



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.: 7781/1024/2017

Dated: 25.07.2017
Dispatch No.....

In the matter of :

Dr. R.K. Pandey,
Inspector of Police,
National Investigation Agency,
NDCC-II Building,
Jai Singh Road, New Delhi – 110 001
Email<ravindra010768@gmail.com>

.....Complainant

Versus

The Director General,
Central Industrial Security Force,
Block No.13,
CGO Complex,
Lodhi Road, New Delhi-110003

.....Respondent 1

The Secretary,
Ministry of Home Affairs,
North Block, New Delhi – 110 001

.....Respondent 2

Date of Hearing : 10.07.2017

Present :

1. Dr. R.K. Pandey, Complainant
2. Shri Bhupender Singh, Deputy Commandant, CISF along with Md. Ishan, Inspector and Shri Aditya Naik, Sub Inspector on behalf of Respondent No. 1
3. Respondent No. 2 – Absent

ORDER

The above named complainant, had filed a complaint dated 29.03.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding retention of Government accommodation allotted to him for taking care of his daughter Akansha, a person suffering from Cerebral Palsy and 100% mentally retarded bed ridden condition.

2. The complainant submitted that he is working as Inspector in NIA on deputation and presently posted at NIA Hqr New Delhi. He is the single earning member in his family and has to maintain his two children and wife. His 22 year old daughter is a patient of cerebral palsy with 100% mentally retarded and is completely bed ridden in a critical condition. She is completely

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

dependent depended on her parents even for her natural causes. She is 100% disabled with 20-26 IQ Level. He further submitted that his daughter is under treatment at AIIMS and at different hospitals in Delhi. The condition of his daughter often becomes critical and needs immediate emergency help for revival. If he is shifted from his present government accommodation to some other location, his daughter's life will be at risk. He further submitted that he is passing through a very difficult period. An Botox injection costing Rs.20,000/- is being given to his daughter once in every 2/3 months interval to release stiffness of her body which is an extraordinary financial burden on him. The present accommodation was allotted to him by CISF unit IPGCL/PPCL on medical ground. He has also made ramp in the present house at his own expenses for easy movement of wheel chair etc for his daughter.

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 Act, vide this Court's letter dated 31.03.2017.

4. The Deputy Director General (Admn.), CISF vide letter no. C-11018/RFA-R K Pandey/Adm.ii/2017/911 dated 28.04.2017 stated that the complainant was appointed in service on 02.08.1991. He was posted in CISF Unit IPGCL Delhi on 15.08.2006 and was allotted family accommodation at IPGCL Delhi on 05.06.2008. He was relieved to join NIA on deputation basis from CISF Unit IPGCL Delhi on 03.02.2014. He was initially permitted to retain the family accommodation at CISF Unit IPGCL Delhi upto 03.04.2014 and the retention was further extended on request till 03.06.2014. The complainant was supposed to vacate the said accommodation on or before 04.06.2014. Thereafter, his case was again considered by DG/CISF for retention of the quarter for a period of two months with direction to make alternative arrangement either through MoUD or HRA vide their D.O. letter No. (159) dated 03.02.2015. The complainant's request was again sympathetically examined and DG/CISF permitted for extension of quarter for further six months vide their dated 18.08.2015. The said extension of quarter for six months expired on 04.02.2015 and thus the individual is

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unauthorizedly occupying family accommodation at IPGCL Delhi with effect from 05.02.2015. They further stated that the complainant is occupying CISF house since 2008 and request for retention of family accommodation on the ground of his daughter's illness/disabilities have been examined by CISF four times during 04.06.2014 to 04.02.2015. The complainant (i.e. Inspector) is on deputation to NIA from CISF and therefore, he is not at all entitled for accommodation from CISF. Repeated extension was granted to him due to sympathetic consideration of illness of his daughter. Being on deputation, he is entitled for both general pool accommodation and HRA but instead of availing either of the two, he is consistently requesting for retention of quarter. A copy Respondent's letter dated 28.04.2017 was sent to the complainant for his comments.

