



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. 14729/1022/2023

In the matter of:

Shri Ankit Kumar Gaur

...Complainant

Vs.

Nehru Yuva Kendra Sangathan

...Respondent

1. Gist of complaint

1.1 Shri Ankit Kumar Gaur, a District Youth Officer and a person with 100% visual impairment (blindness), filed a complaint dated 25.12.2023 against the Nehru Yuva Kendra Sangathan (NYKS) for failing to transfer him from Moradabad to his native place in East Delhi despite his completing over five years of service. He alleges that the department ignored his repeated requests and the governing transfer policy, which stipulates eligibility after three years and provides for exemptions for persons with disabilities.

2. Issue of Notice

2.1 The matter was initially taken up with the Respondent vide notice dated 28.12.2023, citing provisions under Sections 3, 21, 23, and 75 of the RPwD Act, 2016. This was followed by a subsequent communication dated 29.01.2024, which detailed the comprehensive legal framework regarding the posting and transfer of employees with disabilities, including Section 20 of the Act, Rule 8 (3) of the RPwD Rules, 2017, and various DoP&T Office Memoranda ensuring reasonable accommodation.

3. Respondent's Reply to the Notice

3.1 The Respondent, vide reply dated 10.05.2024, submitted that the Complainant was appointed as a District Youth Officer on 17.09.2018 and has since been posted at NYK, Moradabad. The Respondent acknowledged the Complainant's request dated 02.09.2023 for a transfer to NYKS Headquarters in New Delhi, which is his home district. However, the Respondent maintained that no vacancies for the post of Assistant Director currently exist at the Headquarters or any field offices in Delhi. It was further submitted that his request has been kept on record to be placed before the transfer committee for future consideration based on administrative requirements and exigencies.

3.2 Following a notice of hearing, the Respondent submitted a communication dated 24.10.2025 stating that the matter has become sub-judice. The Respondent further informed the Court that the Complainant's wife, Smt. Shubhi Bhadauriya, filed a Writ Petition (C No. 9789/2025) before the Hon'ble High Court at Allahabad (Lucknow Bench). This petition was filed by the wife amidst an ongoing matrimonial dispute, wherein she alleged matters related to domestic violence and sought the constitution of a medical board to verify the veracity of the Complainant's 100% blindness certificate. Consequently, the Respondent submitted that the transfer committee could not consider the case favorably at this stage but will do so once the legal proceedings and internal investigations are resolved.

4. Hearing:

4.1 A hearing was conducted in hybrid mode on 27.10.2025, wherein the following parties/representative were present:

Sl No.	Name of the Parties	On Behalf of	Mode of Appearance
1	Shri Ankit Kumar Gaur	Complainant	Online
2	Shri Mohan Singh Shahi, Dy Director	Respondent	Online
3	Shri GS Raghav, Dy. Director (Legal)	Respondent	Online

5. Record of Proceedings

5.1 During the hearing, the Court specifically asked the Respondent to explain the relevance of the aforesaid writ petition and the allegations raised by the Complainant's wife to the present complaint, which concerns the Complainant's transfer request and the obligation of the employer to provide reasonable accommodation under the RPwD Act,

2016.

5.2 The Respondent submitted that the disability certificate of the Complainant had been questioned and that the transfer request was, therefore, not being processed. However, upon a specific query from the Court, the Respondent was unable to show that any formal departmental proceedings, charge-sheet, or inquiry had been initiated against the Complainant in respect of the alleged invalidity of the disability certificate.

5.3 The Court observed during the hearing that a separate complaint made by the Complainant's wife in the context of a matrimonial dispute could not, by itself, justify withholding consideration of the Complainant's transfer request, especially when the Respondent had not initiated any formal action against him. The Court further noted that, if the Respondent genuinely doubted the validity of the disability certificate, it was expected to proceed in accordance with law without keeping the issue in abeyance and simultaneously using it to deny the benefit of reasonable accommodation.

5.4 The Court also sought clarification from the Respondent on whether the Complainant was, in fact, a visually impaired employee presently serving in the organisation. In response, the Respondent did not dispute that the Complainant is visually challenged and has been serving in the organisation on that basis. The Court observed that, unless and until the Respondent takes lawful action and reaches a contrary conclusion in appropriate proceedings, the Complainant continues to be entitled to the protections available to an employee with disability under the RPwD Act, 2016.

5.5 The Court further questioned the Respondent regarding the processing of the Complainant's transfer request and the availability of vacancies. During the hearing, it emerged that vacancies had arisen and that other officers had been accommodated during the relevant period. The Court noted that the Respondent had failed to satisfactorily explain why the Complainant's request had remained pending despite the passage of considerable time and despite the statutory obligation to extend reasonable accommodation to employees with disabilities.

5.6 In the course of hearing, the Court made it clear that the issue relating to the alleged invalidity of the disability certificate and the issue

relating to consideration of the Complainant's transfer request are distinct. The Respondent cannot rely upon an untested allegation, without initiating appropriate proceedings, to indefinitely defer consideration of the Complainant's request for transfer.

6. Observation and Recommendation

6.1 Upon consideration of the complaint, the written replies, and the submissions made during the hearing, the Court finds that there has been an unreasonable delay in considering the transfer request of the Complainant, Shri Ankit Kumar Gaur, a District Youth Officer with 100% visual impairment (blindness). The Complainant has sought transfer from Moradabad to his native place in East Delhi to access family support and care.

6.2 The Respondent initially justified the delay on the ground of non-availability of vacancy. However, during the proceedings it emerged that vacancies had arisen and other officers had been accommodated during the relevant period. The Respondent has not placed any satisfactory reason for not processing the Complainant's request in a timely and fair manner.

6.3 The Court is of the view that the Respondent's reliance on the writ petition filed by the Complainant's wife is misplaced. The said proceedings arise out of a separate matrimonial dispute. More importantly, the Respondent has not shown that it initiated any formal departmental action against the Complainant regarding the alleged invalidity of his disability certificate. In the absence of such action, the Respondent cannot withhold statutory protection and reasonable accommodation available to the Complainant under the RPwD Act, 2016.

6.4 The Court reiterates that the needs of an employee with disability are case-specific and must be addressed through meaningful reasonable accommodation. Section 20(5) of the RPwD Act, 2016, Rule 8(3)(c) of the RPwD Rules, 2017, and the relevant DoP&T instructions require the employer to adopt a sensitive and facilitative approach in matters of posting and transfer of employees with disabilities.

6.5 The failure to take a clear decision on the Complainant's request, while at the same time relying upon an unverified allegation to defer the matter, is arbitrary and contrary to the spirit of the RPwD Act, 2016.

6.6 In view of the above, the Respondent is advised to reconsider the Complainant's grievance with an open mind and in accordance with the statutory mandate of reasonable accommodation under the RPwD Act, 2016, and the applicable government instructions. An Action Taken Report (ATR), in terms of Section 76 of the RPwD Act, 2016, shall be submitted within 90 days from the date of receipt of this Order, failing which this Court may be constrained to proceed further in accordance with law.

7. With the above observations and directions, the case stands disposed of.

(S. Govindaraj)
Commissioner for Persons with Disabilities