



सत्यमेव जयते

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

Case No.: 7782/1022/2017

Dated: 19.07.2017
Dispatch No.....

In the matter of :

Smt. Alka Verma, R 2131
1/30, D/S, Jangpura Extension,
New Delhi - 110014
Email<vermalka25@yahoo.com>

.....Complainant

Versus

National Cooperative Development Corporation (NCDC),
(Managing Director) R 2132
4, Institutional Area,
Hauz Khas,
New Delhi - 1100 016

.....Respondent 1

The Secretary (DoAC & FW),
Ministry of Agriculture & Farmer Welfare,
Govt. of India, R 2133
Krishi Bhawan,
New Delhi - 110 001

.....Respondent 2

Date of Hearing : 02.06.2017

Present :

Complainant - Shri Rakesh Verma, Husband of the complainant and Shri Rajiv Boolchand
Verma - On behalf of complainant
Respondent - Dr. L.C. Singhi, Advocate, Shri A.S. Meena, Dy. Director and Shri Sandeep
Singh, Asstt. Director - On behalf of Respondent.

ORDER

The above named complainant, a person with 60% locomotor disability has filed complaints dated 30.03.2017 and 05.04.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against transfer of her husband Shri Rakesh Verma to NCDC, Bangalore.

2. The complainant has submitted that she is under regular treatment and care of doctors in Delhi. Her disability has since increased over the last 30 years since it was diagnosed. She is an employee of Govt. of N.C.T of Delhi. Her younger child is studying in Class XII and preparing for his Engineering Entrance examination. She submitted that her husband Shri Rakesh Verma who is working as a Deputy Director in National Cooperative Development Corporation (NCDC), an

autonomous establishment under Ministry of Agriculture and Farmers Welfare, is posted at Gurugram. Her husband has received a transfer document on email dated 03.04.2017 for his posting at Bangalore. She submitted that her husband is being victimized because he dared to expose corruption as whistle blower in the corporation at bureaucratic level.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide this Court's letter dated 05.04.2017

4. The Chief Director (P&A), National Cooperative Development Corporation (NCDC) vide letter no NCDC:4-1/2013-Admn dated 11.04.2017 stated that the complainant's husband Shri Rakesh Verma joined this Corporation on 15.01.1987 as ESP Assistant and he got three promotions thereafter. Presently he is working as Deputy Director w.e.f. 01.04.2016 which is a senior Group –A level post. Since his appointment in NCDC, for major period of his service i.e. 24 years 7 months, Shri Verma was posted in Delhi and rest of the period i.e. 5 years 8 months at Topic Institute at Gurugram. Shri Verma is left with around seven years of service and being a senior officer, he is required to shoulder higher responsibilities. Shri Verma is transferred to Bengaluru as their establishment thought of deputing him at the right place of posting. Shri Verma has been relieved from TOPIC, Institute, Gurugram on 03.04.2017. Shri Verma has informed the Respondent that he has made representations to the Chairman & Vice Chairman, BOM for reconsideration of his transfer order and till a decision on his representations is taken, the competent authority need to put the transfer order on hold giving due time for redressal of his grievances and the relieving order will be complied with only after a decision is taken on his representations/appeals. The respondent further stated that this amounts to disobedience to the orders issued by the competent authority and insubordination. The Chairman & Vice Chairman of BOM, NCDC have not issued any stay order on transfer of Shri Verma based on his representations.

5. The complainant vide her rejoinders dated 12.04.2017 and 17.04.2017 submitted that without taking cognizance in the matter before this Court, NCDC has issued relieving orders to

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her husband to join at Bangalore. She has requested this Court's intervention on compassionate grounds to save her family from getting disjointed. She further submitted in the instant case that the Managing Director, NCDC, Mrs. Vasudha Mishra is also enjoying this posting with her husband, Shri Rajiv Ranjan Mishra, who is posted as Joint Secretary, MoHUDPA at New Delhi. She submitted that the MD, NCDC is enjoying the fruits of the DoP&T instructions, while the Complainant's husband, the caregiver to a handicapped person, is made to suffer. The complainant enclosed a list showing seniority of Deputy Directors/Assistant Directors of NCDC, most of them senior to her husband and have never been transferred in their service career during the last 30-35 years from their original place of posting.

6. Upon considering respondent No.1's reply dated 11.04.2017 and complainant's rejoinders dated 12.04.2017 and 17.04.2017, a personal hearing in the matter was scheduled on 02.06.2017.

7. During the hearing the complainant vide her written submission dated 02.06.2017 has submitted that the Para-8 of the reply dated 26.05.2017 stating that a decision of the Hon'ble Supreme Court stating that 'affected party should approach the higher authorities in the department'. However, it need to be noted that her spouse has already given representations to the higher authorities in this matter, but ironically, they have not given any positive / favourable signals, or not even given an opportunity for hearing. The Supreme Court judgments quoted by NCDC are all un-identical and irrelevant in this present case. NCDC has failed to provide a single similar case to this Hon'ble Court of a Physically Handicapped individual. The present case is an entirely different and exceptional case in the history of our country and its Courts. All the High Courts of India, as also the Supreme Court, have always given landmark judgments in favour of the disabled persons, but NCDC has given a reply which is only for willfully ignoring the basic issues, and is malafide and misleading, as also against all norms of natural justice and civility. The complainant further submitted that the basic and primary issue of her disability remains unanswered and has not been redressed by NCDC, which in her case is a clear violation of Section 4,5,6,7 and 12 of Rights of Persons with Disabilities, Act, 2016. Moreover, NCDC has questioned her locus-standi, which is a clear violation of the Rights of Persons with

