



सत्यमेव जयते
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. 14233/1022/2023

In the matter of:

Complainant

Shri Manto Shah

Versus

Respondents

1. The General Manager, Food Corporation of India, Delhi
2. The Executive Director, Food Corporation of India, Guwahati

1. Gist of the Complaint

1.1 The Complainant, Shri Manto Shah, a person with 65% hearing impairment, submitted a complaint dated 19.06.2023 regarding his transfer from FSD Gossaigaon to FSD Balajan under the Food Corporation of India (FCI). He submitted that the transfer was effected on the basis of the longest-stay criterion under the applicable FCI Transfer Policy Guidelines and that his request dated 16.09.2022 seeking retention/cancellation of the transfer had not been considered.

1.2 The Complainant further submitted that he was facing difficulty in discharging his duties at FSD Balajan on account of the noise generated by the flour mill, which, according to him, had adversely affected his hearing condition. He also

submitted that despite his request dated 01.03.2023 and subsequent reminders, a hearing aid had not been provided to him.

1.3 The Complainant further stated that although his disability status had been recorded in his service records in 2018, the same had not been reflected in the FCI North-East Zonal seniority list. He also submitted that his father, who has 80% quadriplegia and is bedridden, is dependent upon him and that he is the only caregiver available to him. He accordingly requested consideration of his posting/transfer to his native place.

2. Notice issued

2.1 The matter was taken up with the Respondents vide notice dated 04.08.2023. The notice, inter alia, referred to the relevant provisions of the Rights of Persons with Disabilities Act, 2016, including Sections 20 and 34, and the Government instructions relied upon in the matter.

3. Reply to the Notice

3.1 The Respondents submitted that the Complainant had remained posted under the Divisional Office, Kokrajhar since 04.11.2008 and had served at FSD Gossaigaon for more than eleven years in aggregate.

3.2 It was submitted that the Complainant, being a Category-III employee of FCI, was transferred from FSD Gossaigaon to FSD Balajan vide order dated 14.09.2022 after having remained at FSD Gossaigaon for more than five years. He joined at FSD Balajan on 24.09.2022. The Respondents further submitted that both locations fall under the same Divisional Office, Kokrajhar.

3.3 With regard to the hearing aid, the Respondents submitted that the matter was under process and would be dealt with in accordance with the applicable rules. With regard to updating the disability status in the seniority list, it was submitted that the matter was also under process. The Respondents denied any discrimination against the Complainant.

4. Rejoinder

4.1 The Complainant submitted a rejoinder dated 22.08.2023 and reiterated his grievance. He furnished details of certain employees in support of his contention that the FCI transfer policy had not been applied uniformly.

4.2 The Complainant also disputed the posting particulars relied upon by the Respondents and submitted that the posting profile did not correctly reflect his actual place of posting and work allocation.

5. Hearing

5.1 The matter was heard on 13.11.2025 through hybrid mode. The following were present:

Sl. No.	Name	On behalf of	Mode
1.	Shri Manto Shah	Complainant	Online
2.	Shri Raju Gopal, FCI-HO, Guwahati	Respondent No. 2	Online
3.	Shri Rajesh Chaudhary, FCI Delhi	Respondent No. 1	Online

6. Proceedings

6.1 During the hearing, the Respondents submitted that subsequent to filing of the present complaint, the Complainant had been promoted to the officer cadre and had accepted the promotion and joined at his subsequent place of posting in Arunachal Pradesh.

6.2 The Respondents submitted that the officer cadre carries all-India transfer liability and, therefore, the circumstances concerning the Complainant's earlier posting in Assam had undergone a material change during the pendency of the present proceedings.

6.3 The Respondents further submitted that the Complainant had not, prior to the hearing, submitted a formal administrative representation to his present competent

authority seeking relocation/posting back to Assam.

6.4 The Complainant submitted that his present posting in Arunachal Pradesh was causing hardship on account of his hearing impairment and ongoing auditory treatment and requested consideration of his posting nearer to his native place.

