



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: 8094/1023/2017

Dated : 06.12.2017  
Dispatch No. ....

In the matter of :

Smt. Manjula Sahoo,  
MTS,

R5339

.....Complainant

Swami Vivekanand National Institute of Rehabilitation Training and  
Research (SVNIRTAR),  
Olatpur,  
P.O : Bairoi  
Dist: Cuttack,  
Odisha - 754010

Versus

R5340

.....Respondent

Swami Vivekanand National Institute of Rehabilitation Training and  
Research (SVNIRTAR),  
(Through Director)  
Olatpur,  
P.O : Bairoi  
Dist: Cuttack,  
Odisha - 754010

Date of Hearings : 21.11.2017 and 16.10.2017

Present :

1. Complainant - Absent
2. Shri R.R. Sethy, Administrative Officer , on behalf of Respondent

**ORDER**

The above named complainant, had filed a complaint dated 29.05.2017 under Section 75(1) of the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act, regarding denial of her promotion to the post of Plaster Technician.

2. The complainant had submitted that she is working as MTS in Swami Vivekanand National Institute of Rehabilitation Training and Research (SVNIRTAR), Odisha. She joined the institute as Ayah on 15.03.1982 and one Shri Ramesh Chandra Jena joined the institute as Nursing Assistant on 01.01.1992. She submitted that as she is senior to Shri Jena, she should have been promoted to the post of 'Plaster Technician' instead of Shri Jena. But DPC promoted Shri Ramesh Chandra Jena surpassing all the three senior employees above him including the complainant who is placed 3 in the seniority list.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016, vide this Court's letter dated 28.06.2017 followed by reminder letter dated 04.08.2017.

4. The Director, SVNIRTAR vide letter no. AD 6B 01/811 dated 25.07.2017 had stated that the submissions made by the Complainant in para 1 of her Complaint is factual. They had submitted that all the existing Group D employees became MTS based on the recommendation of 6<sup>th</sup> CPC. For Departmental Promotion to the Post of Plaster Technician, the recruitment rule for the above mentioned post was approved by them in the 94<sup>th</sup> Executive Council Meeting. The following are the details criteria earmarked for DPC to the post of Plaster Technician :-

Eligibility :

- 1) Candidate must be a matriculate
- 2) 5 years working experience in Orthopedics Hospital and should be well versed in plaster work, dressing and first aid.

Mode of selection under DPC :

- i) Analogous position
- ii) 5 years experience in the GP of Rs.1800/- as Nursing Assistant

The Respondent further submitted that based on the resolution of 94<sup>th</sup> Executive Council Meeting of SVNIRTAR, the Complainant was not found to be merit/suitable in DPC for promotion to the post of Plaster Technician in spite of her seniority as per the revised recruitment rules.

5. The Complainant vide her rejoinder dated 04.08.2017 had submitted that the Plaster Technician post is a direct recruitment. The qualification required is Metric with plastering experience. In the 92<sup>nd</sup> E.C. dated 25.07.2016, Plaster Technician post was approved as DPC post having Matriculation with 5 years of working experience in Orthopedic Hospital & well versed with plaster work, dressing and first aid and feeder grade in GP Rs.1800/-. The Complainant further submitted that DPC proposal was put up on 07.12.2016 for the post of 'Plaster Technician'. The Screening Committee scrutinized six members of eligible employees for the post of Plaster Technician as per the revised recruitment rules. The Complainant was at serial no. 3 in the seniority list. As per the remark of the Screening Committee, he was only working in the dressing & injection room along with plaster work in SVNIRTAR. The Complainant had submitted that as per the Recruitment Rule, she was qualified having basic qualification and experience. But in DPC held on 28.12.2016, she was not selected and one Shri Ramesh Jena, who is in the Employees Union was favoured by the Director and he was promoted to the post of Plaster Technician, which as per the Complainant is illegal and is an injustice for a senior employee with disabilities who has more experience than him. She also submitted that she was being harassed.

6. Upon considering respondent's reply dated 25.07.2017 and complainant's rejoinder dated 04.08.2017, a personal hearing was scheduled on 16.10.2017.

7. During the hearing, the representative of Respondent submitted that all the existing Group D employees became MTS based on the recommendation of 6<sup>th</sup> Central Pay Commission. For Departmental Promotion to the Post of Plaster Technician, the recruitment rule for the above mentioned post was approved by the 94<sup>th</sup> Executive Council Meeting at its meeting held on 04.01.2017. The criteria earmarked for DPC to the post of Plaster Technician is that he/she must be a matriculate with 5 years working experience in Orthopedics Hospital and should be well versed in plaster work, dressing and first aid. The Mode of selection under DPC is as under: -

- iii) Analogous position
- iv) 5 years experience in the GP of Rs.1800/- as Nursing Assistant

The representative of Respondent further submitted that based on the resolution of 94<sup>th</sup> Executive Council Meeting of SVNIRTAR, the Complainant was not found to be merit/suitable in DPC for promotion to the post of Plaster Technician in spite of her seniority as per the revised recruitment rule.