5. The complainant vide his rejoinder dated 22.05.2017 has submitted that the letter of the Respondent completely ignored / overlooked para 01 to 09 of application and not replied about basic needs of a disabled child even he has not commented upon his application properly. He submitted that presently the allotment of Government accommodation through the Directorate of Estate has been suspended due to reconstruction work. As his seniority is low, he is not eligible to get a ground floor flat. He further submitted that being the father of 100% disabled daughter, he is worried about the safety and security of his daughter. Since his work is related to outdoor job, most of the time, he is away from home. He has requested to allow him to retain the quarter for few more days and not to impose any penal rent and waive off the proposed penal rent on him.

6. Upon considering respondent No.1's reply dated 28.04.2017 and complainant's rejoinder dated 22.05.2017, a personal hearing in the matter was scheduled on 10.07.2017.

7. During the hearing, the complainant requested this Court to allow him to keep the present government accommodation for another three months. He further requested to waive off the penal imposed on him since the year 2015.

8. During the hearing the representatives of Respondent No. 1 submitted that the

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complainant was relieved on 03.02.2014 (A/N) and now he has been absorbed in NIA as intimated by FHQrs New Delhi letter No. E-16015/NIA/2015/ESTT-II/Vol. I/1379 dated 20.03.2017. The complainant had served for 24 years in CISF and that he is well acquainted with Rule FR-45-A and SR-313. Inspector/Exe J.S. Gurjar, Inspector/Exe Sunil Kumar and Inspector/Exe Sudhir Kumar are waiting for quarter allotment since long. Due to unauthorized occupation by the complainant, they are not in a position to meet the genuine needs of the Inspectors for house who are posted at Indraprastha Power General Corporation Limited (IPGCL) New Delhi. Inspector/Exe posted at IPGCL New Delhi are thus deprived of family accommodation despite being lawfully entitled for the same. Although the complainant is entitled for both general pool accommodation and HRA but instead of availing either of two, he is consistently requesting for retention of quarter. The complainant has made repeated requests for extension, this is his modus operandi to avoid vacating the house and creating administrative problems. The representatives of Respondent further submitted that even though the complainant was served with two notices from Court of Estate Officer for evacuation issued under No. Estate Officer/17-18/28 dated 16.06.2017 and for recovery of penal rent issued under No. Estate Officer/17-18/27 dated 16.06.2017, the complainant has failed to vacate the quarter and unauthorisedly occupying the same. Repeated extension was granted to the complainant out of sympathetic consideration due to the illness of his daughter. The representative of respondent requested this Court to send a copy of the Order in the present case to the 'Managing Director, Indraprastha Power Generation Corporation Limited (IPGCL), Pragati Power Corporation Limited, 'HIMADRI', Rajghat Power House, New Delhi – 110 002 also.

9. No representative from Respondent No. 2 attended the hearing.

10. After hearing both, the Complainant and the Respondent and considering the disability of the complainant's daughter, who is a case of 100% mental retardation and with a view to ensure "appropriate environment" for the disabled daughter of the complainant under the extant

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provisions of the Rights of Persons with Disabilities Act, 2016. This Court is of the view that keeping in mind the specific purpose of the Rights of Persons with Disabilities, Act 2016 and to propagate its objective in letter and spirit, it would not be conducive in the present case to disturb the "appropriate environment" of the person with disability unless an "equally appropriate environment" be made available to him. Therefore, this Court directed Respondent No. 1 to allow the Complainant to retain the government accommodation where he is staying at present for another three months w.e.f. from the date of receipt of this Order to enable him to arrange for alternative arrangement. The Court also advised the Respondent No. 1 to waive off penal rent of Rs.9,88,140/- being imposed by IPGCL vide their letter no. DM(HR)H/IPGCL/PPCL/17-18/90 dated 08.06.2017 on the Complainant since 2015 and further not to impose any such penal on the complainant till the period this Order specifically allows for holding of the accommodation by the Complainant as the quarter was retained only for the purpose of continuing appropriate environment to their mentally challenged child for her rehabilitation and therapeutic purpose.

11. The case is accordingly disposed off.



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