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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Case No CCPD/13906/1021/2023

In the matter of:

Shri Bidyadhar Sahoo

....Complainant

Versus

Sr. Divisional Personnel Officer, East Coast Railway.

...Respondent

1. Gist of the Complaint:

1.1 Shri Bidyadhar Sahoo, a person with 45% locomotor disability and currently serving as an Office Superintendent under the Divisional Railway Hospital, East Coast Railway, Khurda Road, has filed a complaint dated 20.02.2023 seeking relief under Sections 3, 20, 21, 23, and 75 of the Rights of Persons with Disabilities Act, 2016. The crux of his grievance relates to the alleged wrong fixation of his seniority and promotion. He claims that the Senior Divisional Personnel Officer, ECoRly, Khurda Road, has incorrectly fixed his seniority. He joined as a Junior Clerk on the Direct Recruitment Quota (DRQ) on 20.11.1992 under the physical handicap quota, and the panel was published on 14.01.1992. However, the Khurda Road Division ignored his candidature during the selection for the post of Senior Clerk, i.e., his next promotion. He has requested to fix his seniority according to his DRQ in Sr.

Clerk of his next promotion from his panel.

1.2 He also claims that Chapter III, clause 306 of the Indian Railway Establishment Manual [IREM] for Section A Non-Gazetted has not been implemented in his case. It resulted in injustice to him. According to IREM-306, "Candidates selected for appointment at an earlier selection shall be senior to those selected later, irrespective of the dates of posting, except in the cases covered by paragraph 305 above."

2. Notice issued to the Respondents:

2.1 A Notice dated 22.03.2023 was issued by this Court under Sections 75 and 77 of the RPwD Act, 2016, directing the Respondent to furnish their comments on the complaint and place supporting documents and justifications.

3. Reply filed by the Respondents:

3.1 In response dated 25.05.2023, the respondent submitted that as per para 321 of IREM, Vol-I, their Department publishes the seniority lists of the staff of different departments/cadres/units every year on 1st January, which the staff concerned can view and represent against any anomaly within a period of one year of the publication of the seniority list in terms of the said provision. No case for revision of the seniority list can be entertained beyond the representation period. Further, the seniority that the Complainant has contended against is of 22.02.1993, which is more than 30 years old.

3.2 Also, in terms of para-305 ibid, when the candidate cannot join duty within a reasonable time after receipt of the order of appointment, the appointing authority may determine his seniority by placing him below all the candidates selected at the same examination/selection and even subsequent examination/selection, who have joined within the period before him. It was their say that this paragraph applies on all fours in the instant case. This is for the reason that the Complainant, though he was part of the panel published on 14.01.1992, he joined only on 20.11.1992, i.e. 10 months later.

4. Rejoinder filed by the Complainant:

4.1 In his rejoinder dated 29.09.2023, the Complainant emphasised that the Respondent has submitted all false statements in his reply which he will prove in the final hearing before this Court. He further submitted that he and other candidates with disabilities had already submitted their complaints

before the CCPD in the year 2004 vide complaint no. OR/A/CCD/2004/4631 dated 29.09.2004.

5. Hearing (I)

5.1 A Hearing was held on 04.02.2025. The following were present:

1. Shri Bidyadhar Sahoo **-** (Complainant).

2. Mr. RNA Parida,Senior DPO, East Coast Railway, Khurda Road.- (Respondent)

5.1 At the outset, the Complainant stated that his panel was published on 14.01.1992, in which he was selected as a Junior Clerk in the PwD category. It was his say that he was not given the benefit of the seniority benefits flowing from this appointment at the time of his promotion to the post of Senior Clerk.

5.2 The Respondent submitted that the Complainant had joined many months after his name had figured in the panel dated 14.01.1992. It was their say that they gave seniority benefits to other candidates who joined in the meantime, which was in line with the IREM. Second, they argued that the Complainant’s case was a stale claim. This is because he had raised his grievance 30 years after the challenged action.

5.3 The Complainant stated that he had received his offer of appointment on 21.10.1992 and had joined on 20.11.1992. He therefore argued that there was no delay between his appointment and joining, as was being argued by the Respondent.

6. Observation and Recommendations:

6.1 In his rejoinder, the Complainant admitted that he had already challenged the non-grant of the alleged seniority to him vide a complaint in this Court dated 29.09.2004.

6.2 It is a settled legal position that a party cannot bring a claim that is founded on the same cause of action after a previous claim on that very issue has been filed. The second claim is barred by the doctrine of res judicata.

6.3 On being queried about this issue, the Complainant was unable to

offer any explanation, much less a cogent explanation, as to how the present complaint is maintainable and not hit by the doctrine of res judicata.

6.4 Accordingly, this Court is not inclined to entertain the present complaint and recommends the parties to continue to have an amicable working relationship.

6.5 The case is accordingly disposed of.

Digitally signed by
S Govindaraj
Date: 22-09-2025
12:40:26

(S. Govindraj)
Commissioner for Persons with Disabilities