8. The Court directed the Respondent to submit a copy of appointment letter of Shri Ramesh Chandra Jena and also to submit a copy of final minutes of 94<sup>th</sup> DPC meeting held on 04.01.2017 to further examine the case.

9. The next date of hearing was scheduled on 21.11.2017 at 12:00 Hrs.

10. During the hearing, the representative of the Respondent submitted a copy of the appointment letter of Shri Ramesh Chandra Jena and a copy of final minutes of 94<sup>th</sup> DPC meeting held on 04.01.2017. The representative of Respondent reiterated his earlier submissions made during the hearing on 16.10.2017.

11. After hearing, the Court observed that there was no violation of any provisions of the Rights of Persons with Disabilities, Act, 2016. However, the Respondent was advised to be more sensitive towards people with disabilities.

12. The case is accordingly disposed off.

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



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**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: 7789/1014/2017

Dated: 18.12.2017

In the matter of:-

Shri Akash Jaiswal  
H.No. 1 – 93, Pragathi Nagar  
Rebbena – 504292, Komurom Bheem  
District - Telangana

Complainant

Versus

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

Respondent

Date of Hearing: 06.12.2017

Present:

1. Complainant absent
2. Respondents absent

**ORDER**

The above named complainant Shri Akash Jaiswal, a person with 40% visual impairment had filed a complaint dated 19.05.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding reservation for persons with disabilities in Andhra Pradesh and Telangana Circles.

2. Complainant in his complaint submitted that Department of posts had issued a notification for the posts of Gramin Dak Sewak in Andhra Pradesh and Telangana without providing reservation to persons with disabilities.

3. The matter was taken up with the respondent vide this Court's letter dated 29.06.2017 under Section 75 of the RPwD Act, 2016.

4. In response, Assistant Director General (PE-I&SCT), Department of Posts vide letter dated 12.07.2017 has informed that they have issued instructions to all the Postal Circles of their Department to strictly maintain the percentage of reservation in respect of all the categories of persons with disabilities in GDS as applicable in regular appointments of Group 'C' cadres to all categories of GDS posts except for persons with benchmark of disability "Blind".

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5. The complainant vide rejoinder dated 21.07.2017 has inter-alia submitted that after Telangana and Andhra Pradesh Postal Circles the postal department issued 18 more notifications to recruit GDS in various postal circles across the country and he was unable to apply as Postal Department had charged application fee from persons with disabilities.

6. After perusal of the documents available on record, this court fixed hearing on 06.12.2017 and **on the date of hearing both the complainant and the respondent was absent. The Court took serious note of the same.**

7. In view of the material available on the record and taking due consideration of the fact that respondent is already making efforts to provide reservation to persons with disabilities through their instructions dated 21.06.2017 to All Chief Postmasters General and All Postmasters General, the case is disposed of with the following directions to the respondent:-

- a) to frame a policy for relaxations of standards for persons with disability (if not done earlier) in accordance with para 22 of the DoP&T's OM dated 29.12.05.
- b) to indicate the points of the rosters against which the vacancies fall in all future advertisements. In case none of the vacancies falls against the reserved points, the same should be mentioned in the advertisement. If the post is identified for persons with disabilities but none falls against any reserved point for them, the advertisement must mention that persons with disabilities can also apply for the post in accordance with provision of para 25 of DOP&T OM No. 36035/3/2004-Estt (Res) dated 29.12.2005.



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



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**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: 6481/1021/2016

Dated : 19 .12.2017  
Dispatch No. ....

In the matter of :

Shri Babu Ram, R5692  
#615, Perbhu Prem Puram,  
Ambala Cantt.,  
Haryana – 133 001

..... Complainant

**Versus**

The Controller General of Defence Accounts,  
Ulan Batar Road,  
Palam, R5693  
Delhi Cantt.,  
New Delhi – 110 010

..... Respondent

**Date of Hearing : 04.12.2017**

**Present :**

1. Shri Babu Ram, Complainant
2. Shri Sanjeev Yadav, Advocate, Shri Vishavjit Gandotra, SAO and Shri Ashish Kumar, AAO, on behalf of Respondent.

**ORDER**

The above named complainant, a person with 40% locomotor disability had filed complaints dated 06.06.2016 and 03.08.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act against denial of reservation in promotions to the post of Auditor and Sr. Auditor.

2. The complainant submitted that he has been serving in the office of LAO (A), Ambala as Clerk under PH quota since 13.10.2000. He was promoted to the post of Auditor on 01.04.2009 and as Sr. Auditor on 01.04.2013. He made a request to Controller General of Defence Accounts (CGDA), New Delhi vide his application dated 06.10.2015 for computation of reservation, which was not considered by his establishment.

3. The matter was taken up with the Controller General of Defence Accounts, New Delhi vide this Court's letter dated 23.09.2016.

