



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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Case No. 15350/1024/2024

In the matter of –

Ajay Kumar Singh

... Complainant

Versus

The Chairman & Managing Director
Punjab National Bank

... Respondent

1. Gist of the Complaint:

1.1 Shri Ajay Kumar Singh, a person with Ankylosing Spondylitis, (60% locomotor disability) affecting both hip joints and the spinal cord approached this Court with a grievance related to the denial of petrol allowance. He submitted that he was the only officer at the Punjab National Bank SSI Adityapur, Jamshedpur, Jharkhand, who did not receive a petrol allowance. As per the Bank's policy, an employee who uses his own car or two-wheeler for official purposes is entitled to reimbursement of expenditure incurred on the purchase of petrol up to a determined quantity every month. A driver's licence is a requisite document for claiming reimbursement.

Due to his disability, he did not apply for a driving license. To perform my duties, he either relied on public transport or his own two-wheeler, Bajaj Pulsar 180 registered as JH05AN 8721 which the bank financed him to purchase but for which he had to employ a driver; Mr. Shyam Bihari Goswami, on a monthly salary of 2,000. He requested a special provision for reimbursement of expenses for travel on duty by auto or the Petrol Allowance.

1.2 He further submitted that he consistently sought reimbursement for petrol allowance since his promotion to the officer's grade on 15.07.2013. In response to his grievance registration (DODAF/E/2022/00402 dated 29.06.2022), the General Manager, Shri Sanjeev Kumar Dhupar mentioned that physically disabled employees who own a two-wheeler but don't have a driving license in their name and hire a driver may claim reimbursement for fuel if the vehicle is used for official purposes. He sought for reimbursement of expenses incurred in hiring a driver and fuel costs, starting from July 15, 2013, until his retirement on December 31, 2023,

at the rate of ₹ 9000 per month or the quantity allowed for the petrol limit per month as per his entitlement.

2. Submissions made by the Respondent

2.1 The Deputy General Manager of the Corporate Office, Punjab National Bank, Dwarka, New Delhi, submitted their reply dated 25.06.2024 and stated that the issue was earlier raised by Sh. Ajay Kumar Singh before the CCPD in 2014. The matter had been disposed of by the CCPD through an order dated 23.06.2014, which recommended that "the appropriate authority of the Bank may consider the request of Sh. Ajay Kumar Singh and keep him informed accordingly."

2.2 The matter was reviewed by the authorities at the Head Office, who concluded that the claim for reimbursement of auto fare expenses was not maintainable under the rules. However, they determined that Sh. Ajay Kumar Singh was entitled to a conveyance allowance of ₹400 per month as per HRDD Circular No. 523 dated 27.02.2009, for travel between his residence and workplace, which is being duly paid to him. Additionally, Shri Singh was permitted to claim reimbursement of travel expenses incurred on duty at the end of each month, subject to the prescribed limits under Circular No. 367 dated 02.01.2007. The competent authority was authorized to consider his case on its merits. Accordingly, Shri Ajay Kumar Singh was informed of these decisions via a letter dated 07.11.2014, communicated through the Branch Head.

2.3 The Respondent further cited from the HRD Division Circular No 367 /2007 dated 02.01.2007 (Later incorporated in HRMD Circular 49512020 dated 26.03.2020 post amalgamation of banks) under PNB (OFFICERS) SERVICE REGULATIONS, 1979 - REIMBURSEMENT OF EXPENSES FOR TRAVEL ON DUTY- for officers, which states that:-

"The officers who are maintaining their own car, scooter, motorcycle, and are authorized by the Competent Authority to use the same for official work may claim reimbursement of expenses incurred for travel on bank business on monthly consolidated basis subject to the limit as per Scheme-A (Monetary limit) or Scheme-9 (Petrol/limit). Those officers who do not own a vehicle and claim reimbursement of expenses for travel on duty as monthly consolidated amount would be eligible to opt for monetary/petrol limits after they own a vehicle, subject to the conditions applicable to officers owning vehicles.

However, those officers who own a car but do not possess the driving license in their own name and employ driver may be reimbursed conveyance allowance for using their car for bank's work subject to the condition that the officer car is driven by hired driver. To this end the officer concerned must produce a receipt from the engaged driver for the salary paid along with the conveyance allowance reimbursement claim from the bank."

2.4 The Respondent further submitted that Shri Ajay Kumar Singh owned a two-wheeler, not a car, and did not hold a valid driving license. Therefore, he was ineligible to receive the monthly petrol reimbursement as per the bank's current guidelines outlined in HRD Division Circular No. 367/2007 dated 02.01.2007.

2.5 The Complainant stated that he is unable to drive a vehicle and depends on public transport or a two-wheeler for commuting. However, since the bank does not have a provision to reimburse any other expenses related to routine commuting to and from the bank, the reimbursement of the full auto fare is not justified.

2.6 According to HRMD Circular dated 30.12.2021 (effective from 01.12.2021), "Physically Disabled Employees (PwD Employees) who own a two-wheeler but do not have a driving license in their name and hire a driver, may be eligible to claim fuel reimbursement, provided the vehicle is used for official purposes and is driven by the hired driver."

