



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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In the matters of:

Case No. 14186/1024/2023	K.M. Jeyaprakash	Vs.	1 . The Chairman & Managing Director, Nuclear Power Corporation of India Ltd. (NPCIL), Mumbai
Case No. 14299/1023/2023	Rajtilak Murugaraju		2 . The Site Director, Kudankulam Nuclear Power Project (KKNPP), NPCIL, Tamil Nadu

1. Gist of the Complaints

1.1 The above two complaints were found to involve substantially similar issues relating to attendance/absence treatment and salary deduction during the Covid-19 lockdown/pandemic period in respect of employees with benchmark disability (hearing impairment) working at KKNPP, NPCIL, and were accordingly tagged and heard together.

Case No. 14186/1024/2023 (Shri K.M. Jeyaprakash)

1.2 The Complainant, a 100% hearing-impaired employee of KKNPP, filed a complaint dated 10.05.2023 alleging salary deductions and non-approval/regularisation of attendance/quarantine period during the Covid-19 phases, despite DoPT instructions cited by him exempting PwD employees from attending office during the pandemic (with work-from-home). He also raised a grievance of deductions in 2022 without a show-cause notice and sought (i) regularisation/approval and (ii) repayment of the deducted salary.

Case No. 14299/1023/2023 (Shri Rajtilak Murugaraju)

1.3 The Complainant, a person with 100% hearing impairment, filed a complaint dated 30.06.2023 alleging that for the period 24.03.2020 to 04.06.2020 (Covid-19 lockdown), he was compelled to apply for personal leave; leave was debited, and an amount of ₹35,855/- was deducted from his salary. He prayed for (i) approval/regularisation of the said

period instead of leave; and (ii) repayment of the deducted amount.

2. Notice

2.1 In Case No. 14186/1024/2023, notice dated 19.06.2023 was issued to the Respondent under Sections 75 & 77 of the Rights of Persons with Disabilities Act, 2016, followed by a final reminder dated 21.07.2023 under Rule 38(2) of the Rights of Persons with Disabilities Rules, 2017.

2.2 In Case No. 14299/1023/2023, the Respondent filed a reply pursuant to notice of this Court on the complaint.

3. Gist of Reply

3.1 The Respondent, inter alia, stated that during the pandemic, rosters/shift schedules were drawn for essential services and employees working from home were expected to remain available and attend the office if called in exigency.

3.2 The Respondent's consistent stand is that the Complainants (and another employee, as per their version) left headquarters without prior intimation/permission and were unavailable when called, and therefore their absence was regularised by debiting leave as per extant rules/instructions. The Respondent relied upon the DoPT clarification (referred to by them), stating that employees who proceeded to their hometown without permission during the lockdown may apply for leave due and admissible, and if the reasons are found not genuine, action may be taken as per the rules; however, they stated that they took a lenient view.

3.3 In Case No. 14299/1023/2023, the Respondent also stated that the Complainant later submitted an apology and requested regularisation through leave, which was accepted.

4. Gist of Rejoinders

4.1 The Complainants, in their rejoinders, reiterated that the Respondent did not implement the DoPT/Government instructions granting exemption to PwD employees from attending office during Covid-19, and asserted that they were compelled to attend/return despite constraints and/or were made to suffer deductions/leave debits contrary to the protective instructions.

5. Record of Hearing (08.04.2025)

5.1 The tagged matters were heard through video conference on 08.04.2025. The Complainants were present and were represented by Shri Ranganathan, and the Respondent was represented by its officers, namely Shri Raju Mallaram, Dy. Manager Legal, Ms Jeba Priya, Sr. Mgr, HR and Ms Nidhi, Dy. Mgr. HR.

5.2 During the hearing, the Respondent stated that: (i) for the first phase of COVID, the Complainant was shown as work-from-home and no deduction was made; and (ii) deductions were made for the second phase for specified days, stated to be about 32 days in one case, on the premise of unauthorised absence/leaving headquarters without permission. The Respondent further stated that, based on the DoPT's instructions, they prepared a roster of duties and effected the same w.e.f. 23.03.2020.