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4. The SAO(AN), Controller General of Defence Accounts vide letter no. AN/XI/11151/2015 dated 31.10.2016 had stated that regarding the entitlement of the complainant to the benefit of promotion in the grade of Auditor as well as Sr. Auditor against 3% reservation for persons with disabilities was examined by them. They stated that all Clerks and Auditors who were fulfilling the eligibility criteria as envisaged in the Recruitment Rules for the posts of Auditor and Sr. Auditor were considered for promotion to the grade of Auditor and Sr. Auditor w.e.f. 01.04.2009 and 01.04.2013 respectively after completion of prescribed residency period, irrespective of the category from which they were belonging and Head Quarter Office's letter dated 20.01.2016 stand still holds good. Hence, no action was taken in the case by them.

5. The complainant vide his rejoinder dated 08.12.2016 submitted that no roster seems to have been prepared keeping in view the reservation for persons with disabilities as enumerated in DoPT O.M. No. 36035/8/2003-Estt(Res) dated 26.4.2006 which clearly stipulates that roster should be prepared as provided in DoP&T O.M. No. 36036/3/2004-Estt(Res) dated 29.12.2005 starting from the year 1996. He further submitted that the duration of residency period was not quoted in the reply vis-à-vis duration of residency period at the time when his promotion became due. He submitted that in case no reservation has been granted to him then the reason for the same may be explained to him by his establishment.

6. Upon considering Respondent's reply dated 31.10.2016 and complainant's rejoinder dated 08.12.2016, a personal hearing was scheduled on 04.12.2017 at 11:00 Hrs.

7. During the hearing the complainant reiterated that he had been serving in the office of LAO (A), Ambala as Clerk under PH quota since 13.10.2000. He was promoted to the post of Auditor on 01.04.2009 and as Sr. Auditor on 01.04.2013. He made a request to Controller General of Defence Accounts (CGDA), New Delhi vide his application dated 06.10.2015 for computation of reservation, which was not considered by his establishment. The complainant submitted that he was promoted to these posts along with the general candidates. The complainant's submitted being a person with disability, he should have been promoted long before the general employees. He also submitted that no Roster is being maintained by his establishment.

8. The representatives on behalf of Respondent submitted that the complainant SA, A/c No. 8330266 has joined Defence Accounts Department as Clerk on 13.10.2000 under PH Quota. He was promoted as Auditor w.e.f. 01.04.2009 after completion of 8 years of regular service in the feeder grade, i.e. Clerk grade as per applicable Recruitment Rule. The complainant was further promoted to the grade of Senior Auditor w.e.f. 01.04.2013 after completion of 3 years of regular

service in feeder grade, i.e. Auditor grade as per applicable Recruitment Rule. As per the Recruitment Rules, the Clerks who have rendered a minimum of eight years service in the Clerk grade are eligible for promotion to the grade of Auditor and the Auditors who have rendered a minimum of three years of service in the Auditor grade are eligible for promotion to the grade of Senior Auditor. The Respondent further submitted that the Defence Accounts Department has sufficient vacancies in the grade of Auditors and Senior Auditors. Thus who so ever fulfils the minimum eligibility criteria, as per applicable Recruitment Rule, were given promotion to that grades irrespective of the category he belongs to. Therefore, all the Clerks and Auditors who were fulfilling the minimum eligibility criteria as envisaged in the Recruitment Rules for the posts of Auditors and Senior Auditors were considered for promotion to the grade of Auditors and Senior Auditors w.e.f. 01.04.2009 and 01.04.2013 respectively, irrespective of the category they belong to. Thus the contention of the applicant that preparation of 100 points roster and 3% reservation for PH Quota would materially change the status of his promotion is not tenable as he was granted all the promotions after fulfilling minimum eligibility criteria as envisaged in the Recruitment Rules for the concerned posts.

9. After hearing both the complainant and Respondent, the Court directed the Respondent to maintain the Roster and submit a copy of Roster w.e.f. 01.01.2001 duly certified by a Liaison Officer to this Court within 30 days of receipt of this Order. The Court observed that there is no violation of any provisions of either the Persons with Disabilities, Act, 1995 or the Rights of Persons with Disabilities, Act, 2016. However, the Respondent is advised to be more sensitized towards persons with disabilities and to ensure that the rights of employees with disabilities are not infringed.



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





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**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: 5202/1024/2015 ) R5644

Dated 12.12.2017  
Dispatch No. ....

In the matter of :

✓ Smt. Reshmi Mukhopadhyay,  
W/o Jayanta Mukhopadhyay,  
160 A/2, C.S. Mukherjee Road,  
PO : Kannagar,  
Dist : Hoogly,  
West Bengal – 712 235

.....Complainant

Versus

The Eastern Railway,  
(Through General Manager)  
B.B.D. Bagh,  
Strand Road,  
Kolkata,  
West Bengal – 700 001

.....Respondent

Date of Hearing : 13.12.2017 at 12:00 Hrs

Present :

1. Smt. Reshmi Mukhopadhyay, complainant along with her husband Shri Jayanta Mukhopadhyay – Present
2. Representative from Respondent – Absent

**ORDER**

The above named complainant, had filed a complaint dated 14.09.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding harassment, transfer, non receipt of Transport Allowance at double the normal rate and four Casual Leaves to her husband Shri Jayanta Mukhopadhyay, a person suffering from 75% locomotor disability.

2. The complainant submitted that her husband, Shri Jayanta Mukhopadhyay, is a person with 72% locomotor disability. He is working as Helper-II (Mech./P) in Eastern Railway and was facing problem at his workplace. He has been helped by the complainant or by her father-in-law, who is 80 years old, to help him reach office daily on tri cycle by passing through railway tracks, The complainant wants her husband to be shifted to some other more accessible and convenient place. She further submitted that one Shri Ram Sai Prasad had been putting pressure on her husband to opt for VRS and was misbehaving with him often. The complainant further submitted that her husband was not getting the Transport Allowance at double the normal rate and the special four extra casual leave since he was appointed on 29.11.2013.

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3. The matter was taken up with the General Manager, Eastern Railway, Kolkata vide this Court's letter dated 23.09.2015.
4. The Sr. Personnel Officer (M&E), Eastern Railway vide letter no. E/LP/249/C&CA-iii/2015/Pt.II dated 03.12.2015 stated that the complainant has not submitted any application for payment of Transport Allowance at double the normal rate on the basis of his disability. He stated that the concerned unit was advised regarding four days Special Casual Leave. He stated that Shri Mukhopadhyay was transferred from SSE/Loco/KWAE to SSE/Loco/Howrah at his own request vide their letter dated 27.08.2015 and no further transfer application has been submitted by the complainant for any new place of posting. The Sr. Divl. Personnel Officer, Eastern Railway, Howrah vide his letter no. E/4/TP/KH-Help/KH dated 10.06.2016 had informed this Court that Shri Jayant Mukhopadhyay was granted Transport Allowance at double the normal rate w.e.f. 29.11.1993 vide their Office letter of even number dated 31.05.2018. He stated that regarding 04 days Special Casual Leave, the concerned unit was advised vide their office letter of even number dated 23.11.2015.
5. The complainant vide her rejoinder letter dated 12.04.2016 submitted that the Railway authorities at Howrah Division gave the initial posting to her husband 120 kms away from his native place. He is further posted at Fuel checking office which is located in Railway Yard which is very dangerous to her husband who use Tri-Cycle for his movement from one place to another. The complainant has requested this Court to look into her husband's transfer from Loco Office to SSE (Works) Office at Bali to SSE Works office nearest his home town in the same capacity (2) Transport Allowance with arrears and (3) Four days Special Leave.
6. Upon considering Respondent's replies dated 03.12.2015, 09.05.2016, 10.06.2016 and complainant's rejoinders dated 12.04.2016, 12.07.2017, a personal hearing was scheduled on 13.12.2017 at 12:00 Hrs.
7. During the hearing the complainant submitted that after the intervention of this Court her husband has started receiving Transport Allowance at double the normal rate and four days Special Leave. Her third grievance regarding her husband's transfer nearest to his home town has not been considered by his establishment yet.
8. The Respondent vide their fax letter dated 12.12.2017 had requested this Court on 12.12.2017 to fix another date of hearing in the matter as they have received the Notice of Hearing on 08.12.2017 only. The Respondent also stated that the Notice of Hearing dated 24.11.2017 does not contain any details of Shri Jayanta Mukhopadhyay, i.e. designation, place of posting, any other documents regarding the case, contact no etc in the absence of which the case could not be located so far by them.

9. From the perusal of records, it is found that Respondent vide their letters dated 03.12.2015, 09.05.2016 and 10.06.2016 have conveyed the details of complainant to this Court. Hence, the version of the Respondent as per their fax letter date 12.12.2017 is not true.

10. After hearing the complainant and the documents submitted by the Respondent, the Court considering the disability of the complainant and the hardship faced by him to reach his office daily after crossing over the Railway Track with his Tri Cycle, directed the Respondent to post the complainant near to his place of residence preferably at Konn Nagar Railway Station within a period of 2 months from the date of issue of this Order and the compliance report of the same to be sent to this Court within 2 ½ months. As regards, the alleged discrimination of the complainant, 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 to ensure a conducive and accessible work environment for the complainant in specific and for the persons with disabilities, in general and ensure that rights of persons with disabilities as enshrined under the Rights of Persons with Disabilities, Act, 2016, are not infringed.