3. Submission made in Rejoinder:

3.1 The Complainant submitted a rejoinder dated 10.07.2024, stating that the conveyance allowance of Rs. 400/- per month (as per HRDD Circular No. 523 dated 27.02.2009) is applicable to all PwD employees, regardless of their cadre, including sub-staff, clerical, and officers. Additionally, the provisions related to reasonable accommodation in Section 20(2) of the RPwD Act require every government establishment to provide reasonable accommodation for employees with disabilities. This minimal allowance fails to cover the actual expenses incurred, which were necessary for him to perform his official duties. He has consistently sought reimbursement for petrol expenses since his promotion to officer on 15.07.2013.

3.2 The bank's strict adherence to its circulars, without considering the Complainant's specific needs, contradicts the provisions of the RPwD Act. The bank references HRD Division Circular No. 367/2007 (later incorporated into Circular No. 495/2020) as the basis for denying his claim, despite this circular not explicitly excluding situations like his, where a person owns a two-wheeler but cannot drive it due to a disability. PNB relies on this circular, which requires car ownership and a valid driving license for claiming monthly petrol reimbursement, inherently excluding individuals with disabilities who are unable to drive. Although the Complainant owns a two-wheeler, his physical condition prevents him from driving it. The bank's rigid interpretation of Circular No. 367/2007 (dated 02.01.2007), which stipulates vehicle ownership and a driving license, fails to consider the challenges faced by individuals with severe disabilities. By limiting reimbursement to those who own and drive vehicles themselves, the bank's policy discriminates against persons with disabilities who are unable to drive due to their condition, violating Section 3 of the RPwD Act, which prohibits discrimination on the basis of disability.

3.3 The PNB's current policy effectively denies transportation reimbursement to disabled employees who are unable to drive, which is discriminatory and requires alternative solutions for such individuals. Precedents set by the CCPD highlight similar issues. In Case No. 157/1023/11-12 (Smt. Nirupama J. vs. NTPC) and Case No. 126/1028/10-11 (Shri Subhash Chandra vs. Department of Financial Services), both cases were resolved through orders dated 27.02.2012 and 14.01.2013, respectively. In response to the Chief Commissioner for Persons with Disabilities' order on 27.02.2012, NTPC amended its policy on the reimbursement scheme for local travel for official purposes, removing the requirement for employees to use a self-driven vehicle.

3.4 The Complainant further submitted that although HRMD Circular 611/2021, dated 30.12.2021, allows PwD employees who own a two-wheeler but lack a driving license to claim reimbursement, this policy was only implemented toward the end of his service. He has requested that this policy be applied retrospectively in his case, as a matter of fairness and justice.

4. Hearing (I):

4.1 A hearing was conducted on 20.09.2024 in hybrid mode (offline/online through Video Conferencing at Room No. 529, BA III Wing, Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi. The following parties were present during the hearing:

S. No.	Name of the parties/ Representatives	Mode of Presence
Complainant:		
1.	Mr. Ajay Kumar Singh. Complainant	Online
2.	Advocate Rishabh Sharma, For the Complainant	Online
3.	Advocate Mayank Bhargava, For the Complainant	Online
Respondent:		
1.	Mr. Mukesh Kumar Sinha, DGM (HRD), PNB HO	Online
2.	Mr. Sharat Srivastava, AGM (HRD), PNB HO	Online

5

Observations and Recommendations:

5.1 The main issue before this Court is to determine whether the Circular of the Respondent issued on 30.12.2021 should be applied retrospectively in the case of the Complainant from the date of his promotion to the grade of an Officer.

5.2 Upon considering the facts on the records of the case and hearing both the parties, this Court is of the view that the previous policy of providing dispensation to car owners who could not drive but have employed a driver and not extending the same to the two-wheeler owners, was made without considering a circumstance as in this case. It is not very common to employ drivers for two-wheelers, hence the policy took a general approach to the issue but failed to address the specific case of an employee having to hire a driver for his two-wheeler whether on account of his/her disabilities or any other medical grounds.

5.3 For the purpose of reimbursement of expenditure incurred on the purchase of fuel, there can't be any legally tenable intelligible differentia permitting different treatments of owners of cars with those having two-wheelers. This oversight could have been corrected had the Respondent acted on the numerous representations of the Complainant with the desired sensitivity and applied the spirit of their own

policy instead of being a prisoner of the language used in it. The essence of administrative law is in striking a balance between the rule of law and using discretionary powers of the authorities fairly and transparently. The Respondent should have examined the issue in light of the statutory provisions under sections 20 and 21 of the RPWD Act, 2016, which provide for reasonable accommodations and equal opportunities to employees with disabilities. Moreover, the fact that the Respondent finally in the year 2021, extended the reimbursement to employees who own a two-wheeler and had to hire a driver as they could not drive their vehicle, supports the merit in the case of the Complainant.

5.3 This Court, therefore, recommends the Respondent to review their decision in the light of the above observations and redress the grievance of the Complainant by applying the provisions of their Circular dated 30.12.2021 retrospectively from the date he became otherwise entitled to the reimbursement.

5.4 This Court is not inclined to recommend action against the individuals accused. by the Complainant of causing harassment, namely Mr. Deepak Kumar and Mr. Susheel Razak. However, the Respondent is recommended to conduct sensitivity training for all its employees so as to provide them with the skills for communicating with persons with disabilities and dealing with their issues appropriately.

5.5 In terms of Section 76 of the Act, the respondents are directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

5.6 The case is accordingly disposed of.

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities