



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: 14226/1022/2023

In the matter of

Complainant

Shri Mukesh Kumar

Vs.

Respondent

1. The Secretary, Railway Board
2. The Divisional Railway Manager, Southern Railway, Salem

1. Gist of the Complaint

1.1 The Complainant, Shri Mukesh Kumar, a person with 60% locomotor disability, submitted a grievance dated 10.06.2023 stating that he is employed in the Electrical Department of Southern Railway and is presently posted in the Salem Division. He submitted that, considering his disability and personal circumstances, he had applied for an inter-railway transfer to his native place on 24.02.2017. The said request was forwarded to the Danapur Division on 01.08.2018 for necessary approval; however, no decision was communicated thereafter. Aggrieved by the prolonged pendency of his transfer request, he approached this Court seeking appropriate relief.

2. Issue of Notice

2.1 The matter was taken up with the Respondents vide notice dated 08.06.2023, calling upon them to furnish their comments in the light of the provisions of Sections 3, 20(3), 21, 23 and 75 of the Rights of Persons with Disabilities Act, 2016, Rule 8(3) of the Rights of Persons with Disabilities Rules, 2017, and DoPT Office Memorandum No. 36035/3/2013-Estt. (Res.) dated 31.03.2014.

3. Respondent's Reply to the Notice

3.1 Respondent No. 2, namely the Divisional Electrical Engineer, Southern Railway, Salem Division, submitted that the Complainant, who was appointed in the year 2005, had applied for an inter-railway one-way transfer to the Danapur Division in 2017. The request was processed in accordance with the Comprehensive Transfer Policy and the applicable Railway Board instructions. The Respondent further submitted that the relevant policy exempts non-gazetted employees with disabilities from the mandatory five-year service requirement for inter-railway transfers. Accordingly, the Complainant's request was approved at their end and forwarded to the Danapur Division on 01.08.2018. However, the transfer could not be finalized as the receiving Division did not issue the requisite No Objection Certificate (NOC).

4. Rejoinder

4.1 The Complainant, vide email dated 27.11.2023, filed his rejoinder reiterating the facts and grievances stated in the complaint and requested expeditious disposal of his long-pending transfer request.

5. Notice containing Legal Framework

5.1 Upon consideration of the material placed on record, this Court issued a further notice dated 09.01.2024, calling upon the Respondents to examine the matter in the light of Article 41 of the Constitution of India, Sections 4, 16, 20(2), 20(5), 21, 24, 27 and 38 of the Rights of Persons with Disabilities Act, 2016, Rule 8(3) of the Rights of Persons with Disabilities Rules, 2017, DoPT Office Memorandum No. 36035/3/2013-Estt. (Res.) dated 31.03.2014, DoPT Office Memorandum No. 42011/3/2014-Estt. (Res.) dated 06.06.2014, DoPT Office Memorandum No. 42011/3/2014-Estt. (RR) dated 08.10.2018, and Ministry of Finance Office Memorandum F. No. 302/33/2/87-SCT(B) dated 15.02.1988, and to submit an Action Taken Report.

6. Respondent's Reply to the Notice :

6.1 In response, the Respondent submitted an Action Taken Report dated 04.06.2024, stating that the Complainant's transfer application remained pending on the online portal of the Danapur Division, where it had been marked for rejection on the ground that it had not been routed through the proper channel. The Respondent further submitted that a reminder had been issued and that the Chief Staff and Welfare Inspector had personally visited the Danapur Division in May 2024 to pursue the matter. However, the receiving Division informed that no vacancy was available to accommodate the Complainant's transfer request.

Accordingly, the Respondent submitted that further action would depend upon acceptance of the request by the receiving Division.

7. Hearing (I)

7.1 A hearing was conducted on 26.06.2025 in hybrid mode wherein the following parties/representatives were present:

Sl. No.	Name of the Parties / Representatives	On Behalf of
1.	Shri Mukesh Kumar	Complainant
2.	Shri Krishna Muthu Rajan, DPO, Salem	Respondent 2

8. Record of Proceedings

8.1 During the hearing, the Complainant reiterated that despite submitting his transfer request in 2017, he had neither received any communication regarding its status nor any final decision from the competent authorities. He further submitted that his request for transfer to the Danapur Division remained unresolved and that his subsequent request for transfer to the Sonpur Division was also pending consideration.

8.2. The representative of Respondent No. 2 submitted that the Complainant's transfer request had initially been forwarded to the Danapur Division in 2018. However, the receiving Division subsequently rejected the proposal in 2024 on the ground that the application had not been routed through the proper channel. Consequently, the Complainant had been advised to submit a fresh application in accordance with the applicable procedure.

8.2 Upon consideration of the submissions made by both parties, this Court noted with concern the absence of any representative from the Railway Board despite being impleaded as Respondent No. 1. Since the dispute pertains to an inter-railway transfer involving more than one Railway Division, the participation of the Railway Board was considered necessary for effective adjudication of the matter. Accordingly, Respondent No. 1 was recommended to file its written response within 15 days addressing the issues raised in the complaint.

9. Hearing (II)

9.1 A hearing was conducted on 06.04.2026 in hybrid mode wherein the

following parties/representatives were present:

Sl. No.	Name of the Parties / Representatives	On Behalf of
1.	Shri Mukesh Kumar	Complainant
2.	Shri Krishna Muthu Rajan, DPO, Salem	Respondent 2

10. Record of Proceedings

10.1 The representative of Respondent No. 2 submitted that the Complainant's earlier request could not be processed as it involved a change of department, which was not permissible under the applicable rules. It was further submitted that, thereafter, the Complainant submitted a fresh application seeking transfer to the Sonpur Division in April 2025, and the same was forwarded through the online portal to the receiving Division during the last week of April 2026 for further necessary action.

10.2 After hearing the parties and examining the material placed on record, this Court again noted the absence of any representative from the Railway Board despite the specific direction issued during the previous hearing. Considering that the grievance relates to an inter-railway transfer involving different Railway Divisions, the Court observed that the participation of the Railway Board was necessary to facilitate an effective resolution of the dispute and to examine whether the Complainant's request warranted expeditious consideration. in the light of the obligation to provide reasonable accommodation under Section 3(5), 20(2) and 20(5) of the Rights of Persons with Disabilities Act, 2016 and DoPT Office Memorandum No. 42011/1/2022-Estt. (Res.-I) dated 08.10.2024. The Respondent was, therefore, recommended to ensure appropriate coordination with the concerned Railway authorities so that the matter could be resolved without further avoidable delay.

11. Observation and Recommendation

11.1 The Court observes that the Complainant, a person with 60% locomotor disability, has been seeking a transfer to his home district for more than nine years, and such delays undermine the mandate of providing a supportive environment for employees with disability. The Court noted that technical issues in shifting from offline to online systems should not result in employees suffering personal hardship for extended periods.

11.2 The Court notes that the Respondent has forwarded the fresh application to

the Sonpur Division and is now awaiting a No Objection Certificate (NOC). The Respondent is advised to actively communicate with the Sonpur Division through formal channels, rather than relying solely on automated portal updates, to verify vacancy status and expedite the process.

11.3 Both parties are recommended to ensure that the transfer process is completed within a strict timeline to prevent further grievances. Further, the Respondents are recommended to complete the process of consideration of the Complainant's transfer request and submit an Action Taken Report in terms of Section 76 of the RPwD Act, 2016 within 90 days from the date of this Order. Failure to comply may constrain this Court to initiate appropriate action.

12. Accordingly, the case is disposed of.

(S. Govindaraj)

Commissioner of Persons with Disabilities