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



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**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: 7167/1013/2016

Dated: 21.12.2017

In the matter of:-

Ms. Ruchi  
215 (First Floor) Vivekanand Puri  
Sarai Rohilla, New Delhi – 110007

R5657

Complainant

Versus

Safdarjang Hospital  
(Through the Medical Superintendent)  
5<sup>th</sup> Floor, M.S. Office, New OPD  
Building, New Delhi – 110029

R5658

Respondent

Date of Hearing: 13.12.2017

Present:

1. Miss Ruchi - complainant
2. Shri Ashish Kumar, Dy. Director Admn and Shri Asharam Meena on behalf of respondent

**ORDER**

The above named complainant Miss Ruchi, a person with 80% locomotor disability filed a complaint dated 07.11.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding not filling up reserved posts of persons with disabilities by Safdarjang Hospital.

2. Complainant in her complaint submitted that she had applied under OH category for the post of dietician in Safdarjang Hospital under Special Recruitment Drive to fill up various posts of B Gazetted on 14.04.2016 and she also made a personal visit to check whether her application has received. She further submitted that they had received her application but no one has answered/response to her application till date. She again visited on 18.07.2016 to check application status but they told her whenever their panel will sit they themselves will call her for an interview within one or two months but nothing has been done till date.

3. The matter was taken up with the respondent vide this Court's letter dated 29.11.2017 under Section 75 of the Persons with Disabilities Act, 1995.

4. In response, Addl. M.S. Office of Medical Superintendent, Safdarjang Hospital vide letter dated 27.12.2016 has submitted that the post of dieticians was advertised in the year 2015, various applications were received along with the application of Ms. Ruchi, her application was considered by the scrutinizing committee and the same had been rejected as she was not fulfilling the requisite qualification as per advertisement. He further submitted that the post of Dietician was again advertised in the year 2016 but the same has not been filled up till date as the concurrence of UPSC in the matter is still awaited.

5. The complainant vide rejoinder dated 25.07.2017 has inter-alia submitted that on 27.12.2016 she had received a letter in which it was mentioned that post has not been filled up till date as the concurrence of the UPSC in the matter is still awaited and till date she has not received any information/letter from Safdarjang Hospital.

6. During the hearing on 13.12.2017 complainant reiterated her written submissions and representative of the respondents also reiterated their written submission and submitted that letter had been sent to Dte.GHS for UPSC concurrence on 27.06.2016 and Dte.GHS had requested to provide some information vide letter dated 14-07-2016 and their office had provided information to Dte.GHS vide letter dated 29.07.2016 and reminder sent on 28.03.2017 and Dte.GHS had again requested to send fresh proposal vide letter dated 18.09.2017 and their office has sent fresh proposal to Dte.GHS on 09.10.2017 for UPSC concurrence.

7. After hearing both the parties and material available on record, complainant is directed to submit her experience certificate to the respondent for completion of eligibility criteria at the earliest which was mentioned in her application form. Respondent is advised to complete the recruitment process with the concurrence of UPSC within 02 months from the issue of this order and thereafter submit the compliance report to this office. Respondent is also advised to be more sensitive towards persons with disabilities and their rights should not be infringed.

8. Case is disposed off accordingly.



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



सत्यमेव जयते

Exba

**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.: 7798/1041/2017

Dated 22/12/2017

In the matter of:

Shri Chandan Singh, <sup>RS690</sup>  
Suit No.17, Officer's Hostel,  
Punnai Chak, Patna-800023  
Email - [103108026singh@gmail.com](mailto:103108026singh@gmail.com)

.... Complainant

*Versus*

Prasar Bharati, <sup>RS691</sup>  
Through: Chief Executive Officer,  
Prasar Bharati Secretariat,  
Prasar Bharati House, Copernicus Marg,  
New Delhi-110001  
Email - [ceo@prasarbharati.gov.in](mailto:ceo@prasarbharati.gov.in)

.... Respondent

Date of hearing: 16.10.2017 at 1200 Hrs.

Present:

1. Shri Chandan Singh, complainant along with Shri Gaurang Vardhan and Shri Vijay Singh, Advocates for complainant.
2. Shri Shashi Kant, DDG, National Academy of Broadcasting & Multimedia for the respondent

**ORDER**

The aforesaid complainant, a person with 60% locomotor disability (both upper limbs), filed a complaint vide emails dated 19.03.2017 and 20.03.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding denial of compensatory time to him to write examination on 19.03.2017 at Rabindra Bharati University, Kolkata, for Special Recruitment of Multi Tasking (Non-Technical) Staff, 2017 (for Persons with Disability) conducted by the respondent.

2. The complainant submitted that he appeared in the examination on 19.03.2017 at Rabindra Bharati University, Kolkata, for Special Recruitment of Multi Tasking (Non-Technical) Staff, 2017 (for Persons with Disability) conducted by Prasar

Bharti. He has alleged that the invigilator did not provide him compensatory time to him. The invigilator told him that compensatory time would not be provided to any OH but would be provided to VH only. He did not allow the complainant to write after two hour and snatched his question booklet and OMR Sheet. The complainant also submitted that Examination Authority of Prasar Bharti vide email dated 06.03.2017 had informed him that he would get compensatory time as per Advertisement Notice No.1/2017, in the examination to be held on 19.03.2017, even if he does not use scribe. The complainant requested this Court that respondent be asked to reconduct the aforesaid Exam at the earliest.