5.3 This Court observed that the DoPT instruction specifically on the PwBDs was issued for the first time on 27.03.2020. Hence, the Respondent was not in a position to implement that decision on 23.03.2020. Moreover, the DoPT, through a series of their instructions issued during the pandemic, specifically exempted persons with disabilities from attending office (with work-from-home). The last such instruction was issued by the DoPT on 03.01.2022. The Court raised a pointed query as to what materially changed between 2020 and 2021/2022 to justify calling a PwD employee to the office and/or making deductions on that ground, especially when the organisation is a premier public sector entity.

5.4 The Respondent stated that it would review the matter. Considering the age of the dispute and the nature of the issue, this Court directed the Respondent to review the cases and file its response within seven days, and indicated that, based on the Respondent's submission, further hearing may not be required and final orders would be passed.

6. Observations

6.1 The principal issue common to both cases is whether, during the Covid-19 lockdown/pandemic period, when Government/DoPT instructions provided exemption to PwD employees from attending office with work-from-home, the Respondent could (a) insist on physical reporting/attendance; and/or (b) treat non-attendance as unauthorised absence warranting leave debit and salary deduction.

6.2 At the same time, this Court notes that the Respondent's version includes an allegation of leaving headquarters without permission and non-availability when called for exigency. Such factors, if established, may be relevant for administrative discipline; however, they cannot be applied in a manner that defeats the protective regime specifically crafted for PwD employees during an unprecedented public health emergency, particularly where work-from-home rosters/arrangements existed or could reasonably be provided.

6.3 The Hon'ble Supreme Court has repeatedly emphasised that disability rights must be approached through the lens of substantive equality, dignity, non-discrimination and reasonable accommodation, and that the State instrumentalities must implement enabling measures in a purposive manner rather than by technical or formalistic approaches that erode real access and equality. (*Vikash Kumar v. UPSC* on reasonable accommodation and substantive equality; *Jeeja Ghosh v. Union of India* on dignity and non-discrimination; *Kunal Singh v. Union of India* on the protective character of disability-related service safeguards).

6.4 In the present matters, the record of hearing shows that the Respondent itself acknowledged work-from-home rosters during the pandemic and offered to "review" the deductions/leave treatment. In view thereof, a time-bound correction is warranted to ensure that PwD-related exemptions during COVID are not rendered illusory.

7. Recommendations

7.1 The Respondent is recommended to undertake a speaking review of both tagged cases, confined to the core issue identified during the hearing, namely:

(a) whether the relevant period(s) of non-attendance fell within the operative Covid-19 exemption framework for PwD employees (with work-from-home), and whether the Complainants were rostered/treated as WFH;

(b) whether salary deductions/leave debits were made solely on the ground of non-physical reporting during such exempted period(s); and

(c) What corrective action is required to align the treatment of the Complainants with the applicable Government/DoPT instructions and the principle of reasonable accommodation?

7.2 Upon such review, the Respondent shall, where deductions/leave debits are found inconsistent with the PwD exemption/work-from-home framework:

(a) Regularise the concerned period(s) appropriately (as duty/WFH as applicable under roster/instructions),

(b) Refund/restore the deducted salary/leave with consequential benefits, and

(c) Issue an internal communication to ensure uniform handling of PwD exemption/WFH cases during pandemic instructions so that similarly situated employees are not subjected to inconsistent actions.

7.3 The Respondent shall complete the above exercise and submit an Action Taken Report to this Court, enclosing the speaking review order and calculations, within 90 days of receipt of this Order.

7.4 As an accessibility measure, the Respondent shall also ensure that employees with hearing impairment are provided effective communication support in official interactions/meetings, including availability of sign language interpretation or suitable assistive/alternative communication modes, wherever required, so that "communication gap" concerns, as recorded during the hearing, do not recur.

7.5 In terms of Section 76 of the RPwD Act, 2016, the above recommendations shall be complied with. If any recommendation is not accepted, the Respondent shall furnish a reasoned reply for non-acceptance to this Court within the same timeline. Attention is drawn to the statutory consequences relating to non-compliance and/or withholding of information under sections 78, 89 and 93 of the RPwD Act, 2016.

8. Accordingly, the tagged cases are disposed of in these terms.

(Dr. S. Govindaraj)
Commissioner for Persons with Disabilities