



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No: 7437/1013/2017

Dated: 09.08.2018

In the matter of:-

Shri Abhishek Mahesh
403, 5/A, Anju Apartments
Rajendra Nagar, Kulupwadi Road
Borivli (East), Mumbai – 400066

Complainant

Versus

Reserve Bank of India
Through the Secretary
16th Floor, Central Office Building
Shahid Bhagat Singh Marg, Mumbai – 400001

Respondent

Date of Hearing: 30.07.2018

Present:

1. Shri Abhishek Mahesh Kandoi - Complainant
2. Shri S.D. Bodalkar, AGM on behalf of Respondent

ORDER

The above named complainant Shri Abhishek Mahesh Kandoi filed a complaint dated 28.05.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act regarding rejected candidature for post of Officers in Group 'B' (General) by RBI.

2. The complainant in his complaint submitted that he had given RBI Grade 'B' examination in September 2016 and got selected for the interview which was scheduled on 04.11.2016 but he got an e-mail from RBI stating that his interview was rejected because he is a cerebral palsy with both arms.

3. The matter was taken up with the respondent vide letter dated 21.09.2017 under Section 75 of the Rights of Persons with Disabilities Act, 2016.

4. In response, General Manager, Reserve Bank of India vide letter dated 15.11.2017 has inter-alia submitted on scrutiny of the documents filed by Shri Abhishek Mahesh at the time of interview for the post of Officer in Gr 'B' (DR) General PY-2016, it was found that he was a case of CP with quadriplegia having 60% permanent physical impairment in relation to his whole body and suffering from Cerebral Palsy – both arms and Both legs. He further submitted that as per the suitability identified by Govt. of India for the post of Gr 'B' (General), OH persons with one arm/one leg/both legs affected are eligible for the above post. Hence, as stated in the advertisement for the above post Shri Kandoi was not eligible to apply for the said post and hence his candidature was rejected and he was intimated accordingly.

5. Complainant vide rejoinder dated 06.02.2018 has inter-alia submitted that he is working in a Public Sector bank in the Front Office facing customers daily since 03 years and he can work on a computer and he has worked on Finance and Bancs 24 software and he does RTGS/NEFT daily and open SB/CA accounts and do everything a PO does in a bank. He further submitted that it is clearly mentioned in the identified list, that the list is only illustrative not exhaustive.
6. After considering the respondent's letter dated 15.11.2017 and complainant's e-mail dated 06.02.2017, it was decided to hold a personal hearing in the matter. Therefore, the case was listed on 30.07.2018.
7. During the hearing, complainant reiterated his earlier written submissions and stated that list of identified job published by Ministry of Social Justice and Empowerment vide notification No. 16 – 15/2010 – DD-III dated 29.07.2018 is only indicative and not exhaustive and the action of RBI of cancelling his interview without even seeing him by making a general assumption is against the principle of natural justice. The representative of the respondent reiterated his earlier written submissions.
8. After hearing both the parties and material available on record, the response of the respondent is found satisfactory as the post in question is not identified for Cerebral Palsy – both arms and both legs as per the Notification No. 16 – 15/2010-DD.III dated 29.07.2013 of Ministry of Social Justice and Empowerment. Therefore, this court is forwarding this matter to Department of Empowerment of Persons with Disabilities (Divyangjan) for their consideration and necessary action. Case is disposed off accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

To,

The Director (DD – III)
Department of Empowerment of Persons with Disabilities (Divyangjan)
Ministry of Social Justice & Empowerment
5th Floor, Block B – I, B – II & B – III
Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi -110003



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दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice and Empowerment

भारत सरकार/Government of India

Case No. 7696/1011/2017

Dated: 28.08.2018

In the matter of:-

Dr. Nitesh Kumar Tripathi

H.No. B – 241, B Block

Sant Nagar Burari, Delhi – 110084

<niteshtripathi85@gmail.com>

Complainant

Versus

Steel Authority of India Ltd

Through the Chairman

Corporate Office

Ispat Bhawan, Lodhi Road, New Delhi – 110003

Respondent

Date of Hearing: 21.08.2018

Present:

1. Dr. Nitesh Kumar Tripathi - Complainant
2. Ms. Sonita Kataria, DGM (P), Bhilai Steel Plant and Shri Pawan Kumar, DGM (P) SAIL on behalf of Respondent.

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi filed an e-mail dated 21.02.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of provisions of Persons with Disabilities Act, 1995 by SAIL.

2. The complainant in his complaint submitted that SAIL has published an advertisement for various posts and the advertisement is not showing exact number of seats reserved for persons with disabilities. He has requested this court to direct the respondent to provide various facilities like full exemption from the payment of application fee, extra time during examination, travel expenses to attend interview along with an escort, disabled friendly environment during the interview and also to conduct the Special Recruitment Drive for filling up the backlog vacancies for persons with disabilities.