3. The matter was taken up with the respondent vide this Court's letter dated 31.05.2017.

4. The respondent vide letter dated 14.08.2017 filed their reply and submitted that as per their guidelines issued to the Examination Superintendents of different centres, it was categorically mentioned that compensatory time may be given to VH, OH (cerebral palsy) candidates and candidates using scribe. The OH (cerebral palsy) candidates may be given compensatory time by taking an undertaking (in prescribed form) from them. This undertaking was required as from the applications, it was not evident whether OH candidate applying for examination is suffering from cerebral palsy or not. The complainant [Roll No.402060070] is an OH candidate. He did not claim that he is an OH (cerebral palsy) candidate. The OH (cerebral palsy) is the only category under OH which is eligible for compensatory time. Even in his lodged complaint he did not mentioned that he is a candidate with OH (cerebral palsy).

5. Ministry of Social Justice & Empowerment, Department of Disability Affairs (now renamed as 'Department of Empowerment of Persons with Disabilities') vide O.M. No.16-110/2003-DD.III dated 26.02.2013 has issued detailed guidelines for conducting written examination for persons with disabilities. Clause XI of the said guidelines provides as under:

*XI. The word "extra time or additional time" that is being currently used should be changed to "compensatory time" and the same should not be less than 20 minutes per hour of examination for persons who are making use of scribe/reader/lab assistant. All the candidates with disability not availing the facility of scribe may be allowed additional time of minimum of one hour for examination of 3 hours duration which could further be increased on case to case basis.*

6. A clarification on the aforesaid guidelines has also been issued from this Court vide letter No.10413929/2007 & 65/1041/12-13 dated 18.03.2013 and has clarified Clause XI that the facility of scribe/reader/lab assistant is meant for only those candidates with disabilities who have physical limitation to write including that of speed.

7. In view of the above, the case was listed for personal hearing on 16.10.2017.

8. After hearing both the parties, this Court observed that the respondent provided the facility of scribe and compensatory time only to the candidates with visual impairment and/or cerebral palsy and did not provide the facility of scribe and compensatory time to the candidates whose writing speed was hampered due to the disability in hands (upper limbs). The respondent did not provide the facility of compensatory time to the complainant whose writing speed is hampered due to 65% disability in his both the upper limbs (hands) despite his request as per the guidelines. The respondent have thus violated the Guidelines for conducting written examination for Persons with Disabilities, issued by the Ministry of Social Justice & Empowerment, vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 read with this Court's clarification vide letter No.10413929/2007 & 65/1041/12-13 dated 18.03.2013, infringing the complainant's legitimate right to get compensatory time to write the examination conducted by the respondent on 19.03.2017 for recruitment of Multi-Tasking Staff (Non-Technical) under Special Recruitment Drive for Persons with Disabilities. The impugned act of respondent debarred the complainant to get him recruited to the post of Multi-Tasking Staff (Non-Technical).

9. In reply to the question, as to why the complainant should not be given appointment to the aforesaid post, the representative of the respondent told that he was not authorized to give his comments on that particular question and requested to provide one week's time so that the decision of the competent authority be obtained and intimated to this Court.

10. In view of the above and in the interest of justice, the respondent was advised to convey their decision to this Court, for not giving appointment of the complainant to the post of Multi-Tasking Staff (Non-Technical), within one week from the date of receipt of this Record of Proceedings.

11. The respondent file their reply dated 13.11.2017 and submitted that –



- i) the complainant, Shri Chandan Singh, did not use a scribe and, in that view of the matter, he could not make grievance of not being given extra time as above. Compensatory was given to the candidates who opted for scribe.
- ii) Selection process was completed and the post at the centre opted for by the applicant / complainant was filled up by a candidate with disability who had secured more marks than the complainant.
- iii) The complainant attempted 103 questions out of 150 questions and obtained 79 marks. Even if it be assumed that he was entitled to compensatory time and he was entitled to an additional 40 minutes by way of compensatory time and that he could have attempted all 150 questions, making proportionate increase of marks obtained by him, his marks would be 115. In this case, the selection was area-wise and the complainant had opted for Patna. There was only one post available at Patna and the candidate who was selected has got 123 marks. Thus, even if appropriate adjustments are made for compensatory time, the complainant would still not make the grade.

12. In view of the reply submitted by the respondent, it can also be presumed that if the respondent would not have violated the aforesaid guidelines and provided compensatory time as per the guidelines to the complainant, he could have been in a better state of mind to write the exam and score qualifying marks. It is evident that the respondent has violated the aforesaid guidelines and has discriminated the legitimate right of complainant to get compensatory time. Therefore, the respondent is advised to take immediate necessary action and consider to issue appointment letter to the complainant for the post of Multi Tasking (Non-Technical) Staff at par with the other candidates recruited for the said post. The respondent is also advised to ensure that the aforesaid guidelines issued by the Ministry of Social Justice and Empowerment is implemented in the recruitment / departmental examinations conducted by the respondent.

