



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364

5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, New Delhi-110075; Tel.: (011) 20892364

Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 13629/1011/2023

In the matter of—

Dr. Balasubramaniam Rathinavel,
Ph.D.,
12/45, Thiyagi Natesan Street
No.2,
Ammamet, Salem 636003, Tamil
Nadu;
Email: maniamindia@gmail.com;
Mobile: 9443090575

.... Complainant

Versus

The Chairman & Managing
Director,
Canara Bank, Premises &
Estate Section,
Head Office: No.112, J.C. Road,
Bengalure - 560002;
Email:
pdwing@canarabank.com;
hopremises@canarabank.com

.... Respondent

1. Gist of Complaint:

1.1 Dr. Balasubramaniam Rathinavel, Ph.D, a person with 55% locomotor disability filed a complaint dated 23.09.2022 regarding non-accessible ATM of Canara Bank at Ammapettai, Salem, Tamil Nadu.

1.2 The Complainant submitted that he is a pensioner of Canara Bank. He has a saving bank account with Canara Bank, Salem, Ammapet Branch and is drawing his pension through that account. The nearest Canara Bank ATM from his house is situated in Ammapet Main Road Salem near Gandhi Maidan is not accessible for persons with disabilities like him. Every time, whenever he goes to withdraw cash from ATM, he has to face inaccessibility of the same.

2. Submissions made by the Respondent:

No reply was received from the respondent despite issue of Notice on 06.01.2023 followed by reminders dated 27.01.2023 and 15.02.2023.

3. Observations & Recommendations:

3.1 The main issue which needs contemplation of this Court is accessibility of the ATM enclosure. It is pertinent to attract attention of the Respondent establishment to Rule 15(1) (a) of the Rights of Persons with Disabilities Rules 2017 (hereinafter mentioned as 'the Rules'), as amended. The rule provides that government establishments shall comply with standard for public buildings as specified in the Harmonized Guidelines and Standards for Universal Accessibility in India - 2021, notified by the Government of India in the Ministry of Housing and Urban Affairs, vide notification number O-17/4/ 2022-works-3-UD dated the 18th October, 2022 (hereinafter mentioned as 'harmonized guidelines'). These harmonized guidelines are framed under section 40 of the Rights of Persons with Disabilities Act, 2016 (hereinafter mentioned as 'the Act').

3.2 As per Rule 15 (1) (c) (iii) of the Rights of Persons with Disabilities (Amendment) Rules, 2023 "Websites, apps, information and communication technology based public facilities and services, electronic goods and equipment which are meant for everyday use, information and communication technology based consumer products and accessories for general use with persons with disabilities, and other products and services which are based on information and communication technology, shall comply with the Indian standards IS 17802 (Part 1), 2021 and IS 17802 (Part 2), 2022, published by the Bureau of Indian Standards *vide* notification numbers HQ-PUB013/1/2020-PUB-BIS(278), dated the 24th December, and HQ-PUB013/1/2020-PUB-BIS(358), dated the 4th May, 2022, respectively as amended from time to time."

3.3 Further, Section 45 of the RPwD Act, 2016 provides that the government establishment shall adhere to accessibility guidelines and make infrastructure accessible within 5 years from date of notification of the Rules, which were notified on 15.06.2017. Accordingly, the government establishments were bound to make infrastructure accessible by 16.05.2022.

3.4 Hence, this Court recommends that the Respondent shall conduct accessibility audit of ATM enclosure and make it accessible. Further, the Respondent shall submit compliance report of this order within 3 months from the date of this order, failing which it shall be presumed that the Respondent has failed to comply with the order and laid down harmonized guidelines and the issue shall be reported to the Parliament.