3. The matter was taken up with the respondent vide letter dated 19.08.2017 under Section 75 of the RPwD Act, 2016.

4. In response, DGM (P MPS & Rectt), Steel Authority of India vide letter dated 11.08.2017 has submitted that All India level advertisement for various posts of medical discipline was issued vide letter dated 16.02.2017 and posts identified suitable for PwDs with type of disability was clearly mentioned in the said advertisement. He further submitted that the post of Medical Officer has been identified as suitable for OH (OL) candidates and therefore, PwD candidates were eligible to apply and compete alongwith other unreserved candidates.
5. Complainant vide rejoinder dated 03.11.2017 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised in his original complaint and no comments has been provided for the PwD related to the issue of disabled friendly interview and Examination Venue and grant of Travel allowance for the PwD candidates along with the an escort as per the directions of DoP&T.
6. After considering the respondent's letter dated 11.08.2017 and complainant's e-mail dated 03.11.2017, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 21.08.2018.
7. During personal hearing complainant reiterated his written submissions and the representative of the respondent also reiterated his written submissions. After hearing and material available on record, response of the respondent found satisfactory. Case is disposed off with the direction to the respondent to ensure disabled friendly environment to persons with disabilities especially at the time of exam and interview and barrier free facilities be provided in accordance with Rights of Persons with Disabilities Act, 2016.
8. In view of the above, case is closed accordingly.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No. 7704/1011/2017

Dated: 28.08.2018

In the matter of:-

Dr. Nitesh Kumar Tripathi
H.No. B – 241, B Block
Sant Nagar Burari, Delhi – 110084
<niteshtripathi85@gmail.com>

R-11079

Complainant

Versus

Oil and Natural Gas Corporation Ltd
Through the General Manager (IE)
Recruitment
Green Hills, Ground Floor, 'B' Wing
Tel Bhawan, Dehradun – 248003

R-11080

Respondent

Date of Hearing: 21.08.2018

Present:

1. Dr. Nitesh Kumar Tripathi - Complainant
2. Shri Ajay, Manager on behalf of Respondent.

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi filed an e-mail dated 26.02.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non implementation of provisions of Persons with Disabilities Act, 1995 by ONGC.

2. The complainant in his complaint submitted that ONGC has published an advertisement for various posts and the advertisement is not showing exact number of seats reserved for persons with disabilities. He has requested this court to direct the respondent to provide various facilities like full exemption from the payment of application fee, extra time during examination, travel expenses to attend interview along with an escort, disabled friendly environment during the interview and also to conduct the Special Recruitment Drive for filling up the backlog vacancies for persons with disabilities.

3. The matter was taken up with the respondent vide letter dated 23.06.2017 under Section 75 of the RPwD Act, 2016.

4. In response, GM (HR)-Head Corp. R&P ONGC vide letter dated 24.07.2017 has inter-alia submitted that similar issues had been raised by Shri Nitesh Kumar Tripathi earlier in the O/o CCPD and replies to the issues had been submitted by them vide letter dated 12.07.2016. He further submitted that percentage of marks scored by the last PwD candidate called for interview for the post of Medical Officer was 50.67 whereas Dr. Nitesh Tripathi scored 40% marks in the written test and hence was not shortlisted for interview.
5. Complainant vide rejoinder dated 30.10.2017 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised in his original complaint.
6. After considering the respondent's letter dated 24.07.2017 and complainant's e-mail dated 30.10.2017, it was decided to hold a personal hearing in the matter therefore, the case was listed for personal hearing on 21.08.2018.
7. During personal hearing the representative of the respondent has reiterated his written submissions. After hearing and material available on record, response of the respondent found satisfactory.
8. In view of the above, case is closed accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं०: 7373/1014/2017

R-11008

दिनांक: 13.08.2018

श्री विनय कुमार सिंह

द्वारा - जगदीप नारायण राय

मिनी मार्केट, पुनाई चक

पटना - 800023

वादी

बनाम

मानव संसाधन विकास मंत्रालय

द्वारा सचिव

स्कूल शिक्षा और साक्षरता विभाग

शास्त्री भवन, डॉ० राजेन्द्र प्रसाद रोड़

नई दिल्ली - 110001

R-11009

प्रतिवादी सं. 01

केन्द्रीय विद्यालय संगठन मुख्यालय

द्वारा आयुक्त

18, इंस्टीट्यूशनल एरिया

शहीद जीत सिंह मार्ग, नई दिल्ली - 110016

R-11010

प्रतिवादी सं. 02

केन्द्रीय माध्यमिक शिक्षा बोर्ड

द्वारा अध्यक्ष

'शिक्षा केन्द्र', 2, सामुदायिक केन्द्र

प्रीत विहार, दिल्ली - 110092

R-11011

प्रतिवादी सं. 03

नवोदय विद्यालय समिति

द्वारा आयुक्त

बी - 15, इंस्टीट्यूशनल एरिया

सेक्टर 62, नोएडा - 201307

जिला - गौतम बुद्ध नगर, उत्तर प्रदेश।

R-11012

प्रतिवादी सं. 04

सुनवाई की तिथि : 01.08.2018

उपस्थित :