13. The case is accordingly disposed of.



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



सत्यमेव जयते

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## 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. 8324/1141/2017

Dated 26/12/2017

In the matter of:

Shri Ratendra Singh Jayara  
Sec 24/6 Van Nigam Colony,  
Flat No.C15, Ring Road, Indira Nagar,  
Near Kalyan Apartments, Lucknow-226016

RS722

.... Complainant

*Versus*

Department of Sports,  
[Through: Secretary]  
Ministry of Youth Affairs & Sports,  
Shastri Bhawan, C - Wing,  
Dr. Rajendra Prasad Road, New Delhi-110001

RS723

.... Respondent No.1

Board of Control for Cricket in India  
[Through: Secretary]  
4<sup>th</sup> Floor, Cricket Centre, Wankhede Stadium,  
'D' Road, Churchgate, Mumbai-40002

RS724

.... Respondent No.2

**Date of hearing: 12.12.2017**

Present:

1. Shri Ratendra Singh Jyara, Complainant.
2. Shri Abhinav Mukerji, Advocate, for respondent No.2
3. Shri Amogh Shukla, ASO and Shri Multan Singh, A.S.O for respondent No.1

### O R D E R

The above named complainant, a person with 100% visual impairment, filed a complaint dated 30.06.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding inclusion of a visually impaired partially sighted cricketer in Indian Premier League 2018.

2. The complainant submitted that he is a person with 100% visual impairment but still he has vision in his left eye which he utilizes for doing general things. He can play as fast bowler, field well and can come at No.11 position for bating. He requested respondent No.2 to include him as a visually impaired partially sighted

cricketer in IPL (Indian Premier League). But he did not get any response/feedback from respondent No.2. Moreover, respondent No.2 did not frame any rule to include a visually impaired partially sighted cricketer for IPL auction.

3. The matter was taken up with the respondents vide this Court's letter dated 11.08.2017 for submission of their comments.

4. Respondent No.2 in their affidavit dated 21<sup>st</sup> September, 2017 submitted that the activities of visually impaired cricketers are controlled in India by the Cricket Association for Blind in India (CABI) being the Apex Cricketing body for visually impaired persons playing cricket. CABI is registered as a not for profit private organisation and affiliated with the World Blind Cricket Council and promotes blind cricket for the physical development of the visually impaired persons. The respondent No.2 does not regulate to have any association with playing cricket by visually impaired players. The respondent No.2 only frames rules and playing conditions and regulates activities pertaining to cricket which is played by persons who are not visually impaired. The CABI is an autonomous body and has its own rules and regulations to frame the playing conditions for visually impaired cricketers which are different from rules and regulations and playing conditions of regular cricket. In any event, the complainant's eligibility for tournaments organized by the CABI has no bearing on his eligibility for the IPL or any other tournament organized by the BCCI. Further, for any Indian player who feels eligible for the IPL, the said player is required to be registered with an affiliated unit of the BCCI. Respondent No.2 prayed that in view of the circumstances stated above, the complaint against them be closed being not a proper party.

5. The complainant in his rejoinder dated 12.10.2017 to the reply dated 21.09.2017 of respondent No.2 submitted his if he is capable of playing sighted cricket along with non-visually impaired players then he must be allowed to play in IPL by respondent No.2. Merely not having association and affiliation of respondent No.2 with the CABI, does not make complainant ineligible to participate in IPL. RPD Act, 2016 and UNCRPD Treaty give him right to participate in Indian Premier League. Respondent No.2 must keep in mind the RPD Act, 2016 and UNCRPD Treaty while framing the rules and regulations related to eligibility and selection of Indian players for IPL.

6. Upon considering the aforesaid reply received from Respondent No.2 and rejoinder/comments received from the complainant, a personal hearing was scheduled on 12.12.2017.

7. During the hearing, the complainant reiterated his complaint and prayed that respondent No.2 be directed to modify their rules and regulations for selection of players for any sports event and the persons with disabilities who are capable of playing the sighted cricket in Indian Premier League organized by respondent No.2, be allowed to play with non-disabled players.

8. The representative of respondent No.2 also reiterated their reply already filed and prayed that since BCCI does not regulate to have any association with playing cricket by visually impaired players and CABI is the Apex Cricketing body for playing cricket by visually impaired persons, BCCI is not a necessary and proper party in this case, the complaint be closed.

9. Upon hearing the parties, it is observed that CABI is a separate body who promotes playing cricket by persons with visual impairment and respondent No.2 has nothing to do with framing of rules to play cricket by persons with visual impairment with non-visual impairment. Therefore, no direction can be passed to respondent No.2.

