



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: 14172/1022/2023

In the Matter of

Shri Abhishek Naulakha

...Complainant

Versus

The Chief Managing Director, Bharat Heavy Electricity Limited

...Respondent

1. Gist of the Complaint

1.1 The Complainant, Shri Abhishek Naulakha, a person with 75% locomotor disability, filed his complaint on 15.05.2023, stating that he is currently employed as a Deputy Manager at BHEL, Bhopal. As per the BHEL Promotion Policy, he along with one of the colleagues were eligible for promotion from E3 to E4 grade. Accordingly, eight individuals, including him, were promoted to the position of Manager (Finance) in E4 grade, effective from 25.06.2022. However, among all those promoted, he was the only one transferred to a different unit, specifically, ISG, Bangalore. He believes this transfer was made with the intent to harass him, considering his disability status. In light of his health condition and on humanitarian grounds, he has requested that the transfer to ISG, Bangalore be revoked

2. Notice Issued

2.1 The matter was taken up with the Respondent vide letter dated 04.07.2023. The representation referenced relevant statutory provisions and government instructions, including but not limited to Sections 20 and 34 of the Rights of Persons with Disabilities Act, along with the Office Memorandum No. 20(10)/99-DPE-GM-Part-2014-FTS-1517 dated 25.02.2015, issued by the Department of Public Enterprises, Ministry of Finance.

3. Respondent's Reply to the Notice

3.1 The Senior Deputy General Manager (HR), BHEL, submitted their reply vide email dated 11.08.2023, stating that the Complainant was promoted and transferred to BHEL, ISG, Bangalore in 2022 under the Inter Unit Job Rotation policy. This transfer was made at the time of promotion in accordance with organizational policy aimed at overall professional development, broader exposure, and to meet business requirements. However, since the Complainant did not assume charge at ISG, Bangalore, his promotion could not be implemented with effect from 25.06.2022. It was further submitted that the Complainant falls within the zone of consideration for promotion again in 2023 and is being evaluated along with all other eligible candidates. The promotion process for the current cycle is presently ongoing.

4. Rejoinder

4.1 The Complainant submitted a rejoinder vide email dated 12.08.2023, reiterating his complaint.

5. Notice of Legal Framework

5.1 A legal framework letter concerning the posting, transfer, and retention of employees with disabilities, as well as caregivers of dependent persons with disabilities, was sent vide email dated 18.01.2024.

6. Further Submissions

6.1 The AGM (HR), through a letter dated 14.02.2024, stated that the Complainant has been promoted to the position of Manager with effect from 25.06.2023 and continues to be posted at BHEL, Bhopal.

6.2 Following the compliance, no further correspondence was received on the matter. Subsequently, the Court sent an email dated 20.05.2025 seeking an update on the status of the case, whether it had been resolved or was still pending. In response, the Complainant vide email dated 24.05.2025 stated that his grievance remains unresolved. He expressed dissatisfaction with the outcome and asserted that his due promotion should be granted with retrospective effect from 2022, which would enable him to be eligible for consideration in the current promotional exercise for the E5 grade.

7. Hearing

7.1. A hearing was conducted on 08.07.2025 in hybrid mode, wherein the following parties/representatives were present:

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Sl. No.	Name of the Parties / Representatives	On Behalf of
1.	Shri Abhishek Naulakha	Complainant
2.	Shri N. Shridhar, Executive Director-HR	Respondent
3.	Ms. Shilpa, Additional General Manager (HR)	Respondent

8. Record of Proceedings

8.1 The Complainant, Shri Abhishek Nalaka, an executive-grade employee at BHEL Bhopal, filed a complaint alleging disability discrimination regarding his promotion from E2 to E3 grade in 2022. He submitted that his promotion was explicitly conditioned upon a mandatory transfer to the Industry Sector Division (ISD) in Bangalore. The Complainant contended that due to severe physical mobility limitations in his left hand and leg requiring extensive plastic surgery, relocating away from his medical and personal support ecosystem in Bhopal was entirely unviable. He argued that conditioning career advancement on an out-of-zone relocation violated statutory disability guidelines and amounted to a constructive denial of promotion.

8.2 The Respondent, represented by the Executive Director (HR) and corporate legal personnel, maintained that the transfer order carried no discriminatory intent and was executed in complete alignment with BHEL's standard Inter-Unit Job Rotation Policy implemented in January 2021. The Respondent submitted that during the 2022 cycle, Shri Nalaka was evaluated uniformly alongside 147 executive candidates, out of whom 80 were promoted, with his name included strictly on merit. The management argued that the transfer to ISD Bangalore was intended to provide vital, well-rounded institutional exposure in thermal power project execution, which is an essential prerequisite for higher managerial responsibilities.

8.3. The Respondent clarified that BHEL rules require all executives to select deployment options and report to their new stations within fifteen (15) days of an order; a failure to report results in the automatic foreclosure or withdrawal of that promotion cycle. Furthermore, the Respondent noted that because the Complainant chose to stay back, he was regularized and successfully promoted in the subsequent 2023 cycle while remaining at the Bhopal unit.

9. Observation and recommendation

9.1 The Court has carefully examined the pleadings, submissions made by both parties and the documents placed on record. It is observed that the Complainant was informed in advance that refusal to accept the transfer on promotion would result in non-grant of the promotional post. The Respondent has submitted that the transfer policy is uniformly applicable to all officers in the executive cadre and is intended to provide exposure to different operational assignments. The records further show that the Complainant was subsequently promoted at his hometown in the following promotion cycle.

9.2 The Court observes that the Rights of Persons with Disabilities Act, 2016 protects persons with disabilities against discrimination and requires employers to provide reasonable accommodation. However, these provisions do not exempt an employee from complying with uniform service conditions or organizational policies, unless such policies are discriminatory or violate the provisions of the Act. In the present case, the Complainant voluntarily declined the transfer associated with his promotion and was aware of the consequences of such refusal. No material has been placed on record to establish that the Respondent denied promotion solely on the ground of the Complainant's disability or treated him differently from similarly placed employees.

9.3 In view of the above, the Court finds that no case of discrimination under the RPwD Act, 2016 is made out in respect of the denial of promotion during the 2022 promotion cycle. Accordingly, no further intervention is called for. However, the Respondent is advised to consider, as far as practicable and subject to administrative requirements, posting or transfer options closer to the Complainant's place of residence while ensuring reasonable accommodation in accordance with the provisions of the RPwD Act, 2016. The Complainant shall be at liberty to approach this Court separately if any specific instance of discrimination or denial of rights under the RPwD Act arises in future.

10. Accordingly, the case is disposed of.

(S. Govindaraj)

Commissioner for Persons with Disabilities