- शिकायतकर्ता - अनुपस्थित
- डॉ. राजीव कुमार, सहायक आयुक्त एवं श्री कृष्ण, अनुभाग अधिकारी, नवोदय विद्यालय समिति, श्री टी. शैक, सहायक आयुक्त, केन्द्रीय विद्यालय संगठन मुख्यालय, श्री संजय कुमार खन्ना, केन्द्रीय माध्यमिक शिक्षा बोर्ड विपक्षी की ओर से

आदेश

उपरोक्त शिकायतकर्ता श्री विनय कुमार सिंह ने विशेष शिक्षक को सामान्य विद्यालयों में टीजीटी/पीजीटी के पद पर नियुक्ति से वंचित रखने से संबंधित शिकायत – पत्र निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. शिकायतकर्ता का अपनी शिकायत में कहना है कि एन.सी.टी.ई. द्वारा अधिसूचना संख्या – 366 दिनांक 12.11.2014 द्वारा ग्रेजुएट+पी.जी.+बी.एड., स्पेशल एजुकेशन (एच.आई./वी.आई./एम.आर./एल.डी.)+सीटेट पेपर – I एवं II पास किये छात्रों/आर.सी.आई. से registered Special Educators को सामान्य स्कूलों/के.वी.एस./जे.एन.वी. इत्यादि संस्थानों में टी.जी.टी एवं पी.जी.टी. के पद पर नियुक्ति प्रक्रिया में शामिल होने से पूरी तरह रोक कर इन सभी छात्रों के साथ भेदभाव बरतते हुए घोर अन्याय किया जा रहा है।

3. मामला अधिनियम की धारा 59 के अन्तर्गत प्रतिवादी से दिनांक 22.02.2017 को मानव संसाधन विकास मंत्रालय, केन्द्रीय विद्यालय संगठन, केन्द्रीय माध्यमिक शिक्षा बोर्ड एवं नवोदय विद्यालय समिति से लिया गया।

4. जवाब में सहायक आयुक्त (प्रशासन), केन्द्रीय विद्यालय संगठन का अपने पत्र दिनांक 14.06.2017 में कहना है कि केन्द्रीय विद्यालय संगठन के सभी कॉडरों के भर्ती नियमों की समीक्षा करते समय नवोदय विद्यालय समिति, शिक्षा निदेशालय दिल्ली, केन्द्रीय लोक निर्माण विभाग और डीओपीटी के मॉडल भर्ती नियमों एवं एन.सी.टी.ई. द्वारा समय समय पर जारी किए गए निर्देशों को भी ध्यान में रखा गया है। आगे कहना है कि वर्तमान भर्ती नियमों के अनुसार पी.आर.टी. पद के लिए बी.एड. और विशेष बी.एड. पात्रता वाले अभ्यर्थी योग्य नहीं हैं। एवं टी.जी.टी. पद के लिए विशेष बी.एड. पात्रता वाले अभ्यर्थी योग्य नहीं हैं।

5. निदेशक, केन्द्रीय माध्यमिक शिक्षा बोर्ड का अपने पत्र दिनांक 17.10.2017 में कहना है कि शिक्षक के पद हेतु नियुक्ति एवं किसी भी प्रकार की छुट या विशेष शिक्षकों की भर्ती का विषय हो तो यह सीटीईटी के अधिकार क्षेत्र में नहीं आता है शिक्षक के पद पर नियुक्ति एवम भर्ती हेतु आवेदकों का चयन पूर्ण रूप से नियोक्ता संस्थान के अधिकार क्षेत्र में आता है साथ ही भर्ती हेतु भर्ती नियमों का निर्धारण भी नियोक्ता संस्थान के अधिकार क्षेत्र में आता है तथा सीटीईटी शाखा का इसमें किसी प्रकार का कोई दखल नहीं होता।

6. प्रार्थी ने अपने प्रति उत्तर में अपनी शिकायत को फिर से दौहराया। प्रतिवादियों (एन.वी.एस., सी.बी.एस.ई. एवं के.वी.एस.) के पत्रों एवं वादी के पत्र के मददेनज़र, दिनांक 01.08.2018 को इस मामले में सुनवाई रखी गई।

