



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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

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

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

Case No. 13768/1022/2023

In the matter of—

Smt. Pushpa Prajapati
w/o Shri Shaitan Singh Prajapati
R/o. A-32/3, C. R. P. Bairagarh
Bihand Santoshi Mata Mandir
Bhopal (M.P.) – 462030

...Complainant

Versus

The Chief Postmaster General
Department of Posts
Madhya Pradesh Circle
Bhopal – 462012
Email : staff.mp@indiapost.gov.in

...Respondent

1. परिवाद का सार -

1.1 श्रीमती पुष्पा प्रजापति की शिकायत दिनांक 27.01.2023 प्रवर अधीक्षक डाकघर भोपाल संभग भोपाल श्री सागर नीलेश शाह द्वारा उनके पति को नजीराबाद उपडाकघर में प्रतिनियुक्ति पर बार बार भेजकर अमानवीय कृत्य किये जाने से सम्बंधित हैं |

1.2 उनका कहना है कि उनके पति श्री शैतान सिंह प्रजापति जो कि 40 प्रतिशत लोकोमोटर दिव्यांगजन हैं जोकि टी.टी. नगर प्रधान डाकघर में डाक सहायक के पद पर कार्यरत हैं | उनको दिनांक 30 दिसंबर

2022 को नजीराबाद उप डाकघर में प्रातोनयुक्ते पर पदभार ग्रहण करने हेतु आदेशित किया गया, जिसके संबंध में जब उन्होंने अपने 40 प्रतिशत से अधिक दिव्यांग होने के बारे में डाकपाल से टीटी नगर को बताया तो उन्होंने कहा कि उन्हें संभागीय कार्यालय से दूरभाष पर आदेश प्राप्त हुआ है कि प्रार्थी को ही भेजा जाये। शिकायतकर्ता का कहना है कि उन्होंने दिनांक 30.12.2022 को डाकपाल टीटी नगर और प्रवर अधीक्षक से लिखित तथा मौखिक रूप से निवेदन किया परन्तु शिकायतकर्ता के आवेदन को नजरअंदाज कर दिया गया। इससे पूर्व भी दिनांक 25.11.2022 को भी उन्हें नजीराबाद उप डाकघर में प्रतिनियुक्ति पर पदभार ग्रहण करने हेतु भेजा गया था | उनका कहना है कि दोनों बार उनके निवेदन को अनसुना कर दिया गया और उन्हें असहनीय पीड़ा होने के बावजूद भी उन्होंने दोनों ही बार आदेशों का अनुपालन किया था | शिकायतकर्ता के घर से नजीराबाद की दूरी 90 किमी है और उन्हें बस से चढ़ने और उतरने में बहुत परेशानियों का सामना करना पड़ रहा है।

2. प्रतिवादी द्वारा प्रस्तुत उत्तर –

2.1 प्रतिवादी ने अपने पत्र दिनांक 08.06.2023 द्वारा बताया कि श्री प्रजापति को नजीराबाद उपडाकघर में प्रतिनियुक्ति दी गई थी, नजीराबाद उप डाकघर एकल हस्त एवं संवेदनशील उपडाकघर है जिसके अंतर्गत 07 शाखा डाकघर आते हैं | उक्त डाकघर का कार्य सुचारू रूप से संपन्न कराने हेतु श्री शैतान सिंह प्रजापति, एलएसजी सुपरवाइजर सी.टी.टी. प्रधान डाकघर भोपाल को नजीराबाद उपडाकघर स्टाफ व्यवस्था के अंतर्गत प्रतिनियुक्ति पर अस्थाई रूप से भेजा गया था। कर्मचारी का आवेदन प्राप्त होने पर उन्हें वापस सी.टी.टी. प्रधान डाकघर भोपाल में कार्य करने के आदेश जारी कर दिए गये हैं तथा वर्तमान में श्री शैतान सिंह प्रजापति प्रधान डाकघर भोपाल में दिनांक 23.02.2023 से पुनः कार्यरत हैं जिसकी दूरी उनके घर से लगभग 18 किमी है। प्रतिवादी का कहना है कि शिकायतकर्ता की समस्या का निवारण हो चुका है।

3. परिवारी द्वारा प्रस्तुत प्रतियुत्तर –

3.1 परिवारी ने ईमेल दिनांक 03.07.2023 को प्रस्तुत अपने प्रतियुत्तर में कहा है कि उनके पति श्री शैतान सिंह प्रजापति दिनांक 02.11.2020 से टीटी नगर मुख्य डाकघर में डाक सहायक के पद पर पदस्थ हैं एवं वर्तमान में सहायक डाकपाल (पटल) का कार्य भार भी संभाल रहे हैं। सी.टी.टी. प्रधान डाकघर में लगभग 25-30 डाक सहायक कार्यरत हैं। उनका कहना है कि उनके पति के विरुद्ध श्री सागर नीलेश शाह, प्रवर अधीक्षक द्वारा जानबूझकर दुर्भावना से प्रताड़ित करने वाली एवं क्रूरता की कार्यवाहिया की गयीं एवं विभाग के उच्च अधिकारियों द्वारा उन्हें पूर्ण संरक्षण दिया गया है।

3.2 शिकायतकर्ता ने माननीय महोदय को दिनांक 27.01.2023 को प्रतिवेदन प्रस्तुत किया तो दिनांक 22.02.2023 को शिकायतकर्ता के पति को पुनः सी.टी.टी. प्रधान डाकघर लौटाया गया, अतः विभाग ने पत्र दिनांक 02/06/2023 को प्रेषित पत्र में आवेदन प्राप्त होने पर वापस टी.टी. प्रधान डाकघर में कार्य करने का आदेश देने कि जानकारी पूर्णतः गलत तथा भ्रामक है। उसके पति को पत्र दिनांक 25.04.2023 और 18.05.2023 के माध्यम से सूचित किया गया और दोबारा दिव्यान्गता परिक्षण के लिए भेजा गया जबकि यह परीक्षण वर्ष 2000 में हो चुका है। उसके पति को प्रताड़ित किया जा रहा है।

4. HEARING -

4.1 A hearing was conducted on 25.06.2024 (offline/online through video

conferencing). The following parties/representatives were present during the hearing :

Sl. No.	Name of the parties/representatives	Mode of presence
	From Complainant	
1.	Smt. Pushpa Prajapati	Online
2.	Shri Shri Shaitaan Singh	-do-
	From Respondent	
1.	Shri Jaipal Singh Rajput, Sr. Superintendent of Post Offices, Bhopal	Online

4.2 At the outset, the CCPD observed that as per Rule 38 of the RPwD Rules, 2017, a complaint is required to be filed by an aggrieved person. It assumes further significance when the issue of the case pertains to a service matter, the case should be filed by the employee concerned and not by his or her family members.

