



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/14345/1021/2023

In the matter of:

Shri Gautam Garai

...Complainant

Versus

The Director,

Saha Institute of Nuclear Physics,
1/AF Bidhannagar, Sector-I,
Kolkata - 700064

...Respondent

1. Gist of the complaint

1.1 The present proceedings arise out of complaint dated 14.07.2023 filed by Shri Gautam Garai, Scientist 'G', Saha Institute of Nuclear Physics (SINP), a person with 85% locomotor disability. The Complainant stated that he joined SINP in 1988 and was last promoted to Scientist 'G' in February, 2009. According to him, despite lapse of more than 14 years thereafter, he was not promoted to the next higher grade and was not informed of the reasons for non-promotion despite his representations. He claimed to have made a request to the Director in June, 2021 seeking reasons for not being recommended for promotion to the next higher grade. He asserted that he had made substantial academic and institutional contributions, including publications, guidance to students, and development of software and institutional computer systems, but was still not considered or promoted appropriately.

1.2 He further stated that applicable promotion rules were not

transparently communicated; that his promotion cases were not duly considered in several years; and that the overall process was arbitrary, violative of natural justice, and not compliant with the statutory scheme for persons with disabilities.

1.3 In substance, the Complainant alleged discriminatory treatment on the grounds of disability, lack of response to his representations and lack of a properly constituted grievance redressal mechanism for persons with benchmark disabilities. prior to August, 2023;

2. Issue of notice

2.1 Upon receipt of the complaint, this Court issued notice dated 31.07.2023 to the Respondent under Sections 75 and 77 of the Rights of Persons with Disabilities Act, 2016, calling for comments on affidavit in respect of the complaint concerning denial of reservation in promotion. The notice specifically referred to Sections 3, 21 and 23 of the Act and also directed attention to Sections 20 and 34 read with DoPT O.M. dated 17.05.2022.

3. Gist of the reply of the Respondent

3.1 The Respondent filed its first affidavit reply in August, 2023. The Respondent stated that SINP is an aided autonomous institute under the administrative control of the Department of Atomic Energy, Government of India, and that the institution follows a merit-based promotion policy approved by its Governing Council. It was submitted that promotion from Scientist 'G' to Scientist 'H' is highly selective and limited to scientists with outstanding achievements.

3.2 The Respondent further submitted that the Complainant had been considered during promotion screenings in 2017 and 2019, and again during 2020-22 on the basis of performance, self-assessment reports, APAR gradings and other available inputs, but was not found suitable for further consideration or promotion. It was also stated that the 2023 promotion exercise was yet to take place.

3.3 The Respondent additionally contended that a grievance redressal mechanism already existed in the institution and that, by office order dated 09.08.2023, the Staff Grievance Officer was also designated to act as Grievance Redressal Officer for persons with benchmark disabilities. It

relied upon the office orders annexed to the reply for this purpose.

3.4 So far as reservation in promotion was concerned, the Respondent referred to DoPT O.M. dated 17.05.2022 and, later, in its February, 2024 affidavit, took the stand that reservation in promotion for persons with benchmark disabilities extends only up to the lowest rung of Group 'A', whereas the Complainant, being Senior Scientist 'G'/Level 13A, was above that level; hence, according to the Respondent, the DoPT instructions on reservation in promotion were not applicable to his case.

4. Gist of the rejoinder of the Complainant

4.1 The Complainant filed a detailed rejoinder in September, 2023 disputing the Respondent's stand. He alleged that the Respondent was attempting to justify long-standing irregularities in promotion practices and that the applicable rules and norms were not properly disclosed. He also alleged that his achievements and service record had not been fairly evaluated and that he had not been informed of the results of the alleged consideration of his promotion cases.

4.2 The Complainant specifically contended that the grievance redressal mechanism for persons with benchmark disabilities was not in place in the manner required until after receipt of notice from this Court, and that the office order dated 09.08.2023 itself showed that such specific designation had been made only thereafter.

4.3 He further submitted that the process adopted by the Respondent for promotion was arbitrary, that he was not informed why he was not recommended, and that non-consideration/non-communication over long years, despite his disability and length of service, amounted to denial of equal treatment and fair opportunity. He also questioned the composition and expertise of the promotion-related bodies.

5. Record of hearing

5.1 A hearing was conducted in hybrid mode on 17.04.2025. The following parties/representatives were present:

S. No.	Name and designation of the Attendees	On behalf of	Mode of Attendance
1.	Shri Gautam Garai	Complainant	Online
2.	Shri R Jamal A Nasir- Registrar,	Respondent	Online
3.	Shri Pankaj, Admin Officer III,	Respondent	Online

5.2 During hearing, the Complainant submitted that his last promotion was in 2009 and that, despite becoming due for further promotion after 2014, he received no communication regarding his promotion status until 2017. He stated that repeated requests seeking reasons for non-promotion were not answered and that information was forthcoming only after he approached this Court. He further submitted that in 2021 he was removed from headship and excluded from section projects without explanation.