7. दिनांक 01.08.2018 के सुनवाई के दौरान प्रार्थी अनुपस्थित रहे। नवोदय विद्यालय समिति की ओर से आए प्रतिनिधियों का कहना था कि शिकायतकर्ता ने नवोदय विद्यालय समिति को पार्टी नहीं बनाया है तथा नवोदय विद्यालय समिति, मानव संसाधन मंत्रालय का एक स्वायत्त संस्थान है तथा भर्ती प्रक्रिया में विकलांगजन के आरक्षण के संबंध में भारत सरकार के नियमों का पूर्णतः पालन करती है। केन्द्रीय माध्यमिक शिक्षा बोर्ड की ओर से आए अभिवक्ता ने शिकायत पत्र एक प्रति मांगी। केन्द्रीय विद्यालय संगठन की ओर से आए प्रतिनिधि ने बताया कि केन्द्रीय विद्यालय संगठन के भर्ती नियम में टीजीटी और पीजीटी के पद के लिए बीएड (जनरल) के बराबर बीएड(विशेष शिक्षा) पर विचार करने के लिए समीक्षा अधीन है।

8. उक्त मुद्दा सुनने के बाद, केस को खारिज किया जाता है चूंकि उक्त सभी संस्थाएं भारत सरकार के नियमों का पालन कर रही है।



(डॉ कमलेश कुमार पाण्डेय)
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No: 9450/1014/2018

Dated: 24.08.2018

In the matter of:-

Shri Ashmit Chaubey

F – 43, Moti Nagar

New Delhi

ashmitchaubey@gmail.com

R-10862

Complainant

Versus

Oil and Natural Gas Corporation Ltd

Through the General Manager (IE)

Green Hills, Ground Floor, 'B' wing

Tel Bhawan, Dehradun – 248003

R-10863

Respondent

Date of Hearing: 06.08.2018

Present:

1. Shri Dhanajaya Kumar Chaube - Complainant
2. Respondent - absent

ORDER

The above named complainant Shri Ashmit Chaubey filed an e-mail dated 23.02.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding recruitment of Executive at E1 level through University Grant Commission – National Eligibility Test – November 2017.

2. The complainant in his complaint submitted that ONGC has released a notification for recruitment of Executive (HR) and some posts are reserved for PwD (VH) persons. He further submitted that in this notification, there is a cut off marks in PG (MBA) for general category was 60% but no concession in marks was given to PwD candidates. He further submitted that all other organizations give relaxation of 5% marks in academic background for persons with disabilities like Bharat Petroleum, Indian Oil, Oil India and Hindustan Petroleum, which is going to be under umbrella of ONGC. Even ONGC's subsidiaries like Mangalore Refinery and Petrochemicals Limited also giving 10% relaxation to disabled persons at the time of recruitment. He further submitted that the cut off marks for Human Resource Executive for PwDs (VH) was 162 in UGC NET and he got more than 180 but still he was not considered just because of ONGC is treating PwD candidates at par with normal candidates.

3. The matter was taken up with the respondent vide this Court's letter dated 12.04.2018 under Section 75 of the RPwD Act, 2016.

4. In response, GM (HR)-Head R&P, ONGC vide letter dated 02.05.2018 has inter-alia submitted that the selection process consists of the two important aspects: (i) Eligibility for the post and (ii) Performance in selection process. As per DOPT OM dated 29.05.1985 "minimum educational standard, whenever prescribed in the recruitment rules, is to be treated as part of the educational qualification". Hence, eligibility criteria such as minimum qualification as prescribed in Recruitment and Promotion Regulations is never relaxed for any category such as SC/ST/OBC and PwD. The qualification prescribed for the post of HR Executive as per ONGC Regulations is "MBA with specialization in Personnel Management/HRD/HRM with minimum 60% marks or Post Graduate degree in Personnel management/IR/Labour Welfare with minimum 60% marks or Minimum 2 years full time Post Graduate Diploma in PM/IR/Labour Welfare with minimum 60% marks. They further submitted that ONGC provides for relaxation in other aspects of the selection process as mentioned: (i) Personal interview: the minimum qualifying marks in personal interview is relaxed by 20% for PwD compared to General category candidates. (ii) Application fee: PwD candidates are exempted to pay application fee in recruitment process. (iii) Maximum Age: 10 years over and above the prescribed maximum age for respective category.

5. Complainant vide rejoinder dated 03.05.2018 has inter-alia submitted that ONGC has provided wrong information to mislead the Court and in the reply of ONGC, they quoted a DOP&T's Circular OM No. 36011/8/84-Estt. (SCT) dated 29.05.1985 but this circular was already withdrawn and superseded by DOP&T's OM. No. 36011/8/84-Estt. (SCT) dated 17.10.1986.

6. After considering the respondent's letter dated 02.05.2018 and complainant's e-mail dated 03.05.2018, it was decided to hold a personal hearing in the matter. Therefore, the case was listed on 06.08.2018.

7. During the hearing, complainant reiterated his earlier written submissions. Respondent was absent, even any intimation has not been received about their inability to attend the hearing despite the fact that the Notice of Hearing was sent on 11.07.2018 by Speed Post. The Court noted with serious concern, the utter disregard shown by the Respondent.