4.3 The CCPD asked the Respondent about the reasons for the frequent postings of the Complainant. The Respondent clarified that the Complainant was not transferred, but was sent on deputation under leave arrangement to replace other officers. He submitted that the Central TT Nagar is the main Post Office, so there is more staff there. Hence, it is a routine practice to depute officers from the Central TT Nagar to other smaller post offices to man the jobs when the regular incumbents are on medical or other types of sanctioned leave. This is a routine arrangement and no discrimination was meted out to the Complainant. On being asked the Complainant, accepted that he is now back from the deputation.

4.4 The Respondent further replied that the Complainant is posted at Bhopal at Central TT Nagar. Initially, he was sent on deputation from 25.11.2022 to 06.12.2022 i.e. for 10 days, and again from 25.12.2022 to 22.02.2023. He has a 40% disability in his leg. He walks normally and has not been using a wheelchair or crutches. The Complainant was referred to the Medical Board in 2023 for examination and as per the Medical Board, he has a disability of 40%.

4.5 The CCPD asked the Complainant whether, on completion of his deputation/additional charge, he has joined his new posting. The Complainant replied that he was presently on leave and in hospital as his children were suffering from Jaundice and were admitted to the Hospital. He reiterated that by posting him out on deputation frequently as compared to other employees, the Respondent has discriminated against him. He, however, did not produce any evidence to this effect.

4.6 The Complainant requested the intervention of this Court seeking a posting near his residence as per the government instructions.

4.7 The CCPD asked the Respondent about any vacancies available near the residence of the Complainant. The Respondent replied that

there is no vacancy at the place where the Complainant has requested to be posted. He further submitted that the distance between Bairagarh, Bhopal, and Central TT Nagar is 18 Km and the place where the Complainant has been posted currently is 19 Km from his residence.

5. **Observation and Recommendation :**

5.1 After hearing both parties, this court concludes that the Complainant has not been able to show any act of discrimination on the grounds of disability or denial of his rights as a person with disability. The Court was of the opinion that though there are provisions in the RPwD Act, and rules and instructions issued thereunder for providing reasonable accommodation to persons with disabilities in the matters of transfer or postings, such provisions can not be used as a matter of right to avoid temporary postings within the city or within a close distance from the place of the regular posting or residence of the employee. As such, no further intervention is required in the matter.

5.2 The case is disposed of accordingly.

Signed by Rajesh Aggarwal

Date: 16-07-2024 13:54:21

(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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

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

Case No: 13775/1141/2023

In the matter of —

Shri Hemasagar Panigrahi,
 At/PO: Bhatigaon,
 Via – Barpali,
 District: Bargarh (Odisha)
 Pin: 768029
 E-mail: hemasagar.panigrahi@gmail.com

... Complainant

Versus

The Chairman
 National Highways Authority of India
 G 5&6, Sector – 10, Dwarka
 New Delhi – 110075
 E-mail: prem@nhai.org

... Respondent

1 GIST of the Complaint:

1.1 Shri Hemasagar Panigrahi, a person with 100% Visual Impairment filed a complaint vide e-mail dated 23.01.2023 regarding the denial of exemption of FASTag for persons with disabilities.

1.2 The Complainant submitted that he had applied for FASTag in the NHAI portal for toll gate-free exemption but his application was rejected on the grounds that his vehicle was not mechanically designed. Although, the visually impaired (VI) category is included in new guidelines of NHAI, there is no specific mention of the need for a mechanical design/adaptation of the vehicle.

2. Reply filed by the Respondent:

2.1 The Chief General Manager (CO), NHAI [Respondent] filed its reply dated 24.03.2023 and inter-alia submitted that Shri Hemasagar Panigrahi had applied for exempted FASTag through the Online Portal. As per the RC submitted by the applicant

on Portal, the vehicle was found not specially designed for the use of the person with disability nor registered as “Divyangjan”, hence it was disapproved with the approval of the Competent Authority.

2.2 In a nutshell, Mechanical Vehicles specially designed and constructed for the use of a person suffering from physical disability or registered with Ownership Type as “Divyangjan” under Motor Vehicle Act, 1988 (59 of 1988) and the rules made there under are exempted from paying user fee at fee plazas on National Highways as per Rule 11 of NH Fee Rules (2008) as amended.

2.3 Exempted FASTags are used for the persons covered in Rule 11 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008 as amended in the line to SoP issued by MoRTH through an online portal.

3. Rejoinder filed by the Complainant:

The Complainant vide rejoinder dated 30.04.2023 inter-alia submitted that a mechanically designed vehicle is not necessary for a person with visual impairment like the Complainant. A mechanically designed vehicle is necessary for someone who is capable to drive the vehicle after it goes through some necessary adaptation. In the case of the Complainant, a driver would drive the vehicle and the Complainant, a visually impaired person can comfortably access the vehicle.

4. Hearing (I):

4.1 A hearing was conducted on **25.06.2024** in hybrid mode (offline/online through video conferencing). The following parties/representatives are present during the hearing:

Sl. No.	Name of the parties/ Representatives	Mode of Presence
From Complainant:		
1.	Shri Hemasagar Panigrahi, Complainant	On phone
From Respondent:		
1.	Shri Prashant G. Khodaskar, Chief General Manager (Commercial Operations) NHAI	Online
2.	Shri Manoj Kumar Bansal, General Manager (Commercial Operations), NHAI	Online

4.2 During the hearing, the representative of the Respondent, the Chief General Manager (Commercial Operations) submitted that in the Registration Certificate (RC) of the vehicle, the ownership of the vehicle is not mentioned as “divyangjan”. Hence, his

application for exempted Fastag was rejected.

4.3 The Complainant was taken on the phone and he submitted that in the rejection letter, it was mentioned that his vehicle was not adapted/mechanically designed. The Complainant also submitted that although the Visually Impaired (VI) category is included in the new guidelines of the NHAI, there is no specific mention of the requirement for the vehicle to be adapted or mechanically designed. The Complainant also submitted that the NHAI Bhubaneswar Office had recommended the issue of exempted Fastag on the ground that in the RC the ownership of the vehicle is mentioned as "Divyangjan", but despite their recommendations, his application was rejected.

4.4 After hearing both parties, the Court observed that in the copy of the RC submitted by the Complainant, the word "Divyangjan" was found mentioned against the name of the Complainant. The Court was of the view that once the applicant has established his eligibility for any rights or benefits extended by the government, it is for the concerned agencies, such as the NHAI in this case, to facilitate the applicant in completing the documentation/formalities. The Court recommended the Respondent as under:

(i) In view of the RC of the Complainant which clearly mentioned the Complainant as "Divyangjan", this issue may be sorted out within one week, and an action taken report be submitted to this Court;

(ii) Further, the Respondent should also consider decentralizing the procedure of issuing Divyangjan Fastag at the state level so that the Divyang applicants do not have to struggle to get it.

4.5 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order, failing which, 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.