I/1140/2023

3.5 Accordingly the case is disposed of.

Dated: 09.08.2023

**(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities**



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Case No. 13981/1040/2023

Complainant:

Shri Joy D'souza

Media Consultant – Republic TV

Mobile No – 8308313007

Email – joy.jason@gmail.com

Respondent:

(1) The Commissioner

National Institute of Open Schooling (NIOS)

A-24/25, Institutional Area, Sector – 62

Noida Distt. Gautam Budh Nagar

Uttar Pradesh – 201309

Email – cm@nios.ac.in

(2) The Commissioner

Kendriya Vidyalaya Sangathan

18, Institutional Area

Shaheed Jeet Singh Marg

New Delhi – 110016

Telephone No - +91-11-26858570

Email – commissioner-kvs@gov.in

Affected Person:

1. Gist of Complaint:

1.1 Shri Joy D'souza, Media Consultant – Republic TV filed a complaint dated 14.04.2023 and submitted that inappropriate treatment was meted out to the special children (Divyangjan), their scribes and the parents by

the staff and authorities of the Kendriya Vidyalaya, New Bowenpally, Secunderabad, Telengana, which was the centre of NIOS Class X exams.

1.2 The Complainant submitted that the children and their scribes were told to sit in the corridors on plastic chairs and write the exam on their lap without tables and fans when the day's temperature in Hyderabad/Secunderabad was touching 40 degrees . No room was provided. The staff kept coming up with a new requirement everyday – one day they say that the scribe's bonafide certificate should be produced (already submitted to NIOS and approval has been granted/ obtained), another staff says – I want to see the ID Card of the Scribe, and then another day one staff member says that the scribe should come in a school uniform and so on so forth.

1.3 The Complainant further submitted that the staff at the school are unable to appreciate that just getting these special children to come and attempt to give this exam itself is a huge challenge for both the parents and the children and instead of being empathetic and create a comfortable and more accommodating environment, the authorities and the staff seem to be having a high-handed attitude and making it all the more difficult.

2. Submissions made by the Respondent:

2.1 The Director (Evaluation) filed reply dated 08.06.2023 on behalf of the Respondent No 01 and inter-alia submitted that neither any learner submitted the application as per provision to avail certain facilities or need some reasonable accommodation in the examination to the concerned Regional Director at least four weeks prior to the commencement of examination clearly indicating the support required by the learner along with certificate issued by an appropriate authority indicating the nature and extent of his/her disability nor any learner mentioned the category as Divyang learners at the time of admission.

2.2 He further submitted that the Regional Director, NIOS, RC, Hyderabad vide letter dated 04.04.2023 addressed to all Centre Supdt. of NIOS (Theory Examination Centers) across Telangana State issued instructions that Special Care has to be taken for Divyangs and one invigilator should be oriented to the need of learners with disability. The seating arrangement should be made at the ground floor of the building only. Further, NIOS HQ vide dated 16-17 /03/2023 instructed all Regional Directors of NIOS that there is no debarment of next of kin for acting as a

scribe.

2.3 Further, on requests received in the prescribed pro-forma from parents and after due verification Regional Director, NIOS, RC, Hyderabad vide his letters dated 04.04.2023, 06.04.2023 and 17.04.2023 forwarded lists of Divyang Learners to the Centre Superintendent, Exam Centre No 14705/247056, Kendriya Vidyalaya, Bowenpally, Secunderabad for providing general relaxation and amanuensis to the Divyang learners of NIOS appearing in April, 2023 Public Examination.

2.4 The Respondent further submitted that the Centre Superintendent, Exam Centre No. 14705/24705, Kendriya Vidyalaya, Bowenpally, Secunderabad vide his letter dated 09.05.2023 has informed that due to sudden power failure 25 divyang learners and their scribes were made to write the examination in the corridor to avoid inconvenience. Required furniture was provided to 25 Special Children and their scribes were provided with wooden chair with plank. The candidates who required compulsory assistance of the parents were allowed inside visitors' hall near to the examination room.