10. The case is accordingly disposed of.



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



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: 7744/1011/2017

Dated: 26.12.2017

In the matter of:-

Shri N.Y. Sastry  
H.No. 9-67/40, Street No. 01  
Sri Devi Kalyan Estates  
Yapral, Hyderabad – 500087

R5746

Complainant

Versus

Nuclear Power Corporation of India Ltd  
(Through the Chairman and Managing Director)  
Directorate of Human Resource  
NPCIL HQs, 7<sup>th</sup> Floor, Vikram Sarabhai Bhawan  
Anushakti Nagar, Mumbai – 400094

R5747

Respondent

Date of Hearing: 21.12.2017

Present:

1. Shri N.Yogeswara - complainant
2. Shri Chandra Prakash Singh, Dy. General Manager (HR) and Shri Utpal Kumar, DGM (Law) on behalf of respondent

**ORDER**

The above named complainant Shri N.Y.Sastry filed a complaint dated 07.11.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act1995, hereinafter referred to as the 'Act' regarding Special Recruitment Drive for persons with disabilities notified by NPCIL.

2. Complainant in his complaint submitted that Complainant has submitted that recently NPCIL has published Special Recruitment Drive for PH persons for the posts of Technical Officer/D, Scientific Officer/C & Executive Trainees in Engineering Disciplines (OH – 25 & HH – 32). He further submitted that his son Shri Nemani Phani Kumar, a person with hearing impairment, B.E.,M.Tech. first class with distinction in Computer Science had applied for the written examination in response to the above advertisement in 2015 for the posts of executive trainee in computer science and he appeared for the written examination held on 28.02.16 by NPCIL and

NPCIL had informed that candidate Shri N. Phani Kumar has not been shortlisted for further processing of appointment such as interview etc. He further submitted that another notification for Special Recruitment Drive for PH was given by the Nuclear Power Corporation of India Ltd for various job opportunities for fresh/experienced in Technical Officer/D, Scientific Officer/C & Technical Officer/C in Engineer Disciplines Dy. Manager (F&A) & Jr. Hindi Translator (OH – 14 & HH -29). Again his son, had applied for written examination in response to the advertisement issued in 2016 for the posts in Computer Science. They have yet to conduct the written examination and expected to conduct shortly. He has requested to direct the NPCIL to appoint the PwDs with HH, Computer Science Professionals who have applied for the posts including backlog vacancies for PwD in NPCIL without denying their just and rightful opportunity and also direct to recruit the persons with HH categories, who have applied and otherwise qualified and suitable, fully fit for holding the posts particularly in HH category posts by relaxing the standards suitably and without converting to other categories of disabled and also general as well or by conducting special recruitment drives for these HH categories.

3. The matter was taken up with the respondent vide this Court's letter dated 06.04.2017 under Section 33 of the Persons with Disabilities Act, 1995.

4. In response, Dy. General Manager (HR), Nuclear Power Corporation of India Ltd vide letter dated 03.05.2017 has inter-alia submitted that Shri Phani Kumar N, son of Shri N.Y.Sastri had applied for the post of Executive Trainee (Computer Science) and he had appeared for the on-line test on 28.02.2016 and secured 28 marks out of 300 in the online test. This being a special recruitment drive undertaken exclusively for PwDs with a view to ensure a online test was set at 30%. Accordingly, PwD candidates securing 90 or more marks out of total 300 marks in the online test were called for interview. However, Shri Phani Kumar N secured only 9.33% marks (i.e 28 marks out of 300), which was far less than the minimum required 30% marks required. Hence he was not called for selection interview the vacancies notified under SRD PwD, hence, there is no question of setting separate cut off marks for general (Non PwD) candidates.

5. After perusal of the reply of the respondent and rejoinder submitted by complainant dated 18.09.2107, the personal hearing was scheduled on 21.12.2017. During the hearing, complainant reiterated his written submission. Representative of the respondent submitted written submission vide letter dated 15.11.2017 vide which apprised that Shri Phani Kumar N, son of Shri N.Y. Sastri had applied for the post of Executive Trainee (Computer Science) under the first attempt notified by NPCIL and appeared for online test held on 28.02.2016 and he secured 28 marks out of total 300 marks in the online test. To ensure a reasonable opportunity for PwD candidates. The qualifying marks for online test was set at 30% for all the candidates.

Accordingly, candidates securing 90 or more marks out of 300 marks were called for interview. However, Shri Phani Kumar Secured only 9.33% (28 out of 300), which was far less than the minimum required 30% marks. Hence, he was not called for selection interview. Under the first attempt, against the total 57 vacancies, only 14 vacancies could be filled viz 03 in HH category and 11 in OH category. Thus, total 43 vacancies (29 HH + 14 OH) remained unfilled in the first attempt. Subsequently, NPCIL notified unfilled 43 vacancies (29 HH and 14 OH) under SRD for PwDs – second attempt. Shri Phani Kumar N applied online against second advertisement as well. He applied for the post of Scientific Officer/C and appeared for online test and secured 49 marks out of 300 i.e. 16.33% marks in the online test therefore, he was not shortlisted for interview.

6. After hearing both the parties and material available on record, the case is disposed off without any directions as response of the respondent is found satisfactory.



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