6.5 The representative of the Respondents submitted that, upon receipt of a formal representation from the Complainant, his request could be considered by the competent authority on humanitarian and reasonable-accommodation considerations, subject to availability of a suitable post/vacancy and applicable service conditions.

7. Observation and Recommendations

7.1 The Hon'ble Supreme Court in *Ravinder Kumar Dhariwal & Anr. v. Union of India & Ors.*, Civil Appeal No. 6924 of 2021, decided on 17.12.2021, recognised reasonable accommodation as an aspect of substantive equality and observed that the scope of reasonable accommodation under Section 20(2) is not confined to adjustment of duties/posts. The Court specifically observed that, depending upon the circumstances, posting a person with disability at a place closer to home may constitute reasonable accommodation.

7.2 The Hon'ble Delhi High Court in *IRCON International Ltd. v. Bhavneet Singh*, LPA No. 133/2024, decided on 18.07.2024, considered the question of transfer/posting of an employee with disability and held that, although transfer is ordinarily an administrative matter, the employer is required to take into account the provisions of the RPwD Act, the applicable Government instructions and the principles of reasonable accommodation. The Court, inter alia, noted that an employee with disability should ordinarily be exempted from rotational transfer and that, where transfer or promotion is required, preference regarding place of posting should be considered subject to administrative constraints and availability of necessary medical and infrastructural facilities.

7.3 In the present matter, however, it is necessary to distinguish between the Complainant's original grievance and the subsequent circumstances that arose during the pendency of the proceedings. The original complaint related to his transfer from FSD Gossaigaon to FSD Balajan under the applicable FCI transfer policy.

7.4 Subsequently, during the pendency of the complaint, the Complainant was promoted to the officer cadre, accepted the promotion and joined at his subsequent place of posting in Arunachal Pradesh. The Respondents have submitted that the said cadre carries all-India transfer liability. Thus, the factual and service circumstances presently prevailing are materially different from those existing when the original complaint was filed.

7.5 Accordingly, the issue presently requiring consideration is not confined to the validity of the earlier transfer from Gossaigaon to Balajan. The Complainant's present request for posting nearer to his native place is required to be considered independently, having regard to his disability, his stated disability-related difficulties, the requirement of reasonable accommodation under Section 20 of the RPwD Act, 2016, the applicable service conditions/policies and the administrative feasibility of such posting.

7.6 The acceptance of promotion and the consequential transfer liability are relevant service considerations and may be taken into account by the competent authority. However, such circumstances do not, by themselves, dispense with consideration of the statutory obligations relating to non-discrimination and reasonable accommodation under the RPwD Act, 2016.

7.7 In view of the above, the Complainant is advised to submit a formal representation to the competent authority of FCI, through the prescribed channel, setting out his present disability-related difficulties and seeking consideration for a suitable posting nearer to his native place.

7.8 Upon receipt of such representation, the Respondents are recommended to consider the same objectively and in a time-bound manner, keeping in view:

- (i) the provisions of Section 20 of the RPwD Act, 2016;
- (ii) applicable Government instructions/policies relating to posting and transfer of employees with disabilities;
- (iii) the principles of reasonable accommodation recognised in *Ravinder Kumar Dhariwal v. Union of India*;
- (iv) the principles laid down by the Delhi High Court in *IRCON International Ltd. v. Bhavneet Singh*; and
- (v) the availability of a suitable post/vacancy and other genuine administrative requirements.

7.9 The Respondents are further recommended to consider, in accordance with the applicable rules, the pending issues relating to provision of hearing assistance to the Complainant and updation of his disability status in the relevant service records. The concerned authority shall take appropriate action on the recommendations and furnish an Action Taken Report in accordance with Section 76 of the Act.

8. The case is accordingly disposed of.

Digitally signed by
S Govindaraj
Date: 24-09-2026
10:18:03

(S. Govindaraj)

Commissioner for Persons with Disabilities