8. The case is disposed off with the direction to the respondent to frame a policy for relaxations of standards for persons with disability (if not done earlier) in accordance with para 22 of the DoP&T's OM dated 29.12.2005.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

014

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं. 5744 / 1022 / 2016

दिनांक: 27.08.2018

के मामले में:-

श्री कर्मबीर

bhardwajkarambir2012@gmail.com

R-10916

-वादी

बनाम

भारतीय निर्यात निरीक्षण परिषद्

(द्वारा : अध्यक्ष)

वाणिज्य एवं उद्योग मंत्रालय

तीसरी मंजिल, एन.डी.वाई.एम.सी.ए.

कल्वरल सेंटर बिल्डिंग

1 जय सिंह मार्ग, नई दिल्ली-110001

R-10917

-प्रतिवादी

सुनवाई की तिथि: 25.07.2018

उपस्थित -

श्री कर्मबीर - वादी की ओर से

श्री राजेश कुमार गुप्ता - वादी की ओर से

श्री आजाद सिंह - वादी की ओर से

श्री कस्तूरी, उपनिदेशक - प्रतिवादी की ओर से

आदेश

श्री कर्मबीर, 58 प्रतिशत अस्थि दिव्यांग ने चैन्नई से दिल्ली स्थानांतरण करवाने से संबंधित शिकायत दिनांक 01.01.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 01.02.2016 द्वारा प्रतिवादी के साथ उठाया गया।

3. उप निदेशक(प्रशासन), भारतीय निर्यात निरीक्षण परिषद् ने अपने पत्र दिनांक 26.02.2016 द्वारा इस न्यायालय को अवगत किया कि:-

- I. श्री कर्मबीर, लिपिक श्रेणी- II की नियुक्ति निनिअ-चेन्नई कार्यालय में कार्यालय के विज्ञापन संख्या 16 की तहत की गई है।
- II. श्री कर्मबीर ने लिपिक श्रेणी- II के पद पर निनि-चेन्नई कार्यालय में दिनांक 28.12.2015 को पदभार ग्रहण किया है और उन्होंने अपने स्थानांतरण की शिकायत न्यायालय मुख्य आयुक्त दिव्यांगजन को दिनांक 01.01.2016 को ही कर दी है।
- III. उपरोक्त कर्मचारी ने निनिप/निनिअ की सभी नियमों एवं शर्तों एवं शर्तों को स्वीकार करते हुए निनिअ-चेन्नई में अपना पदभार ग्रहण किया है।
- IV. पदों की नियुक्ति निर्यात निरीक्षण अभिकरणों में पदों की उपलब्धता के आधार पर ही की जाती है। इनकी नियुक्ति भी निनिअ-चेन्नई कार्यालय में लिपिक- II के पद की उपलब्धता के आधार पर की गई है।

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- v. वर्तमान में दिल्ली में लिपिक-॥ के पद की रिक्ति नहीं हैं जब भी दिल्ली में पद की रिक्ति होगी तो उनके आवेदन पर विचार किया जायेगा ।
- vi. निनिअ-चेन्नई कार्यालय के द्वारा सूचना प्रदान की गई है कि श्री कर्मबीर, लिपिक श्रेणी -॥ दिनांक 25.01.2016 से केवल चार दिन का आकस्मिक अवकाश लेकर अपने मूल निवास स्थान गये थे । उस समय से अभी तक कार्यालय से अनधिकृत अनुपस्थिति चल रहे हैं । इन्होंने अभी तक निनिअ-चेन्नई कार्यालय में कार्यभार ग्रहण नहीं किया है ।