4.6 Accordingly, the case is disposed of.

Signed by Rajesh Aggarwal
Date: 02-07-2024 12:13:52

(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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**

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

Case No. 13776/1022/2023

In the matter of—

Shri Rajesh Dabral
AIR Customs Superintendent
R/o. Flat No. 479, 3rd Floor,
DDA MIG, L & T Flats
Shree Awas Society
Sector - 18-B, Phase-2, NSIT, Dwarka
New Delhi - 110078
Contact No. 9971714033
Email ID - rajudabral@yahoo.com

...Complainant

Versus

1. The Principal Commissioner,
Central Board of Indirect Taxes & Customs,
Gujarat Zone, Ahmedabad,
2nd Floor, Customs House,
Near All India Radio,
Navrangpura, Ahmedabad-380009
Email: ccu-cexamd@nic.in
cus-esttahd@gov.in

...Respondent No.1

2. The Commissioner of Customs,

(Airport and General),

IGI Airport,

New Delhi - 110037

Email: commraccimp-cusdel@nic.in

...Respondent No.2

1. Gist of the Complaint:

1.1 Sh. Rajesh Dabral, father of dependent children with disabilities, vide letter dated 25.12.2022, filed a complaint regarding his transfer on a permanent basis to Delhi CGST Commissionerate from Ahmedabad Customs Commissionerate on medical grounds of his children.

1.2 He is currently working as an Air Customs Superintendent at the T-3, IGI Airport, New Delhi, on deputation basis. His deputation period of 02 years with an extendable period of 01 year is about to conclude by 16.05.2023. He is seeking a permanent transfer to Delhi Customs and Central Excise Commissionerate due to the severe medical conditions of his children. His elder son Master Swaraj Dabral, aged 18 years lost his understanding and speech after a fatal road accident on 26.08.2008 and became a 100% Intellectually Disabled Person. The younger son, Master Rudra, aged 06 years is a person with 100% chronic neurological conditions and was diagnosed with a genetic disorder "Infantile neuroaxonal dystrophy-1, Neuro-degeneration with brain iron accumulation". He is bedridden without speech and understanding.

1.3 As the children rely on their parents for daily activities and require various neurological and rehabilitation treatments at AIIMS and Safdarjung Hospital and Janakpuri Super Speciality Hospital, New Delhi, he is unable to shift his children with 100% mentally challenged and medically dependent from Delhi. Hence, he has requested to consider his transfer to Delhi on a permanent basis for the remainder of his 08 years of service.

2. Submissions made by the Respondent:

2.1 Additional Commissioner, O/o the Principal Commissioner, Central Excise, Ahmedabad, Respondent No. 1, vide letter dated 23.03.2023 had requested the Additional Commissioner, CGST, Ahmedabad Zone,

Ahmedabad to take the appropriate action in the matter being a parent zone of the Complainant.

2.2 Additional Commissioner, O/o the Principal Commissioner, Central Excise, Ahmedabad, Respondent No. 1 vide email dated 29.03.2023 had submitted that their office has no locus standi to take any decision on the transfer of the Complainant from Customs Ahmedabad to CGST, New Delhi on Permanent basis. Therefore, they need to refer the matter to the Central Board of Customs & Indirect Taxes, New Delhi. Accordingly, he has requested the Hon'ble Court to grant a three-month time for the submission of comments on the subject matter.

2.3 The Assistant Commissioner, Customs Ahmedabad filed the reply on behalf of Respondent No. 1, vide affidavit dated 12.04.2023. He submitted that the Complainant was allowed deputation to IGI Airport under Air Pool Policy for the period January 2017 to February 2020 and again from May 2020 to 16.05.2023 by allowing him a waiver from the cooling off period and till filing of the reply he was posted at IGI Airport, New Delhi.

2.4 As regards the Complainant's request for his transfer on a permanent basis from Ahmedabad Customs Commissionerate to Delhi CGST Commissioner, it is submitted that the Complainant belongs to the Zone of CGST, Ahmedabad and was posted to Customs Ahmedabad from CGST, Ahmedabad Zone on the basis of rotation policy. As such, Ahmedabad Customs Commissionerate has no locus standi to take any decision on the matter of transfer of the Complainant from Customs Ahmedabad to CGST, New Delhi on a permanent basis. Further, as per the Recruitment Rules, 2019 for the post of Superintended of Central Excise each Zonal Cadre Controlling Authority shall have its own separate cadre. Accordingly, Ahmedabad and Delhi are two distinct Cadre Controlling Authorities for the post of Superintendent, GST and Central Excise. At present there is no policy to allow Inter-Zonal Transfer in the Cadre of Superintendent, GST, and Central Excise from one cadre controlling authority to another. Thus, the request of the Complainant for the permanent transfer to CGST Delhi Zone cannot be considered at this stage.

3. Submission made in the Rejoinder:

Despite the issuance of a Notice dated 26.04.2023 to file a Rejoinder, No communication has been received from the Complainant till date.

4. **Hearing :**

4.1 An online hearing was conducted through video conferencing on 25.06.2024. The following representatives/parties were present during the Hearing:

- 1 . None appeared on behalf of the Complainant
2. Shri Dinesh Kumar Parmar, : For Respondent No. 1
Assistant Commissioner, Customs, Ahmedabad
3. Shri Shankracharya Pandit : For Respondent No. 2
Assistant Commissioner, Customs, IGI Airport

4.2 The Court asked the Respondents as to who in their organization is the competent authority to grant the relief, namely the permanent transfer of the Complainant to Delhi for the remaining years of his service on the grounds of disabilities of his dependent children.

4.3 Respondent No. 2 replied that the Complainant is working at New Delhi in Indira Gandhi International Airport on deputation and his parent Commissionerate is Ahmedabad GST. Respondent no. 1 submitted that a decision of such nature can only be taken by the Board. Respondent no. 2 submitted that the current deputation tenure of the Complainant at the Delhi Airport is up to 29/10/25, which is further extendable by one more year at the request of the officer. This Court asked the Respondents to confirm that the regular tenure of the Complainant at his current place of posting is up to 29.10.2025, which they did confirm.

4.4 Upon hearing the respondents, this court is of the opinion that there is no cause of action in this case. There is no immediate urgency in the matter. This court advised the Complainant to make a fresh request to the competent authority or to the Grievance Redressal Officer appointed in his department under Section 23 of the RPwD Act, 2016. The Complainant shall be at liberty to approach this Court again 3-4 months before his tenure is going to expire if he is aggrieved with the decision of his department on his request.