5.3 The Respondent reiterated that promotion to H-level is highly selective and restricted to scientists with outstanding achievements, and that the Complainant was considered on three occasions but was not found suitable by the Promotion Committee, whose recommendations were approved by the Governing Council. On a query from the Court regarding assessment criteria, the Respondent stated that there were no fixed parameters for "outstanding achievement", as research outputs vary across disciplines, though overall performance and comparative evaluation among eligible candidates were considered. The Respondent also stated that disability was not a factor in the evaluation.

5.4 The Court noted that the Complainant claimed multiple research contributions, whereas the Respondent relied on a Governing Council record of 2019 stating that the Complainant had no Ph.D. guidance and a poor publication record, and further stated that only successful candidates are informed and no communication is sent to those not recommended. The Complainant disputed this and stated that his students were awarded Ph.D. degrees in 2018 and 2024. He also alleged improper constitution of the Promotion Committee owing to absence of disability representation and lack of subject-matter expertise in computer science. The Respondent maintained that the committees were constituted as per norms and that external experts were included wherever required.

6. Observations

6.1 The material on record shows that the Complainant is a person with benchmark disability and that his grievance substantially concerns alleged denial of fair and lawful consideration for promotion, want of transparency in the process, and disability-sensitive compliance by the Respondent establishment.

6.2 It is also evident from the Respondent's own stand that the Complainant's case for promotion was considered on more than one occasion, yet no communication of non-selection appears to have been furnished to him in the ordinary course. During hearing, the Respondent expressly stated that only successful candidates are informed and no communication is sent to those not recommended. Such a practice, especially where an employee has remained in the same grade for a prolonged period and has raised specific grievances, falls short of the standards of fairness and transparency expected from a public establishment, more so where the concerned employee is a person with benchmark disability.

6.3 The Respondent has taken the stand that promotion from Scientist 'G' to Scientist 'H' is "highly selective" and limited to scientists with "outstanding achievements", but at the hearing it also stated that there are no fixed parameters for what constitutes "outstanding achievement". In a matter involving repeated non-selection over a long period, absence of clearly communicated criteria and absence of communication of reasons can give rise to avoidable grievance and perceived arbitrariness.

6.4 As regards institutional compliance under the RPwD framework, the original notice issued by this Court required the Respondent to advert to Sections 3, 21 and 23 of the Act. The record further shows that a specific office order designating the Staff Grievance Officer to also act as Grievance Redressal Officer (GRO) for persons with benchmark disabilities was issued only on 09.08.2023, i.e., after issuance of notice by this Court. This sequence lends substance to the Complainant's grievance that disability-specific grievance redressal arrangements were not clearly operationalized before the proceedings commenced.

6.5 At the same time, this Court also notes that the Complainant has

received 5 promotions in his 21 years of service in 2009. All these promotions are to senior Group A posts. As such, the allegation of institutional or systemic bias against employees with disabilities does not stand the scrutiny.

6.6 Although, the institution of GRO did not exist at the time of filing the Complaint, that grievance now stand resolved.

6.7 There is no reservation in promotion within Gp A posts. This Court is not inclined to intervene in the DPC proceedings, particularly in the absence of any prima facie evidence of any discrimination on the grounds of disabilities or denial of any rights available to the Complainant as a person with disability.

7. Recommendations

7.1 In the facts and circumstances of the case, this Court is of the view that the Respondent has been found wanting in fulfilling its statutory obligations, such as the lack of adequate communication, lack of grievance redressal mechanism, etc. However, no prima facie case is established about any discrimination with the Complainant on account of his disabilities.

7.2 The Respondent is recommended to review its policies with regard to the issues concerning the persons with disabilities, including the accessibility, reasonable accommodation, Equal Opportunity Policy, the appointment of adequate GROs, etc. and align them with the RPwD Act and Rules. The Respondent is also recommended to consider periodic training for sensitization and skill development on the personnel matters concerning the PwDs.

7.3 Upon considering the facts available on the case records and the written and oral submissions of the two parties, this Court concludes that no further intervention is necessary.

7.4 In terms of Section 76 of the Rights of Persons with Disabilities Act, 2016, the Respondent shall consider the above recommendations and submit an Action Taken Report within 90 days. In case of non-acceptance, the Respondent is required to communicate reasons thereof to this Court in accordance with law. Failing to submit an ATR/Reasons for Non-acceptance of recommendation is a punishable offence,

Attention of the concerned authority is also invited to Sections 76, 89 and 93 of the Rights of Persons with Disabilities Act, 2016.

8. Accordingly, the case is disposed of in these terms.

(S. Govindaraj)
Commissioner for Persons with Disabilities