4. वादी ने अपने रिज्वाइन्डर दिनांक 18.09.2017 में उल्लेख किया कि उन्होंने निर्यात निरीक्षण अभिकरण चैन्नई में 28.12.2016 को लिपिक -॥ के पद पर कार्यभार ग्रहण किया था । वह इस पद पर दिव्यांग श्रेणी में शामिल हुए थे लेकिन दिव्यांग होने का उन्हें कोई भी लाभ नहीं मिला चूंकि उनकी सर्विस रिकार्ड में उन्हें न तो दिव्यांग दिखाया गया और न ही दिव्यांग को सैलरी में बेनिफिट मिलते हैं । उक्त सम्बन्ध में उन्होंने कई बार उच्च अधिकारियों से शिकायत की लेकिन किसी ने कुछ नहीं सुना । चैन्नई में रहते हुए विभाग की तरफ से कोई भी रहने का स्थान की सुविधा नहीं दी गई और जहाँ पर उनके विभाग का कार्यालय था वहाँ पर होटल ही होटल थे उनमें किराया बहुत ज्यादा था । इस वजह से उन्हें घर लेने में काफी समस्या हुई लेकिन उन्हें कार्यालय से दूर एक घर ले लिया । वहाँ से उन्हें रेलगाड़ी से सफर करना पड़ता था इस वजह से उन्हें प्लेटफार्म पर लगी सीढ़ियों की उँचाई ज्यादा होने के कारण काफी परेशानी होती थी । दो बार तो भीड़ में सीढ़ियों से गिर जाने के कारण काफी चोटे आई लेकिन उन्हें फिर भी हिम्मत नहीं हारी वह अपनी नौकरी करता रहा । वहाँ पर वह बिल्कुल अनजान था न तो उन्हें वहाँ की भाषा समझ आती थी और न वहाँ का खाना उन्हें अच्छा लगता था । खाना न खाने के कारण भी उनके शरीर में काफी कमजोरी आ गई । उनकी बिमार होने की स्थिति में कोई भी उनकी सहायता करने वाला नहीं था । न ही उनके पास इतना पैसा था कि वह वहाँ पर अपना ईलाज करवा सकें । दिनांक 25.01.2016 को अपनी तबियत खराब होने के कारण तथा उनकी माँ की हालत गंभीर होने के कारण, आकस्मिक छुट्टी लेकर घर आया था लेकिन स्वास्थ्य खराब होने के कारण कुछ महीनों के लिए नहीं जा पाया था क्योंकि उनकी स्पाईन्ल तथा पैर में काफी दिक्कत हो रही थी तथा चलने-फिरने में अक्षम था । इसलिए बाद में 20.06.2016 को उन्होंने दुबारा अपना पद ग्रहण कर लिया था । लेकिन दुबारा कुछ दिन बाद उनके शरीर में वहीं दिक्कतें शुरू हो गई और एक रात उन्हें काफी तेज बुखार, उल्टी तथा उनके पैर में इतना तेज दर्द शुरू हुआ कि घरवालों से बातें करके वह दुबारा घर लौट आया उन्होंने दिल्ली मुख्यालय में जाकर भी प्रार्थना की थी कि निदेशक उन्हें कुछ महीनों के लिए अस्थायी रूप से यहाँ दिल्ली बुला लीजिए मना कर दिया और कहा कि बेशक नौकरी छोड़ दो लेकिन बदली नहीं होगी । इस बात का उनके दिमाग पर गहरा धक्का लगा और उनका स्वास्थ्य खराब होने के कारण उन्हें छुट्टी करनी पड़ी । बाद में मेडिकल जमा करके दिनांक 20.06.2016 को दुबारा ज्वाइन कर लिया था उसके कुछ दिन बाद स्वास्थ्य खराब होने के कारण दुबारा घर आना पड़ा लेकिन मेडिकल पत्र लेकर वह दुबारा कार्यालय गये तो उन्हें कहा गया कि वह रिज्वाइन कर चुके हैं । दिमागी रूप से बीमार

होने के कारण उन्हें कुछ याद नहीं है कि उन्होंने कब पत्र लिखा । लेकिन विभाग की तरफ से उन्हें ज्वाइन करायेगे या नहीं इस बारे में उन्हें कोई भी सूचना नहीं दी गई।

5. उप निदेशक(गैर तकनीकी), निर्यात निरीक्षण परिषद् ने वादी के रिज्वाइन्डर पर पत्र दिनांक 26.04.2018 द्वारा अपने पूर्व जवाब के अतिरिक्त सूचित किया कि निर्यात निरीक्षण अभिकरण चेन्नई नियुक्ति होने के कुछ दिन बाद से ही वह अपने इस्तीफा देने तक अनधिकृत अनुपस्थिति पर चल रहे थे । सक्षम अधिकारी के विचार के लिए निर्यात निरीक्षण अभिकरण चेन्नई ने अपने पत्र दिनांक 26.07.2016 द्वारा श्री कर्मबीर का इस्तीफा और उनका सर्तकता अनुमति भी प्रेषित किया । निर्यात निरीक्षण अभिकरण चेन्नई के पत्र की प्राप्ति के पश्चात् उचित कार्यवाही कर, सक्षम प्राधिकारी द्वारा उनका इस्तीफा इस कार्यालय पत्र दिनांक 05.08.2016 के माध्यम से स्वीकार किया गया और इसकी सूचना संयुक्त निदेशक, निर्यात निरीक्षण अभिकरण चेन्नई को भी दी गई । इसके अलावा श्री कर्मबीर ने फरवरी 2018 में इसी विषय पर प्रशासनिक मंत्रालय को शिकायत दर्ज किया, जिसका भी उपरोक्त तथ्यों के साथ इस कार्यालय द्वारा जवाब दिया गया था ।

6. दोनों पक्षों के उत्तर प्राप्त होने के उपरान्त मामले में एक व्यक्तिगत सुनवाई दिनांक 25.07.2018 के लिए निर्धारित की गयी ।