4.5 The case is disposed of accordingly.

Signed by Rajesh Aggarwal

Date: 29-07-2024 19:59:07

(Rajesh Aggarwal)

Chief Commissioner



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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

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

परिवाद संख्या – 13785/1011/2023

के मामले में—

डॉ. सुवाष पाण्डेय,

बी-32/6, नरिया, बीएचयू,

वाराणसी – 221005,

इमेल – 1967pandey.pandey@gmail.com

... परिवादी

बनाम

कुल सचिव,

बनारस हिन्दू विश्वविद्यालय,

अजगरा, वाराणसी – 221005

Email: registrar@bhu.ac.in

... प्रतिवादी

1. परिवाद का सार –

1.1 डॉ. सुवाष पाण्डेय, 75% दृष्टि दिव्यांग व्यक्ति ने संस्कृत विद्या धर्म विज्ञान संकाय, काशी हिन्दू विश्वविद्यालय, वाराणसी में दिव्यांग अभ्यर्थियों के लिए दिव्यांग आरक्षित संवर्ग आवंटन के सम्बन्ध में एक अभ्यावेदन दिनांक 17.01.2023 इस न्यायालय में प्रस्तुत किया।

1.2 परिवादी ने आरोप लगाया कि प्रतिवादी विश्वविद्यालय के रोस्टर प्रणाली के अन्तर्गत दिव्यांग श्रेणी का कोटा सहायक प्राध्यापक पद के लिए अभी तक आवंटित नहीं है, फलतः इस श्रेणी के प्रयासरत अभ्यर्थियों का संविधान प्रदत्त प्रावधान से वंचित होना पड़ रहा है। परिवादी ने दिव्यांग श्रेणी के अन्तर्गत पदों की संख्या निर्धारित कराने का निवेदन

किया।

2. प्रतिवादी द्वारा प्रस्तुत उत्तर –

2.1 प्रतिवादी विश्वविद्यालय के उप कुलसचिव ने उत्तर में उनके द्वारा परिवादी को दिए गए उत्तर दिनांक 02.03.2023 कि एक प्रति इस न्यायालय को पृष्ठांकित किया। उक्त पत्र में यह कहा गया कि क्षैतिज आरक्षण नियमावली अधिसूचना दिनांक 15.01.2018 के नियमानुसार विश्वविद्यालय के विभिन्न विभागों के रिक्त शैक्षणिक पदों का 4% (1% प्रत्येक दृष्टि दिव्यांगता, श्रवण दिव्यांगता, चलन दिव्यांगता और बहु दिव्यांगता के लिए) निर्धारित किया गया है। उक्त के क्रम में संस्कृत विद्या धर्म विज्ञान संकाय के रिक्त पदों का (शिक्षकों के काडर आरक्षण) अधिनियम, 2019 के अधिसूचना संख्या 2289 के अन्तर्गत 200 बिन्दु आरक्षण रजिस्टर के साथ क्षैतिज आरक्षण नियमावली (दिव्यांगजन अधिनियम) 2018 के अनुसार विभिन्न विभागों में रिक्त पदों की तिथि के अनुसार 31.01.2020 तक विभिन्न आरक्षित श्रेणियों में निर्धारित किया गया, किन्तु उक्त संकाय के किसी भी विभाग में दिव्यांग आरक्षित संवर्ग का कोई भी पद आरक्षित नहीं हुआ।

2.2 प्रतिवादी ने आगे कहा कि रिक्त पदों को रोस्टर के अनुसार, रोलींग विज्ञापन संख्या 01/2020-2021 के अन्तर्गत विज्ञापित किया गया है।

3. परिवादी द्वारा प्रस्तुत प्रत्युत्तर –

3.1 परिवादी ने अपना प्रत्युत्तर दिनांक 17.03.2023 प्रस्तुत किया और कहा कि प्रतिवादी विश्वविद्यालय ने यह स्वीकार किया है कि क्षैतिज आरक्षण नियमावली अधिसूचना दिनांक 15.01.2018 के नियमानुसार विश्वविद्यालय के उपर्युक्त विषयक संकाय के किसी भी विभाग में दिव्यांग आरक्षित संवर्ग का कोई भी पद आरक्षित नहीं हुआ है। प्रतिवादी विश्वविद्यालय ने विज्ञापन संख्या 01/2020-21 का ही उल्लेख किया है जबकि विज्ञापन संख्या 01/2019-20 को विलोपित किया गया है। अतएव उत्तर सम्पूर्ण स्वरूप में नहीं है। परिवादी ने यह भी कहा कि वे ज्योतिष गणित के अभ्यर्थी हैं और निवेदन किया कि उपर्युक्त के संदर्भ में तत्काल प्रभाव से कार्यवाही करके दिव्यांग कोटा को पद सृजित किया जाए।

4. सुनवाई —

4.1 दिनांक 25.06.2024 को व्यक्तिगत रूप से उपस्थिति के द्वारा/ऑनलाइन वीडियो कॉन्फ्रेंसिंग के द्वारा सुनवाई की गई। निम्नलिखित पक्षकार / प्रतिनिधि सुनवाई के दौरान उपस्थित थे —

क्र.सं.	पक्षकार/प्रतिनिधियों के नाम	उपस्थिति का साधन
परिवादी पक्ष से—		
1.	डॉ. सुवाष पाण्डेय, परिवादी	ऑनलाइन
प्रतिवादी पक्ष से—		
1.	श्री अजय कुमार सिंह, उप कुल सचिव काशी हिन्दू विश्वविद्यालय	ऑनलाइन
2.	श्री पुष्पेन्द्र मिश्रा, वरिष्ठ सहायक काशी हिन्दू विश्वविद्यालय	ऑनलाइन

4.2 सुनवाई के दौरान परिवादी ने कहा कि उनकी उम्र लगभग 58 वर्ष हो चुकी है और वे अभी भी आशान्वित हैं कि उनको कहीं न कहीं सेवा नियोजित किया जाएगा, वे इसके लिए संकल्पित हैं और सेवा योजन हेतु निरन्तर प्रयास कर रहे हैं।

4.3 प्रतिवादी पक्ष की ओर से कहा गया कि विश्वविद्यालय में सहायक प्राध्यापक के 15 पद दिव्यांग व्यक्तियों के द्वारा भरे गये हैं। परन्तु, प्राध्यापक और सह-प्राध्यापक पद हेतु आमंत्रित अभ्यावेदनों में से वांछित योग्यता के अभाव में किसी भी दिव्यांग अभ्यर्थी को चयन नहीं किया जा सका। एक प्रश्न के उत्तर में प्रतिवादी पक्ष ने कहा कि सभी रिक्तियाँ विश्वविद्यालय अनुदान आयोग द्वारा जारी दिशा निर्देशों तथा दिव्यांग व्यक्तियों के रोस्टर के अनुसार भर्ती किए जाते हैं। परिवादी का यह कहना सही नहीं है कि प्रतिवादी विश्वविद्यालय के रोस्टर प्रणाली के अन्तर्गत दिव्यांग श्रेणी का कोटा सहायक प्राध्यापक पद के लिए अभी तक आवंटित नहीं है। वास्तव में परिवादी ज्योतिष विभाग में दिव्यांग कोटा के अन्तर्गत सेवा नियोजित होना चाहते हैं, जो कि दिव्यांगजन हेतु रोस्टर के नियमानुसार ही सम्भव हो सकता है। किसी विशेष संकाय में पद का आरक्षण रोस्टर के नियम के विरुद्ध नहीं किया जा सकता।

5.3 दोनों पक्षों को सुनने के पश्चात परिवादी द्वारा लगाया गया यह आरोप कि प्रतिवादी विश्वविद्यालय के रोस्टर प्रणाली के अन्तर्गत दिव्यांग श्रेणी का कोटा सहायक प्राध्यापक पद

