his candidature against the opinion of Committee and allowed him for the next process of recruitment. He further submitted that he possess all the relevant qualification as per both the provisions i.e. AICTE notification as well as NIT three tier recruitment rule as cited by recruiting authority in their reply.*

6. After considering the respondent letter dated 15.03.2019 and the complainant's letter dated 30.03.2019, it was decided to hold a personal hearing in the matter; therefore, the case was listed for personal hearing on 17.06.2019. The hearing could not be held due to exigencies of administrative reasons. The hearing was finally held on 04.12.2019

7. On the date of hearing on 04.12.2019 the complainant reiterated his written submissions and representatives of the respondent informed that the advertisement was based on the eligibility criteria furnished in AICTE Notification wherein the qualification/eligibility conditions for the post of Assistant Professor/Associate Professor/Professor in Humanities and Sciences have been defined as "*Master's degree in relevant subject of Humanities and Sciences with first class or equivalent, at Bachelor's or Master's Level from any recognized India University.*" and all candidates including the SC, ST & OBC candidates shall satisfy the said qualifications.

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

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

Case No. 8799/1011/2017

Dated: 28.02.2020

In the matter of:-

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

Complainant

Versus

Hindustan Aeronautics Ltd  
(Through the General Manager (HR - ER)  
Department of Atomic Energy, P.O. Jaduguda Mines  
15/1, Cubbon Road, Bangalore – 560001

Respondent

Dates of Hearing: 21.08.2019, 11.10.2019 and 17.01.2020

Present on 17 .01.2020:

1. Complainant - absent
2. Shri M.G. Balasubramanya, AGM (HR), Shri J. Karthik, SM (HR) and Ms. Naina Chauhan, DM (Legal) on behalf of respondent

#### ORDER

The above named complainant, Dr. Nitesh Kumar Tripathi, a person with 65% locomotor disability, filed a complaint dated 28.10.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of the provisions of the RPwD Act, 2016;

2. The complainant submitted that HAL, Bangalore had published an advertisement for the post of Medical Officer and the advertisement was not showing the exact number of seats reserved for PwDs. He requested to direct the respondent to provide full exemption from the payment of application fee, 10 years age relaxation, extra time during examination, travel expenses to attend interview alongwith an escort, disabled friendly environment during the interview and to also conduct the Special Recruitment Drive for filling up the backlog vacancies for PwDs.

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3. The matter was taken up with the respondent vide letter dated 13.12.2017 under Section 75 of the RPwD Act, 2016.

4. In response, General Manager (HR-ER), Hindustan Aeronautics Ltd vide letter dated 08.01.2018 submitted that they were providing reservation to PwDs as per the Govt. directives and had also mentioned in the advertisement under sub-head that the Upper age limit in respect of the PwDs was relaxable by 10 years. He further submitted that Dr. Nitesh Kumar Tripathi had applied for the post of Medical Officer and the scrutiny of the applications in respect of the candidates who had applied for the posts under the advertisement was under process.

5. The complainant in his rejoinder dated 19.05.2018 inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised by him. He requested to fix a hearing in the matter.

6. After considering the respondent's letter dated 08.01.2018 and the complainant's e-mail dated 19.05.2018, it was decided to hold a personal hearing in the matter; therefore, the case was listed for personal hearing on 21.08.2019. During the hearing, the complainant reiterated his earlier written submission and the respondent also reiterated his earlier written submissions. After hearing the both parties, the respondent was explained to make necessary provisions of barrier-free features for persons with disabilities and the next date of hearing was fixed for 11.10.2019 but due to administrative reasons the hearing was postponed for 17.01.2020. The respondent was also asked to furnish the following information:

- Details of all posts of the organizations in Group 'A', 'B' & 'C' filled since 01.01.1996;
- Certificate of the Liaison Officer certifying that the Roster has been maintained from 01.01.1996 as per DoP&T's instructions;
- Total number of posts of Medical Officer;
- The number of Persons with Disabilities appointed in the post of Medical Officer with their disabilities and percentage of disability, if not appointed, the reasons therefore;
- The number of the backlog reserved vacancies as per DOP&T's instructions;
- Details of the barrier-free features incorporated in the building alongwith the photographs of toilet, ramps, parking etc.

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During the hearing on 17.01.2020, the complainant was absent and the representatives of the respondent submitted the desired information and compliance report on barrier free features.

7. In light of the facts and material available on record, the reply of the respondent was found satisfactory; therefore, the case is disposed of without any direction.

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