7. सुनवाई के दौरान वादी ने अपने लिखित ब्यान को दोहराते हुए कहा कि उन्हें चैनई में नौकरी करने में काफी कठिनाईयों का सामना करना पड़ रहा था जिसके कारण वह मानसिक रूप से क्षुब्ध होकर गलती से नौकरी से त्यागपत्र दे चुके हैं जबकि कार्यालय द्वारा उनसे एक बार भी लिखित रूप में नौकरी ज्वाइन करने के लिए अनुरोध नहीं किया ।

8. प्रतिवादी के प्रतिनिधि ने सुनवाई के दौरान कहा कि वादी ने विभाग में कार्यभार ग्रहण करते समय कार्यालय की सभी नियम एवं शर्तों को स्वीकार किया था लेकिन कुछ दिन बाद ही उन्होंने विभिन्न विभागों को शिकायत करना शुरू कर दिया । वादी ने दो बार अपना त्यागपत्र दिया जिसे कार्यालय द्वारा स्वीकार कर वादी को रिलिव कर दिया गया । वादी ने एक माह का वेतन भी स्वीकार कर लिया ।

9. चूंकि वादी ने स्वयं अपनी सेवा से त्यागपत्र दिया है, मामले में अधिनियम के किसी प्रावधान का कोई उल्लंघन प्रतीत नहीं होता है, अतः मामले को बिना किसी निर्देश के यहीं बन्द किया जाता है।

(डा. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

Extr

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

वाद संख्या 7774/1033/2017

दिनांक

20.08.2018

श्री जाहिद अली पुत्र इशाक खाँ
ग्राम-मुहम्मदी नगला, त्योर बुजुर्ग,
पोस्ट-छतारी जनपद, बुलन्दशहर-20239

.... शिकायतकर्ता

बनाम

अलीगढ़ मुस्लिम विश्वविद्यालय,
(द्वारा रजिस्ट्रार)
अलीगढ़-202002 (उत्तर प्रदेश)

.... प्रतिवादी

सुनवाई की तिथि - 09.01.2018 और 02.05.2018

उपस्थित -

दिनांक -09.01.2018

- 1- श्री जाहिद अली, शिकायतकर्ता
- 2- श्री सलमान सिद्दीकी, सहायक प्रवेश नियंत्रक और श्री जुवैर क़ाज़ी, अनुभाग अधिकारी प्रतिवादी पक्ष की ओर से

दिनांक - 02.05.2018

- 1- श्री जाहिद अली, शिकायतकर्ता
- 2- श्री ग़नीम इरशाद, सहायक (प्रशा.); और श्री साकिब हुसैन, वरीष्ठ लिपिक प्रतिवादी की ओर से

आदेश

शिकायतकर्ता, 75 प्रतिशत अस्थिबाधित दिव्यांग ने स्नातक से पी.एच.डी./एम.फिल. के प्रवेश में दिव्यांग छात्रों को अंकों में 5 प्रतिशत की छूट देने तथा आयु सीमा हटाने से सम्बन्धित शिकायत दिनांक 01.02.2017 निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. शिकायतकर्ता का कहना था कि अलीगढ़ मुस्लिम विश्वविद्यालय (प्रतिवादी) द्वारा विकलांग छात्रों को स्नातक से पी.एच.डी./एम.फिल. के प्रवेश हेतु अंकों में कोई छूट नहीं दिया गया है। प्रतिवादी द्वारा विकलांग छात्रों के लिए जो आयु सीमा लगाई गई है वह गलत है क्योंकि विश्वविद्यालय अनुदान आयोग के अधिसूचना संख्या 278 दिनांक 05.05.2016 के द्वारा सामान्य छात्रों के प्रवेश के लिए 55 प्रतिशत तथा विकलांग छात्रों के लिए 50 प्रतिशत अंको का प्रावधान है। शिकायतकर्ता का यह भी कहना था कि दिव्यांग छात्रों को गाँव से शहर तक पहुँच कर पढ़ाई करने में कठिनाइयों का सामना करना पड़ता है, अतः दिव्यांग छात्रों के लिए आयु सीमा हटाई जाए।

3. दिव्यांगजन अधिकार अधिनियम, 2016, जिसको कि इसके आगे 'अधिनियम' कहा जाएगा, की धारा 75 के अन्तर्गत इस न्यायालय के पत्र दिनांक 01.08.2017 द्वारा प्रतिवादी से इस प्रकरण में उनकी टिप्पणी प्रस्तुत करने की सलाह दी गई।

4. प्रतिवादी ने पत्र दिनांक 06.08.2017 के द्वारा शिकायतकर्ता की शिकायत के संदर्भ में निम्नलिखित उत्तर दिए –

- 1) Chapter XXV(C) of the Ordinances (Academic), Doctorate of Philosophy (Ph.D) at point No.2 – Eligibility, sub point No.2.2 provides the following :

“A relaxation of 5% marks from 55% or an equivalent relaxation of grade may be allowed for those belonging to differently abled, or for those who had obtained their Master's degree prior to 19th September 1991. The eligibility marks of 55% (or an equivalent grade in a point scale wherever grading system is followed) and the relaxation of 5% to the categories mentioned above are permissible based only on the qualifying marks without including the grace mark procedures.”