के लिए अभी तक आवांटेत नहीं हैं, सहां नहीं पाया गया। तथापि, प्रातवादां का 30 दिनां के भीतर निम्नलिखित सूचना/अभिलेख इस न्यायालय में प्रस्तुत करने के निर्देश दिए जाते हैं —

(क) विगत तीन वर्षों के दौरान विज्ञापित की गई कुल रिक्तियाँ, उसमें दिव्यांगजन हेतु आरक्षित की गई श्रेणीवार रिक्तियाँ का ब्योरा, सामान्य श्रेणी और आरक्षित श्रेणियों में की गई भर्तियों का ब्योरा तथा दिव्यांगजन हेतु आरक्षित रिक्तियाँ न भरे जाने के कारण का ब्योरा; और

(ख) दिव्यांगजन अधिकार नियम, 2017 के नियम 11 के अनुसार सन् 1996 से अब तक काशी हिन्दू विश्वविद्यालय द्वारा दिव्यांग व्यक्तियों हेतु रिक्तियों की संगणना के प्रयोजन के लिए संधारण किए गए रिक्ति आधारित आरक्षण रजिस्टर की प्रति नोडल अधिकारी के हस्ताक्षरयुक्त।

5.4 तदनुसार इस मामले का निस्तारण किया जाता है।

Signed by Rajesh Aggarwal
Date: 02-07-2024 12:11:34

(राजेश अग्रवाल)
मुख्य आयुक्त दिव्यांगजन



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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
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 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Cases No. 13790/1011/2023 & 13793/1011/2023

In the matter of—

- (1) Shri Ajeet Kumar Patel,
 R/o H.No. 82, Sudama Suncity,
 Near Atal Bihari Sabji Mandi,
 Ayodhya Bypass Road,
 Bhopal – 462022 (M.P.)
 Email: ajeetraaz1991@gmail.com (13790/1011/2023)
 Mobile: 7509791964 ... **Complainant (No.1)**
- (2) Shri Anjani Lal Prajapati,
 Bara Bharwara,
 Viraj Khand-2, Gomti Nagar,
 Lucknow – 226010 (UP) (13793/1011/2023)
 Email: ravneet9696@gmail.com ... **Complainant (No.2)**

Versus

The General Manager (HR),
 Recruitment Cell,
 Airport Authority of India,
 Rajeev Gandhi Bhawan, Safdarjung Airport,
 New Delhi-110003
 Email: rjoshi@aai.aero;
 gmhrner@aai.aero ... **Respondent**

1. Gist of Complaints:

1.1 Shri Ajeet Kumar Patel, a person with 50% Locomotor Disability (OA and OL) filed a complaint dated 31.01.2023 that the Airport Authority of India (AAI) has published a Recruitment Notice No.08/2022 on 09.12.2022 for recruitment to the post of Official Language and Junior Executive (Air Traffic Control), [post code No.02]. In the said

recruitment the post has been shown as suitable only for the acid attack victims in the locomotor category with physical requirements of Sitting, Standing, Bending, Hearing, Communication, Reading and Writing, Seeing, and Manipulation by fingers. In the Notification dated 04.01.2021 on page 1871, the said post is identified as suitable for (a) OA, OL, LC, Dw, AAV; (b) ASD(M); (c) MD involving (a) to (b). The AAI has not given the option to fill in the application form for other categories. Further, out of a total of 356 posts, only 03 posts have been kept reserved for persons with benchmark disabilities.

1.2 He requested that the matter be looked into and AAI be instructed to implement the updated guidelines & correct their mistakes.

1.3 Shri Anjani Lal Prajapati, a person with 70% locomotor disability (both legs), filed a similar complaint dated 04.01.2023 under Advertisement No. 2/2022 issued by the Respondent for recruitment to the posts of Junior Executive Air Traffic Control [JE ATC], the persons with both legs mobility disability have been denied reservation. Out of the total vacancies of 400 posts, only 04 posts have been reserved for disabled persons suffering from acid attack whereas other posts falling under JE ATC have been reserved for other categories of disabled persons also and suitably identified in the Notification dated 04.01.2021 for persons with both legs.

2. Replies filed by the Respondent:

2.1 The Respondent filed their reply dated 29.04.2023 inter-alia submitted that while advertising 400 posts for the recruitment of JE (ATC) under Advt. No.02/2022, the Gazette Notification dated 04.01.2021 was perused wherein only group C posts with a work profile similar to JE (ATC) were notified. No posts had been identified in Group A or Group B. Since the posts are being advertised under Advt. No. 02/2022 were group B posts, it was decided to follow the guidelines already issued by AAI and circulated on 28.10.2019. Moreover, the feeder grade in ATM Dte., is that of JE(ATC) which is a Group B post, whereas, as per the Gazette Notification dated 04.01.2021, the only posts identified for ATC that belong to Group C and no recruitment are being under in Group C levels in ATM Dte.

2.2 The Respondent further submitted that the basic nature of the job functions of an ATCO (JET-ATC) at the induction level is to perform Aerodrome Control Duties in the Aerodrome Control Tower. The last mile connectivity into the Control Tower is via a staircase (Generally Two stories) after the escalator (lift). A lift/Escalator is not available at Control Towers, ATCO uses a staircase to reach the duty place from ground level. While handling aircraft emergencies, ATCOs have to move fast and frequently to achieve expeditious coordination to save time.

2.3 With regard to Complainant No.2, the Respondent vide its reply dated 29.04.2023 submitted that both leg categories have not been included suitable as identified under Notification dated 04.01.2021, and hence, his request did not hold merit.

2.4 While advertising 400 posts for the recruitment of JE (ATC), the Notification dated 04.01.2021 was perused and it was observed that only Group-C posts with a work profile similar to JE(ATC) were notified. No posts had been identified in Group A or Group B. Since the posts were advertised in Group B, it was decided to follow the guidelines already issued by AAI vide circular dated 28.10.2019. The gist notes 2, 3, 4, and 5 are stated to be not applicable.

3. Hearing:

3.1 A hearing was conducted on **25.06.2024** (Offline/Online through video conferencing). The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/ Representatives	Mode of Presence
From Complainant:		
1.	Shri Ajeet Kumar Patel, Complainant No.1	Online
2.	None appeared for the Complainant No.2	---
From Respondent:		
1.	Ms. Gurjeet Kaur, Dy. General Manager Airport Authority of India	Online
2.	Shri Nirpendra Kumar, Asst. General Manager, Airport Authority of India	Online

3.2 During the hearing Complainant No.1 submitted that at Page No. 1871 of the Gazette Notification dated 04.01.2021, the posts of Air Traffic Control Specialist and Traffic Controller, Air Service, Air Traffic are mentioned in Group-C with a clear description of suitability for (a) OA, OL, LC, Dw, AAV; (b) ASD(M); (c) MD involving (a) to (b). Further, Note-4 of the Gazette Notification are very specific in this case, which reads as under:

“Note 4: If a post is identified in the feeder grade, all the posts in the promotional grade should also stand identified.”