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Disabilities, Act, 2016. She and her spouse, as also her children, are one family unit, and injustice to her husband, violates her Rights as a disabled individual. The conduct of the Management of NCDC in the name of 'Exigency of Work' is very vague and tries to cover up the Management's inadequacy and lacunae and not to follow statutory provisions of the DoP&T Manual. The complainant further submitted that since her spouse is an original part of MIS Cadre, now working in TOPIC, so as per policy, he should be posted to either of these Divisions. She submitted that even after more than 53 years of its existence, NCDC, has not developed a transparent process of transfer and continues to decide upon case to case/pick & choose basis, as per the whims and fancies of the top echelons of the Management. Her spouse has made a request to MD, NCDC for transfer from NCDC, TOPIC, Gurgaon to NCDC, HO, New Delhi so as to help the complainant in discharging her family responsibilities and he has also sought help to inspire him for working with greater sincerity, devotedly and extra vigour, towards, the official work assigned to him, which has been his priority and mission, all through his career. But the same has not been acceded to by MD, NCDC. Her husband Shri Rakesh Verma, an Officer on the post of Deputy Director, has been suddenly and arbitrarily relieved from NCDC, Gurgaon to NCDC, Bangalore on 03.04.2017 through an e-mail ignoring pendency of a bunch of representations which is in contradiction to the reply NCDC submitted before this Court. The complainant further enclosed a list of Deputy Directors from NCDC with their seniority submitting that there are more than 100 Deputy Directors/Assistant Directors in NCDC, most of them senior to her spouse, who have never been transferred in their service career during the last about 30-35 years from their original place of posting. Incidentally, the MD, NCDC is enjoying the fruits of the DoP&T instructions, while the complainant's husband, sole caretaker of a handicapped wife and studying child, is made to suffer. The complainant requested this Court to immediately cancel impugned orders of transfer of her husband with retrospective effect and direct the management to take an immediate action regarding the transfer of her husband to NCDC, HO, New Delhi.

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8. During the hearing the Respondent submitted that since the appointment in NCDC, for major period of his service i.e. 24 years 7 months, the complainant's husband Shri Verma was posted in Delhi and rest of the period i.e. 5 years 8 months at Topic Institute at Gurugram. Shri Verma is left with around seven years of service and being a senior officer, he is required to shoulder higher responsibilities. Shri Verma is transferred to Bengaluru as their establishment thought of deputing him at the right place of posting. Shri Verma has been relieved from TOPIC, Institute, Gurugram on 03.04.2017. Shri Verma has informed the Respondent that he has made representations to the Chairman & Vice Chairman, BOM for reconsideration of his transfer order and till a decision on his representations is taken, the competent authority need to put the transfer order on hold giving due time for redressal of his grievances and the relieving order will be complied with only after a decision is taken on his representations/appeals. The respondent further stated that this amounts to disobedience to the orders issued by the competent authority and insubordination. The Respondent further submitted that Shri Rakesh Verma has been relieved on 03.04.2017 to enable him to report for duty at RO, Bengaluru and also that the NCDC has already relieved him before it came to know that his wife had approached the Court of Chief Commissioner for Persons with Disabilities for cancellation of the order of posting. MD, NCDC and the complainant's husband are members of All India Services and their service conditions are governed by IAS Rules and this has no relevance to transfer of Shri Rakesh Verma, husband of the complainant who is governed by the rules and regulations of NCDC. Allegations of biasness, malafide act and personal vendetta levelled by the complainant against MD, NCDC are entirely false, frivolous and baseless. Shri Verma has all along worked in Delhi and TOPIC institute. He does not have any field exposure. Shri Verma is left with around seven years of service and being a senior officer, he is likely to shoulder higher responsibilities. Taking these factors into consideration, it was decided by the competent authority to transfer and post him at Regional office, Bengaluru. Allegations of bias or malafides are totally false and baseless which is evident from the fact that Shri Rakesh Verma has got three timely promotions, the last one being on 27.04.2016 and remained posted at Delhi/Gurugram throughout his entire career so far. Regarding contention of the complainant

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that there are more than 100 Deputy Directors/Assistant Directors in NCDC, most of them senior to her spouse, and have never been transferred in their service career during the last about 30-35 years, from their original place of posting, it is submitted that it is entirely upon the competent authority to decide when, where and at what point of time a public servant is to be transferred in the interest of current and future requirement of the organisation. Transfers in NCDC are made purely based on the exigencies of work. The Respondent further submitted that the complainant had earlier too made a complaint dated 03.06.2016 with the National Human Rights Commission, New Delhi against transfer of her husband to NCDC, TOPIC Training Institute, Gurugram. After the transfer of her husband to Bengaluru, the complainant approached the National Human Rights Commission again for reopening the case. The complainant had also approached the Delhi Commission for Women and submitted two complaint petitions dated 30.03.2017 and 24.04.2017 seeking intervention of the Hon'ble Commission for immediate cancellation of the transfer order to Bengaluru.

9. On hearing the versions of the complainant and Respondent, the Court observed that there is no violation of any provision of Rights of Persons with Disabilities' Ac., 2016.

10. The case is accordingly disposed of


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