2.5 The Joint Commissioner (Acad), KVS (HQ.) filed reply dated 19.05.2023 on behalf of Respondent No.2 and inter-alia submitted that Respondent No 01; National Institute of Open Schooling (NIOS) did not give prior intimation/list to the Kendriya Vidyalaya, Bowenpally in respect of number of special children (Divyangjan) with list of scribes are going to appear for the Class X Examination (NIOS). During checking at entry point, some of the scribes were neither carrying authorization letter from NIOS nor having School ID. The Vidyalaya has immediately requested NIOS to send the list of scribes for verification and authentication of scribes come with special children (Divyangjan). Out of Total 53 allocated Secondary Students, 25 (Divyangjan) with their scribes reported to appear in Class-X (NIOS) Exam at KV, Bowenpally on 11.04.2023. From 12.04.2023 onwards, the examination was conducted smoothly.

3. Submissions made in Rejoinder:

3.1 The replies of the respondents were forwarded to the Complainant vide email dated 07.06.2023 and 21.06.2023 respectively with a leave to submit rejoinder, if any. However, no response was received from the Complainant.

4. Observations & Recommendations:

4.1 The main issue raised by the Complainant is related to providing infrastructure to divyang candidates and their scribe in order to facilitate them in overcoming challenges.

4.2 Relevant provisions of Rights of Persons with Disabilities Act, 2016 in this regard are section 16 (ii) and 17 (i). Section 16 (ii) provides that appropriate government and local authorities shall make building, campus and various facilities accessible. Similarly, section 17 (i) provides that appropriate government and local authorities shall make suitable modification in the examination system to meet the needs of students with disabilities such as extra time, facility of scribe etc.

4.3 In the present complaint, respondents informed that after receiving the grievance of the complainant, appropriate measures were taken and issues were resolved. This Court expresses its satisfaction with the measures taken by the respondent. However, to avoid recurrence of such incidents, it is recommended that provisions of the RPwD Act, particularly those in section 16, 17 of the Act be complied with scrupulously. It is further recommended that the Respondent no. 1 and 2 discuss the issues raised in this complaint for chalking out preventive measures including conducting awareness programmes for the staff at interface level.

4.3 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

4.4 Accordingly, the case is disposed of.

Signed by Rajesh Aggarwal

Date: 14-08-2023 12:42:32

Reason: Approved

**(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities**

Dated: 14.08.2023



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Case No. 13988/1021/2023

Complainant:

Shri Sandeep Singh
P.No.9382, Machinist-HS-I
A-431 World Bank Barra
Kanpur – UP 208027
Mobile – 9616636200; 9140440318
Email – itsandeepchauhan@gmail.com

Respondent:

The Executive Director,
Ordnance Factory
Kanpur – 208009
Mobile – 7008126913; 9437564209
Email – ofc.ofb@nic.in

Affected Person: Complainant, a person with 40% Locomotor Disability

1. GIST OF COMPLAINT:

1.1 शिकायतकर्ता श्री संदीप सिंह का अपनी शिकायतपत्र दिनांक 24.03.2023 में कहना है कि शिकायतकर्ता कि नियुक्ति (मशीनिष्ट) व्य सं 9382, क्यू.सी. स्टोर, आयुध निर्माणी कानपुर कि नियुक्ति 12.05.2014 को हुई थी, शिकायतकर्ता ने परिवीक्षा अवधि 11.05.2016 को पूर्ण की, किन्तु आयुध निर्माणी ने शिकायतकर्ता को 04.08.2016 को कुशल श्रेणी में, 05.08.2019 को अतिकुशल श्रेणी दो में पदोन्नत किया जिसमे प्रार्थी का आर्थिक नुकसान हो रहा है जबकि कुशल श्रेणी में 12.05.2016 व अतिकुशल श्रेणी दो में 12.05.2019 को होना चाहिए।

1.2 आगे, शिकायतकर्ता ने कहा कि इसी अवधि 12.05.2016 से 04.08.2016 के बीच अन्य निर्माणियों से स्थानान्तरण पर आये मशीनिष्ट कर्मचारियों को वरीयता दी गई जिससे वे वरीय हो गए। इस प्रकार अभी तक शिकायतकर्ता कि समस्या का निवारण नहीं किया गया है।

2. SUBMISSIONS MADE BY THE RESPONDENT:

2.1 The Respondent vide e-mail dated 12.05.2023 endorsed their reply vide affidavit dated 10.05.2023 and submitted that Shri Sandeep Singh, P.No. 9382 is a person with a 40% Locomotor Disability and it is also submitted that no discrimination was made against Shri Sandeep Singh at OFC being a PwBD employee and all promotions that had been granted to Shri Sandeep Singh and all other eligible employees of OFC were as per rules/orders. It is also ensured that all guidelines/policies as mentioned in Commission's letter are being implemented in Ordinance Factory Kanpur. There was no intentional or deliberate delay of any kind in granting of promotion to him and whatever time is consumed, was due to administrative procedure.

2.2 The Respondent further submitted that the complainant had been appointed in the trade/grade of Machinist-Semi-Skilled w.e.f. 12.05.2014 and his probationary period had been completed w.e.f. 11.05.2016, vide F.O. Part-II No. 913, dated 21.11.2016. He passed the trade of Machinist-SK grade w.e.f. 04.08.2016, vide F.O. Part-II No. 643 A, dated 04.08.2016. After passing the trade test, he was up-graded/promoted to Machinist-SK w.e.f. 04.08.2016, i.e., the date of passing the trade test, vide F.O. Part-II, No. 643B, Dt 04.08.2016.

2.3 The Respondent stressed that as per rule, promotion/up-gradation in skilled grade may not be considered before the date of passing of trade test, hence he was promoted/up-graded in Machinist-SK grade w.e.f. 04.08.2016 i.e., passing of date of trade test. Similarly, as per rule, after completion of 3-3 years of regular service and on passing of trade test Shri Sandeep Singh, P. No. 9382 has been promoted in Machinist HS-II and Machinist HS-I, grade w.e.f. 05.08.2019 & 05.08.2022 respectively.

3. SUBMISSIONS MADE IN REJOINDER:

3.1 The Respondent endorsed a copy of their Reply to the Complainant and the same was forwarded to him by this Court vide letter dated 02.06.2023 with a leave to file his Rejoinder if any within 15 days. However, no response was received from the Complainant.

4. OBSERVATIONS & RECOMMENDATIONS:

4.1 The instant case is about alleged delay in promotion of the Complainant, who is an employee of the Ordnance Factory, Kanpur. He also complained about the consequential delay in his next promotion and loss of income as also about relegation of seniority as some candidates on their transfer joined the grade between the date his promotion was statedly due and when it was actually granted.

4.2. The Respondent, which follows a time bound promotion scheme, submitted citing relevant rules for promotion, that the promotion was contingent upon fulfilling two conditions, namely - 1) two years of regular service and passing the trade test. He also submitted that the rules provide that promotion/upgradation in skilled grade may not be considered before the date of passing of the trade test. In the instant case, though the Complainant completed his regular service on 11.05.2016, he was promoted w.e.f. 04.08.2016, i.e. from the date of his passing the trade test.

4.3. The reply of the Respondent was endorsed to the Complainant and the same was also forwarded by this Court vide letter dated 02.06.2023 with a leave to file Rejoinder if any. No rejoinder was received.

4.4. It is clear from the facts available on the records of the case that there was delay in conducting the examination and publishing of the results. However, there are no grounds to believe that this delay was only in the case of the Complainant, or that there was any discrimination on the ground of his disability.

4.5 This Court finds the reply of the Respondent satisfactory and concludes that the Complainant has failed to make any case of deprivation of any of his rights as a person with disability or of a case of any discrimination on the grounds of disability. As such no further intervention of this Court is warranted in this matter.

4.6 Accordingly, the case is disposed of.

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities

Signed by Rajesh Aggarwal
Date: 16-08-2023 07:51:59
Reason: Approved