3.3 The representatives for the Respondent submitted that in the Gazette Notification dated 04.01.2021 whatever the posts have been identified for the ibid post ATCs are identified in Group-C and Group-D categories only. The Note-4 of the said notification to which the Complainant is taking says that if a post is identified in feeder grade the same should also be identified in promotional grade. But in the Respondent's organization, no recruitment has been done in the feeder grades i.e. Group-C and Group-D posts for

ATCs posts for the last 10-15 years nor would it be done in the future. Therefore, the provision of the Gazette Notification dated 04.01.2021 does not apply to the Respondent organization.

3.4 In reply to a question, the representative of the Respondent submitted that no application was received for the posts of ATCs from candidates with AAV.

3.5 After hearing the parties the Court observed that the apprehensions and reservations raised by the Respondent about the suitability of the Group A & B posts related to Air Traffic Control for certain types of PwDs can not be overlooked given the nature of duties inherent in the said posts and the aviation safety concerns. The issue raised by the complainants in the two tagged cases can not be decided before these concerns are raised before and looked into by the Expert Committee for the purpose appointed under Section 33 of the RPwD Act, 2016. As such, this Court is not inclined to intervene in this matter at present. The Respondent is directed to submit their statement of case to the Expert Committee at the Department of Empowerment of Persons with Disabilities through their administrative ministry within one month from the date of this Order. The DEPwD is also advised that on receipt of the request from the Respondent, the matter be taken up and decided on priority within 90 days from the date of this order. The Complainants are at liberty to approach this Court afresh, if they are still aggrieved after the aforesaid process is completed.

3.6 The cases are disposed of accordingly.

Signed by Rajesh Aggarwal
Date: 29-07-2024 12:41:17

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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
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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, Dwarka, New Delhi-110075; Tel.: (011) 20892364
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14513/1033/2023

In the matter of —

Dr. Seema Girija Lal (Ph.D.)
 Principal Consultant International Council to
 Enrich, Empower, Enable;
 Founder @Together We can,
 Advocacy towards Mental Health, Disability,
 Child Rights, Education;
 Cochi (Kerala)
 Email: twctogetherwecan@gmail.com

... Complainant

Versus

The Secretary,
 Central Board of Secondary Education
 Shiksha Kendra, 2, Community Centre,
 Preet Vihar, Delhi-110092
 Email: secy-cbse@nic.in
 Tel No. 011-22549627, 22549628

... Respondent

1. Gist of the Complaint:

1.1 Dr. Seema Girija Lal, Principal Consultant International Council to Enrich Empower, Enable, Kochi (Kerala) wrote a letter dated 18.09.2023 raising her concern regarding assessment and certification of Specific Learning Disabilities in students of Grade 10 and 12 standards. She had endorsed a copy of her email to the State Commissioner for Persons with Disabilities [SCPD], Govt. of CT of Delhi. SCPD, Delhi vide email dated 21.09.2023 forwarded her email to this Court.

1.2 Dr. Seema Girija Lal [Complainant] in her representation raised the following concerns:

- (a) Rejection of disability certificate issued by the private practitioners;

(b) CBSE vide circular dates No. CBSE/COORD/CWSN/2020/ Dated: 14.02.2020 have asked the students with SLD to submit scores of VSMS [Vineland Social Maturity Scale] in addition to what was mandated by MSJE/DEPWD gazette notification dated Jan 04, 2018 that clearly mentions only the need for MISIC [Malin's Intelligence Scale for Indian Children] or WISC [Wechsler Intelligence Scale for Children]; and

(c) The Complainant has pointed out that CBSE has a gross misunderstanding of the ID and SLD as the two are different categories of disabilities as shown in the Jan 04, 2018 Gazette. Section 21 is for ID and Section 22 is for SLD. Further, in section 22.6, Figure 1 is about ID where VSMS is mandated, and in Figure 2 VSMS is not necessary or mandated for SLD.

2. Notice issued to the Respondent:

A Notice dated 02.11.2023 was issued to the Secretary, Central Board of Secondary Education for forwarding their comments on the affidavit on the complaint within 30 days. However, no reply has been received from the Respondent despite the issuance of a Final Reminder on 22.01.2024 and the lapse of statutory time.

3. Hearing (I):

3.1 A physical/online hearing through video conferencing was conducted on **15.03.2024**. The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/Representatives	For Complainant/ Respondent	Mode of attendance
1.	Dr. Seema Girija Lal	Complainant	Online
2.	Ms Suchitra Narayan for the Complainant	Complainant	Online
3.	Shri Satya Saroj, Under Secretary	Respondent	Online

3.2 During the hearing, the Complainant submitted that this year (2023-24) for the Board Exams in Trivandrum, all assessment reports of children with Specific Learning Disability were rejected without citing any specific reason. The only reason cited by the CBSE, RO, Thiruvananthapuram was that "Referred to 2018 Gazette". The Complainant raised the following issues and sought clarity from CBSE:

(1) CBSE has to give a specific reason for rejection which would be helpful to the school and the parent to know the reason for rejection and re-apply. When CBSE rejects a report at Grade 10 or 12, for a student who has been availing all accommodations since Grade 9 and also before that, based on the discretion of the schools to use prior assessment (before Grade 9). The student, parent, and school are left in the dark without knowing a way forward as there is no

explanation currently given by the CBSE (RO TVM) on why the report is rejected. A child who scored well in grade 10 is because of the accommodations and not because the SLD disappeared. CBSE to kindly clarify the reasons for rejection and how to rectify any error in the submission and not leave parents schools and students guessing.

(2) After the rejection, the time given to re-apply was only one week. So, every parent and the school started guessing and they figured out that the reports were rejected due to private certification. However, the private practitioners are registered and certified by the RCI. In Ernakulam, the number of children is huge, and every school has to do re-certification. The Government Hospital has to go to the schools and conduct camps for re-certification in a single day. CBSE has to clarify, whether the reports need to be from a Government Hospital only when a district has only one Government Hospital and that those from licensed private practitioners [RCI and Medical license] are not accepted.

(3) Certificates issued by the RCI-certified practitioners were accepted in the previous years, but this year suddenly without any notification CBSE said that it would not be accepted. CBSE, therefore, needs to also clarify whether the stipulation of certificates from Government Hospitals is applicable only for this year or for the future also.

(4) CBSE has a gross misunderstanding of Intellectual Disability (ID) and Specific Learning Disability (SLD). These are two different categories of disabilities as shown in the "Guidelines for Evaluation and Procedure for Certification of Various Specified Disabilities" issued vide Gazette Notification dated Jan 04, 2018. Para 21 is for ID and Para 22 is for SLD. Further, in Para 22.6, Figure 1 is about ID where VSMS is mandated and in Figure 2, VSMS is not necessary or mandated for SLD. Does CBSE prescribe tests for SLD assessment and IQ assessment as VSMS is used in addition to IQ tests? It is not clear why a social maturity scale is used for SLD when SLD is not an ID.

