



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 20892364(011) :

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Case No. 13812/1023/2023

In the matter of—

Complainant:

Shri Eswararao Sirila, Constable (GD)

Versus

Respondent:

The Directorate General

Border Security Force

Block 10, CGO Complex

Lodhi Road, New Delhi- 110003

Email: edpdte@bsf.nic.in

dgbbsf@nic.in

1. Gist of the Complaint:

1.1 Shri Eswararao Sirila, a person with 85% locomotor disability, filed a complaint dated 16.01.2023 regarding harassment. He had submitted that he was an employee of the Border Security Force and working as a Constable.

1.2 He further submitted that he was posted in 91 BN BSF under FTR HQ BSF Kashmir, where he had applied for posting/transfer many times since 2014. He joined Nowgam (J&K) on 22.07.2021 after completing 42 days earned leave and got a fracture of the neck of the femur bone (left) while on duty on 28.08.2021 which was already amputated above knee on 16.09.2012. He was admitted at CH BSF Hospital Kashmir (J&K). He alleged that the fracture was due to

harassment by his superior officers. He was treated at the Govt. Hospital for Bone and Joint Surgery through CH BSF Hospital Srinagar. The Doctor advised him that the old prosthesis could not be fitted due to the fracture. He had submitted an application for medical advance of Prosthesis through CH BSF hospital (Srinagar, J&K) on 27.11.2021. The medical advance bill was returned on 07.07.2022 vide letter dated 09.06.2022 from 91 BN BSF and returned to him on 09.07.2022 by FTR HQ SPL OPS Odisha.

1.3 He further submitted that after his case was heard by this Court on 28.12.2021 in case no. 12863/1022/2021, he was transferred from 91 BN BSF (Nawgam, JK) to FTR HQ (SPL-OPS) Odisha at Bengaluru (Karnataka) on 20.04.2022 and thereafter he reported at FTR HQ BSF (SPL-OPS) OD on 09.06.2022. His treatment started at the Sanjay Gandhi Institute of Trauma and Orthopaedics, Bengaluru, Karnataka for a United Left Neck of Femur Bone Fracture with Implant in situ and he was operated on for CC Screws Removal Done on 24.11.2022 under SAB. As per the FHQ BSF Medical DTE Message dated 23.11.2022, the same bill was returned by FTR HQ BSF (SPL-OPS) OD at Bengaluru, Karnataka on 15.12.2022.

1.5 He was not sanctioned the advance for the fitment of new prosthesis (HT) and the bill was returned on 15.12.2022 and hence, his rights have been denied. He has requested to consider his request on humanitarian grounds.

2. Submissions made by the Respondent:

2.1 No reply was received from the respondent.

3. Hearing (I):

A hearing was conducted on **21.10.2024** in hybrid mode. The following parties were present during the hearing:

SNo.	Name of the parties/ Representatives	Mode of Presence
Complainant:		
1.	Shri Eswararao Sirila	Online

Respondents:		
1.	Mr. Sanjeev Sharma Commandant (BSF)	Online
2.	Shri Madan Singh, Deputy Commandant (BSF, Delhi Headquarters)	Online

4. Submission of the Complainant

4.1 The Complainant stated that he lost his limb in a train accident in 2012, which resulted in 80% disability, occurring eight years after he joined the BSF. Initially, he acquired a prosthetic limb in 2013 from Jaipur, and later, based on a medical advice, obtained a prosthesis from Indolite Pvt. Ltd. in 2014. However, all subsequent repairs and replacements were carried out at government hospitals under the BSF's arrangements.

4.2 The Complainant served in Rajasthan from 2014 to 2021 before being deployed to Nowgam in J & K 2021, despite his 85% disability. He claimed that his repeated requests for a more suitable posting were denied. During his deployment, he was assigned night standing duties, which resulted in a femur neck fracture. He alleged that this fracture occurred due to the deployment and that the injury was inadequately treated. Furthermore, his request for a high-tech prosthetic limb, as recommended by medical professionals, was refused. He was admitted to a government hospital in Srinagar and underwent a surgery on September 1, 2021.

4.3 The Complainant stated that from September 4,

2021, to December 18, 2021, he was admitted to the Srinagar CH BSF Hospital and later got treated at the Government Bone and Joint Hospital for his femur neck fracture. The cold weather caused recurring infections at the fracture area, requiring emergency treatment.

4.4 For advanced treatment, the FSQ Medical team at the BSF hospital referred him to AIIMS Delhi. Then, he was admitted to AIIMS for treatment from December 18, 2021, to June 7, 2022. The Complainant revealed that due to the unavailability of a high-tech prosthetic limb, he underwent three surgeries, two of which were performed in Bangalore and one at AIIMS. Despite these surgeries, the femur neck fracture did not fully heal.

5. Issues with Medical Advances and Accommodation

5.1 The Complainant requested approval for a high-tech prosthesis in 2021, with the lowest quotation being ₹9 lakhs. However, his request was repeatedly returned without any action. Cheaper prosthetic options, such as Endolite and Autobug (costing ₹2.5 to ₹3 lakhs), were deemed unsuitable by doctors at AIIMS Delhi and Sanjay Gandhi Institute in Bangalore due to insufficient strength and functionality for his condition. His request for a medical advance was delayed since 2021, with the denial based on the fact that the injury was not sustained during operational duty. He felt this reasoning was unfair considering his deployment circumstances.

5.2 The Complainant mentioned an incident where he was scolded by Shri D.K. Sharma, IG, B.S.R., for not wearing

proper attire before a medical procedure. He felt this treatment was insensitive, especially after being instructed to undergo medical treatment for his condition. He also highlighted delays in the court of inquiry related to his case, further extending his suffering.

5.3 In 2023, the Complainant filed a case seeking medical advance for high-quality prosthesis and raised concerns that no reasonable accommodations were made for his disability. He also highlighted the additional hardships he faced due to his deployment in inappropriate roles.

5.4 The Complainant reported that he was allotted government accommodation for only 50 days post-retirement while others were provided extended retentions, an apparent act of discriminatory and unfair treatment.

5.5 On 7th February 2023, the Complainant was declared medically unfit by the medical board, leading to his retirement on the grounds of medical unfitness. The Complainant reported a 10-month delay in receiving his pension, and stated that his Pension Payment Order (PPO) was not uploaded to the BSF Portal. Additionally, no justification was provided for the delay in generating the PPO.

5.6 The Complainant also alleged harassment by officers who mishandled his medical requests and delayed his entitlements. He pointed out that Shri Devendra Singh, the Commandant of 91 BN BSF, was absent during the time of his need. The Complainant also named Shri Lakhwinder Singh Barar, the Deputy Commandant, along with Inspector Rameshwarlal and Constable Ashok Kumar, for making

incorrect entries in the General Diary regarding his case. He expressed frustration over the mishandling of his case and the lack of accountability within the 91 Battalion and Frontier Headquarters, calling for an investigation into the conduct of these officers, particularly concerning the mishandling of medical requests and improper documentation. Additionally, the Complainant accused Assistant Commandant Shri K. Devakar Rao of contributing to the delays and harassment, insisting that these officers be held accountable for their wrongful actions during his service and medical review process.

6. Submissions Made by the Respondent

6.1 The Respondent stated that the Complainant joined the Frontier Headquarters (FHQ) in June 2021, after being transferred from the 91 Battalion. He submitted a request for a medical device, specifically a prosthesis. The Respondent stated that the request for the prosthetic limb was denied in 2022 as the injury was not sustained during operational duty. However, the case was reconsidered on humanitarian grounds and it is currently under review. The Respondent submitted that the delay was due to the procedural reasons and not on account of any intentional neglect.

6.2 The Respondent stated that the Complainant's disability pension was approved on 11.09.2024, and the necessary documents were sent to the Pension Accounts Department (PAD). He clarified that the Complainant's deployment to Srinagar followed BSF protocols and denied any intention of harassment.

6.3 The Respondent further clarified that, similar to other

government organizations, the BSF promptly addressed the medical needs and pensionary benefits of senior officers. However, they denied providing special treatment or preferences for officers over regular soldiers, asserting that all cases were handled according to BSF rules. Additionally, the Respondent assured the Court that pending issues are being resolved in line with internal policies and directives from higher authorities.

6. Observations and Recommendations

6.1 This Court observed that paramilitary forces, such as the BSF, have a great tradition of showing sympathy and compassion not only towards their own personnel, but also towards ordinary citizens. This is the reason why Indian security forces are admired and revered by the whole nation. Employees with disabilities are worthy of empathy and compassion from all, particularly from their family and organisation.

6.2 This Court notes that the posting of the Complainant to the state of J & K and being assigned standing duties despite his amputation and 85% disability was not in conformity with the statutory mandate of the RPwD Act and instructions issued by the central government in pursuance thereof. The quick deterioration of his condition after being posted in the valley indicates that the decision lacked sensitivity to disability issues and understanding of the concept of reasonable accommodation under the UNCRPD and the RPwD Act, 2016.

6.3 This Court further observes that the delay in procurement of high-tech prosthetic limb required by the

Complainant as per the recommendation of the doctors could have resulted in further complications in his leg. This Court observed that such delays, especially when it comes to medical devices, are critical to the Complainant's health. The Respondent also could not produce any rule to show that attributability of the injury to government service is an essential condition for allowing re-imbursement of the cost of such high tech prosthetic limbs. The inordinate delay in approving medical advances for prosthesis and in the generation of the PPO is prima facie grossly negligent acts on the part of the Respondent.

6.4 This Court is of the view that all the issues raised by the Complainant including the harassment by individuals, posting to difficult area, denial and discrimination in the matter of retention of government accommodation on retirement, denial of approval for purchase of high tech limb, delay in issue of medical advance, delay in issue of PPO, etc. are required to be investigated in a time bound manner by a board of senior officers to be constituted by the DG, BSF. The Board shall examine whether there was any intentional harassment of the Complainant and if yes, it shall identify the responsible authorities and recommend suitable action against them. The Respondent shall submit the report of the inquiry conducted by the Board of Officers along with an Action Taken Report to this Court within three months from the date of issue of these proceedings. All dues in the forms of arrears of pension or medical re-imbursements shall be released without further delay within a period of one month. The Respondent shall also submit a copy of their Equal Opportunity Policy and details of the Grievance Redressal Officer as mandated under sections 21 and 23 of the RPwD Act within 7 days from the date of issue of these

proceedings.

6.5 The Respondent may note that furnishing of information sought by this Court is not a mere formality but a mandate for the recommended establishment under Section 76 of the RPwD Act and failure to do so is a punishable offence under Section 93 of the Act.

6.6 Accordingly, this case is disposed of.

(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities