



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/14596/1021/2023

In the matter of —

Rajendra Kumar Kushwaha

...Complainant

Versus

The Chairman cum Managing Director,
Northern Coalfields Limited

...Respondent

1. Gist of Complaint:

1.1 The Complainant, a person with 100% Visual Impairment (Blindness), filed a complaint dated 25.08.2023 and submitted that Complainant is working as Deputy Manager (Secretarial), Grade E4 at Northern Coalfields Limited, a subsidiary of Coal India Limited.

1.2 Complainant was eligible for promotion based on the seniority list dated 11 September 2019 issued by Coal India. Despite being 8th in the list and nine posts being available, he was excluded from the promotion in the order dated 30 September 2019 issued by the General Manager (Personnel), Coal India.

2. Notice issued to the Respondent:

2.1 A Notice dated 02.11.2023 was issued to the Respondent for forwarding their comments on affidavit on the complaint within 30 days to this Court u/s 75 & 77 of the Rights of Persons with Disabilities Act, 2016.

3. Reply from the Respondent:

3.1 The Respondent submitted its reply dated 24.11.2023 and submitted that Complainant was initially appointed in a non-executive role in 1992 and later promoted to the Executive cadre in 2012. He was eligible for promotion from E3 to E4 grade during DPCs held in 2019 and 2021. However, he was not recommended due to Poor PRIDE ratings in the years under consideration.

3.2 Following a recommendation from the Chief Commissioner for Persons with Disabilities dated 18.08.2021, he was promoted to E4 grade w.e.f. 03.09.2021 based on improved PRIDE ratings. Despite Complainant's promotion, he continues to seek notional seniority from 30.09.2019, claiming parity with batchmates/juniors promoted earlier. His earlier claims regarding non-submission of PRIDE forms due to disability were dismissed in 2018, and a related writ petition 26273 of 2019 is pending before the MP High Court.

4. Rejoinder from the Complainant:

4.1 The Complainant filed his rejoinder dated 26.11.2023 and submitted that due to unavailability of screen reader software, Complainant was unable to submit his Annual Performance Reports (APRs) online for FY 2015-16 and 2016-17, resulting in unfair "Zero" or "Poor" ratings. He requested for notional seniority and promotion from 30.09.2019 to so that his career progression is not unfairly affected.

5. Hearing:

5.1 A hearing in hybrid mode (online/offline) was conducted on 22.04.2025. The following parties/representatives were present during the hearing:

S. No.	Name and Designation of the Attendees	On Behalf of	Mode of attendance
1.	Rajendra Kumar Kushwaha - Complainant	Complainant	Online
2.	Adv. Raghvendra Kumar	Complainant	Online
3.	P.K. Sinha - General Manager, HR, NCL	Respondent	Online

6. Record of Proceedings:

6.1 The Counsel for the Complainant submitted that the grievance relates to non-filling of his PRIDE (Performance Report for Individual Development of Executive) forms for the years 2015-16 and 2016-17, denying him promotion in the years 2019 and 2020. He was finally considered and promoted in 2021.

6.2 The Counsel argued that under the Rights of Persons with Disabilities (RPWD) Act, 2016, the Respondent was obligated to ensure a barrier-free environment and provide reasonable accommodation. Despite the Complainant's otherwise excellent service record, he received poor performance ratings and minimal or no Performance Related Payment (PRP) from 2014-17, primarily due to the lack of a screen reader—a basic and essential tool for visually impaired individuals. This omission hindered his ability to work independently and fill out PRIDE forms, directly impacting his performance evaluation. The screen reader would not have posed an undue burden on the organization and should have been provided as a reasonable accommodation.

6.3 After receiving a screen reader in 2017, the Complainant was able to fill out his PRIDE forms, and his performance improved significantly. Before 2014, his service records were also very good. The only reason his performance appeared poor in the Departmental Promotion Committee (DPC) was the non-submission of the PRIDE forms, which occurred only because there was no screen reader. The Counsel informed the Court that the Complainant was promoted from Deputy Manager to Manager in the secretarial branch in 2021. However, the Respondent failed to provide a barrier-free working environment. The Complainant, therefore, seeks a notional promotion from 2019 onwards, claiming that the delay was caused solely due to the absence of reasonable accommodation.

6.4 The Court inquired as to when the Complainant requested for a screen reader. The Complainant submitted that he had requested a screen reader in 2015 and again in 2016, but it was only provided after his third request in April 2017. The Respondent submitted that the Complainant had earlier filed a complaint before the Chief Commissioner for Persons with Disabilities (CCPD), bearing Case No. 12731/1021/2021, which was disposed of in 2021. It held him to be eligible for promotion, the PRIDE rating for the past three years must be considered. Since the forms for 2015-16 and 2016-17 were not submitted, he was not considered for promotion during that period.

6.5 The Court inquired whether the matter was pending before a High Court in a writ petition. Both parties confirmed that it was. The Court noted

that the notice issued to the Complainant required him to certify that the matter had never been taken up, was not pending, and had not been adjudicated upon by any other court or tribunal. Therefore, it was the duty of the Complainant to inform the CCPD that a matter on the same issue had already been filed before the High Court.

6.6 The Counsel for the Complainant submitted that the matter before the High Court of Madhya Pradesh pertains only to the issue of not being considered for promotion in 2019-20. It is pending and has not been finally adjudicated. In contrast, before the CCPD, the Complainant is raising the issue of denial of reasonable accommodation for earlier years and seeks a notional promotion. He has not sought notional promotion in the High Court matter.

6.7 The Court asked where the Complainant had first raised the issue. The Counsel responded that they approached the High Court first. However, the Complainant now seeks parity through notional promotion from 2019 onwards before the CCPD, which is a separate issue. The Counsel clarified that in the High Court, the Complainant only prayed for a direction to the Departmental Promotion Committee (DPC) to allow him to fill the PRIDE form with the help of a screen reader.

7. Observations and Recommendations

7.1 This Court is of the view that the main grievance, which is the delay in promotion, is the subject matter of the writ petition before the Hon'ble High Court of Madhya Pradesh. The CCPD cannot exercise concurrent jurisdiction over a matter that is sub judice before a constitutional court. The Complainant is free to make the argument of inaccessibility of the APAR and PRIDE systems of the Respondent establishment and the lack of screen readers before the Hon'ble High Court.

7.2 In view of the above, the instant matter before this Court is being disposed of without going into the merit of the case.

(S. Govindaraj)
Commissioner for Persons with Disabilities