(5) Currently, students are sent for assessments based on their academic performance and other observations by teachers and parents, at the beginning of Grade 9 (June/July) or soon after Grade 8 (April/May). Based on the result, the students get exempted from the study of language or change subject options and get all other support from school - such as extra time and other depending on the student's needs based on assessment. However, this is done before any CBSE approval is received as students and schools cannot wait till the end of the year

to learn the alternate subject and they need to start in June. The student is again subject to reassessment in Grade 10 and later in 11th and then again in 12th. CBSE has to clarify, whether this is necessary, as SLD can be diagnosed soon after age 6, and support and accommodations will help the child perform well.

3.4 After hearing the parties, the Court appreciated the Complainant for broadly explaining the issues being faced by the students of Class X and Class XII having Mental Illness and Specific Learning Disabilities. The Court apprised that a new SoP regarding the Guidelines for Evaluation and Procedure for Certification of Various Specified Disabilities” is expected to be uploaded on the website of the Department of Empowerment of Persons with Disabilities very soon. The Court was of the view that the issues raised by the Complainant would be discussed in the next hearing in the light of the new SoP. Till then Shri Rajeev Sharma, Joint Secretary, DEPWD; Dr. Sunita Mondal, DEPWD be informed to be present in the next hearing; and the link of the revised SoP be sent to the Complainant as well as to the Respondent and their representatives for reference.

4. Hearing (II):

4.1 A second hearing was conducted on **25.06.2024** in hybrid mode (physically/online through video conferencing). The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/representatives	Mod of Presence
For Complainant:		
1.	Dr. Seema Girija Lal, Complainant	Online
2.	Ms Suchitra Narayan for the Complainant	Online
For Respondent:		
1.	Shri Satya Saroj, Under Secretary	Online

4.2 During the hearing, the representative for the Respondent submitted that there is a provision in CBSE in Class IX at the time of registration for students with SLD and Intellectual disabilities to register their disability and after that registration, no disability certificate is required for availing the reasonable accommodations. But generally, these students do not come for registration in Class IX and come for registration when they are in Class X that too in the month of July & August, and the volumes of applications for registration are so huge that CBSE does not get sufficient time to verify those applications. Moreover, most of these certificates are issued by private doctors and are not issued in accordance with the OM dated 15.01.2018 issued by the Government of India. Due to this reason, last year the applications were rejected by CBSE, and later on they were accepted only after the disability certificates were issued by the medical boards authorized by the Government. He further submitted that the instances of

submission of disability certificates issued by private doctors in Ernakulam district are abnormally high when compared to the rest of the country. The average of such certificates from any district in the country including in other districts of Kerala is approximately 100, whereas from the Ernakulam district, the figure is more than 2000. As such, the probability of fake and fraudulently obtained disability certificates can not be ruled out. Also, the disability certificates are not issued by the medical authority in the prescribed format.

4.3 The Complainant affirmed the statements of the representative of the CBSE. But reiterated the grievances that when the applications were rejected no reasons for rejection were pointed out except asking the applicants to "*Refer to 2018 Gazette*". The Circular issued by CBSE in the year 2020 clearly states that private professionals who are registered with RCI or have a medical license from the medical board can issue the disability certificates, it does not specify that it had to be issued from a government hospital. This was the circular that all the schools had. So when this was rejected at a mass level for every single student, it was chaotic. She agreed that such cases are highest in the Ernakulam district. But, statistically as shown by research, one out of five children would have mild to moderate learning disabilities. The Ernakulam District has many more special educators and inclusive schools than any other district in Kerala. The level of awareness is also higher. So, from preschool onwards, the children are being identified. The fact that CBSE had said that in IXth, you have to apply; and need not apply for X, XI, and XII, is not mentioned with clarity in their said circular. So, Complainant requested that whatever the CBSE's requirements are, they need to come very clearly in their circular. The current SOP clearly mentions that private practitioners can be involved. We have just one government hospital functioning here, which is always packed. The children with disabilities involved in this matter, who are from 14 to 17 years of age, cannot use the certificate for any purpose other than getting scribe/compensatory time and/or dropping/choosing a subject of their choice. On this, the Court observed that allowing underserving students even these facilities can make a huge difference and shall be unfair to other students. The Complainant agreed to this and said that she is only asking for clarity in the circular of the CBSE. She said that the CBSE should answer the five points raised by her in her complaint. The parents need to know whether they have to apply every year after Class IX till Class XII and whether they can go to private professionals or to the government hospital. They can not be left in confusion. She also pointed out that there is money involved in the assessment. While private professionals are charging anywhere between Rs. 2000/- to Rs. 8000/-, the charge in the government hospital is approximately Rs.1000/- So actually the parents are paying double or more for getting an assessment of their wards. The CBSE has all the rights to check the genuineness of the certificates and be skeptical, but they should be sure as to who are they suspecting. Are they suspecting the students or are they suspecting the professionals? If the CBSE suspects the professionals they should take strong action against the professionals and debar such private centers, but the students

can not be made to suffer for no fault of theirs. Let the CBSE issue a list of private centers which are okay for them. The requirement of a certificate only from the sole government hospital is a huge burden. The situation last year was deplorable and this year too it is recurring as no one still has clarity.

5. Observations & Recommendations:

5.1 After hearing both parties, the Court observed that students with Intellectual Disability (ID) and Specific Learning Disability (SLD) who are going to appear in Grade 9 to Grade 12 standards examinations need assessment & certification of their disabilities and timely registration with CBSE with a valid disability certificate for the purpose of availing the benefit of “scribe” and/or “compensatory time” and any other reasonable accommodations for writing their respective examinations. The Gazette certification is for permanent disability certificates and the CBSE one is only for one exam hence they can keep in mind how much of the Gazette needs to be followed without diluting the validity of the report. There is only one government hospital in Ernakulam District of Kerala, therefore, the assessment and certification of disabilities are done by the private practitioners registered with RCI, as per the directions issued by CBSE. However, CBSE rejected the disability certificates on the grounds of them not being issued in accordance with the OM dated 15.01.2018. The Complainant's concern is that CBSE rejected the disability certificates without citing specific reasons which is not helpful to the school and the parent alike. This Court is sensitive towards any scope of misuse or misappropriation of any benefits meant for persons with disabilities. But it is inclined to agree with the contentions of the Complainant for a need to issue a clear, well-thought-out, meaningful, and user-friendly circular without giving cross-referencing and detailing the process of the application, the list of accepted centers, the reasons for rejection and the process of reapplication and timelines for application and re-application. The CBSE should mention the facilities that the assessment report will entitle the students and preferably also clarify what these assessments are not meant for.

5.2 The Court also directed the Respondent to specifically respond to and clarify the 5 points raised by the Complainant as brought out in para 3.2 above. Keeping in view that the academic year has already begun and the process of registration is likely to have commenced, the Respondent are allowed 15 days to issue the circular as discussed here. An Action Taken/Compliance Report be submitted within 15 days.

5.3 The case is disposed of accordingly.

Signed by Rajesh Aggarwal
Date: 07-07-2024 06:56:26

(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE 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

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

Case No. 14378/1022/2023

In the matter of —

Shri Shantanu Bandyopadhyay

Village + PO - Khandinan, Bagnan

Distt - Howrah

West Bengal - 711303

Mobile No - 9474025868

Email-s.bandyopadhyay@sbi.co.in; **...Complainant**

Versus

The Chairman

State Bank of India

State Bank Bhavan

16th Floor Madam Cama Road

Mumbai - 400021

Email - chairman@sbi.co.in

... Respondent

1. Gist of the Complaint:

1.1 Shri Shantanu Bandyopadhyay, a person with 50% locomotor disability filed a complaint dated 13.06.2023 regarding the

cancellation of the transfer.

1.2 He submitted that his present posting Branch is Banitabla. For the last 6 years, he has been carrying out all those allotted jobs in the present branch to his best abilities. He opted out of all the promotion offers from SBI because the promotion might again have led to his transfer. The Branch Manager of the Banitabla Branch handed over to him a letter from the RBO letter no. RBO-1/HOW/HR/68 dated 20/05/2023, on 25 May 2023. Immediately upon receiving the printed copy of this letter he submitted his unwillingness to accept the promotion and transfer to a remote place, as mentioned in the said RBO letter.

1.3 The Complainant further submitted that on 07.06.2023, the bank authority transferred him to a branch that is geographically near to his home address but a small branch and hard posting for his disability. He can't sit continuously due to lower back Spondylitis and a broken lumber vertebra. His right arm is also damaged without allowing normal movement. He is also suffering from a chronic eye disease. He had adapted to the work environment of his old branch SBI, Banitabla. It is difficult to adapt and get accustomed to the nature of work at the Bagnan Branch, i.e. his new place of posting.

1.4 He requested the Respondent to exempt him from routine transfer but no relief was given to him and instead the request was immediately rejected through an email.

2. Submissions made by the Respondent:

2.1 The General Manager Network II. State Bank of India, Kolkata vide letter dated 08.09.2023 filed a reply and submitted inter-alia that both Banitabla Branch and Bagnan Branch, fall within Region I of Howrah Zone.

2.2 Further it is submitted that in the current financial year, there has been an acute shortage of staff in the region due to out-of-cadre

promotions, retirements, and resignations. Therefore, for the smooth operation of the branches and business and other administrative considerations, it was decided to transfer staff complements from surplus to deficit branches. Keeping this objective in mind, the transfer of the Complainant was carried out under extreme administrative exigency and the said transfer was not a routine transfer. The Complainant had already completed more than 6 years at the Banitabla Branch.

2.3 He further submitted that the Complainant was posted at the Banitabla Branch, which is located at a distance of more than 20 km from his residence at Khadinan, Bagnan. Considering the interest of the staff, it was therefore decided to transfer his services to the Bagnan Branch, which is situated only 3 km away from his residence. This decision was taken to facilitate the Complainant and substantially reduce the commutable distance from his residence to the workplace. The Respondent further submitted that the Complainant has been absent from the Bank's duty since 08.06.2023 and is not rendering any services.

2.4 The General Manager Network II, Kolkata in response to this Court's communication dated 23.01.2024 filed a reply vide letter dated 05.03.2024 and submitted that in compliance with the direction given by this Court, the matter was considered afresh by the Appropriate Authority. The Complainant was neither subjected to any routine transfer nor to any far-off places and was not even transferred on promotion. Due to extreme administrative exigencies, he was transferred to Bagnan which is only 3 km from his residence as compared to Banitabla branch which is 20 Kms far from his residence. The administrative exigencies arose due to an acute shortage of staff in the region due to out-of-cadre promotions, retirements, and resignations of staff. The distance of his office from residence is reduced and hence, the transfer is pragmatic and thus, no derogation of any of the provisions cited by the Hon'ble Court. All medical facilities from government and private hospitals are available at Bagnan. Hence, in view of the above, the posting of the Complainant has been retained by the Appropriate Authority at

Bagnan.

3. Submissions made in Rejoinder:

3.1 The Complainant vide email dated 19.09.2023 filed the Rejoinder reiterating his complaint. Further, vide email dated 19.02.2024, the Complainant submitted that the Respondent kept him as a Parking Roll Staff and his salary has been stopped for 7 months. He was asked to attend the Medical Board at Kolkata HQ on 20.02.2024 which is 140 Km away from his residence without providing a transport facility and the same was communicated to him that the Medical Board has been canceled.

4. Hearing :

4.1 A hearing in the matter was conducted on 25.06.2024 (Offline/Online through video conferencing). The following parties/representatives were present during the hearing:

Sl. No.	Name of the Parties/Representatives	Mode of Presence
	From Complainant	
	Shri Shantanu Bandyopadhyay	Online
	From Respondent	
	Shri N.K. Singh, G.M, State Bank of India	Online

4.2 During the hearing, the Complainant submitted that he joined the Respondent Bank as an ex-serviceman on acquiring disability during the Kargil war. He was transferred to the Uluberia Branch in 2016. He is undergoing treatment for a spinal injury in a nearby hospital. His present complaint is against his transfer from the Uluberia Branch. Earlier too, he was transferred from that branch, which was cancelled on the orders of the then CCPD. But now, he has been transferred again to the Bagnan Branch. It will be very difficult for him to travel to his new workplace changing two buses

and also to continue his treatment as there is no hospital near the Bagnan Branch.

4.3 The Respondent submitted that the place to which the Complainant has been posted now comes between his residence and the current place of posting. He must be going to the hospital from his residence only. So this transfer would not have any impact on his treatment. The Respondent further submitted that this was not a routine transfer. The Bank needed a local person at the Bagnan Branch for commercial reasons. Since he belonged to an exempted category, he was not transferred as per the routine policy once in 2018 when he got promoted from the post of Customer Assistant to the post of Senior Assistant and again in 2022 when he had completed his tenure of 5 years in the branch.

4.4 In response to a query from the Court about the time remaining before his superannuation and whether he wishes to continue till such time in the same branch where he has been posted since 2016, the Complainant submitted that he is currently aged 52 years. He also submitted that he doesn't commute to his present place of posting on a daily basis. He is staying in a paying guest facility on most days in order to perform his duties and also to continue with his treatment. He further said that there are other employees of the bank who are allowed to oscillate between two branches nearby for a substantially longer duration than his. If the bank wants to post him out of the current branch, then can post him to another branch in the same vicinity.

4.5 The Respondent Bank submitted that the Bank was not aware that the Complainant was staying at a paying guest facility. It could have taken care of the needs of the Complainant if this fact had been known to them.

5. **Observation and Recommendation :**

5.1 After hearing both the parties, this Court recommended that the Complainant be either retained in the same branch or transferred to any other branch in that sub-division where the

medical facility is available and the Complainant can stay as Paying Guest.

5.2 The Respondent is further directed to submit the Compliance Report of this Order within 03 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 03 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 The Rights of Persons with Disabilities Act, 2016.

5.3 Accordingly, the case is disposed of.

Signed by Rajesh Aggarwal

Date: 30-07-2024 16:44:37

(Rajesh Aggarwal)
Chief Commissioner