- 2) Further Guide to Admission 2017-18 under the heading, 'Important Information and Rules' at point No.10 provides the following :

“Physically challenged candidates are provided a relaxation in age up to a maximum of five years in admission to courses which prescribe a maximum age limit, except for those courses where such limits are prescribed by statutory/regulatory councils governing such admissions.”

5. प्रतिवादी के उपरोक्त उत्तर पर शिकायतकर्ता ने अपना प्रत्युत्तर प्रस्तुत किया। शिकायतकर्ता का कहना था कि प्रतिवादी ने उत्तर हिन्दी भाषा में नहीं दिया है। शिकायतकर्ता ने यह भी आरोप लगाया कि प्रतिवादी विश्वविद्यालय में वहाँ के कर्मचारियों के बच्चों के लिए कोई आयु सीमा नहीं लगाई गई है जबकि अन्य लोगों के लिए आयु सीमा लगाई गई है। साथ ही यह भी कहा कि प्रतिवादी विश्वविद्यालय अनुदान आयोग द्वारा जारी ऐसा कोई भी प्रपत्र प्रदान करें जिसमें कर्मचारियों के लिए आयु सीमा का कोई प्रावधान नहीं है, अन्यथा प्रतिवादी दिव्यांग छात्रों के प्रवेश के लिए भी आयु सीमा का प्रावधान हटाए।

6. प्रतिवादी के उत्तर तथा शिकायतकर्ता के प्रत्युत्तर पर विचारोपरान्त मामले में दिनांक 09.01.2018 को सुनवाई की तिथि सुनिश्चित की गई।

7. दिनांक 09.01.2018 को सुनवाई के दौरान शिकायतकर्ता ने अपनी शिकायत दोहराई और अनुरोध किया कि विश्वविद्यालय अनुदान आयोग के अधिसूचना संख्या 278 दिनांक 05.05.2016 में सामान्य छात्रों को प्रवेश के लिए 55% तथा दिव्यांग छात्रों के लिए 50% अंकों के प्रावधान को अलीगढ़ मुस्लिम विश्वविद्यालय में लागू कराया जाए और आयु सीमा हटाई जाए।

8. प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने हिन्दी भाषा में उत्तर दिनांक 30.12.2017 प्रस्तुत कर कहा कि दिव्यांग छात्रों के लिए विश्वविद्यालय के नियमावली के अध्याय XXVC के नियम (शैक्षिक) - पी.एच.डी. की उपाधि के लिए, शीर्षक - पात्रता - बिन्दु संख्या 2.22 निम्नलिखित प्रदान करता है –

“5 प्रतिशत की छूट अंक में 55 प्रतिशत से अथवा कोई बराबर छूट ग्रेड में सम्भव है उनके लिए जो कि निःशक्तजन श्रेणी से है या फिर उनके लिए जिन्होंने अपनी मास्टर्स डिग्री 19 सितम्बर 1991 से पहले प्राप्त की है। अंक की पात्रता 55 प्रतिशत या (एक बराबर ग्रेड अंक के पैमाने में जहाँ पर ग्रेडिंग

सिस्टम का पालन होता है) 5 प्रतिशत की छूट उन श्रेणी को अनुमेय है जो की ऊपर बताई गई है और आधारित है केवल अहर्ता अंकों पर बिना ग्रेस अंकों को जोड़े हुए।”

दिव्यांग अभ्यर्थियों के प्रवेश के लिए गाइड 2017-18 में आयु सीमा सम्बन्धित बिन्दु संख्या 10 पर निम्नलिखित प्रावधान है -

“शारीरिक रूप से विकलांग उम्मीदवारों के लिए आयु में 5 साल की छूट दी गई है उन पाठ्यक्रम में जिनमें अधिकतम आयु सीमा है, सिवाय उन पाठ्यक्रम में जहाँ यह सीमा संविधिक/नियामक समिति के द्वारा निर्धारित की जाती है।”

प्रतिवादी के प्रतिनिधि ने आगे कहा कि उपरोक्त प्रावधान एकाडेमिक काउंसिल द्वारा अनुमोदित है। इसके अलावा 3% सीट दिव्यांग छात्रों के लिए आरक्षित है।

9. उपरोक्त के आलोक में प्रतिवादी को सलाह दी गई कि वर्ष 2015-16, 2016-17 तथा 2017-18 में पी.एच.डी. कोर्स में प्रवेश दिए गए दिव्यांग छात्रों की सूची, उनके द्वारा प्राप्त किए गए अंक एवं विश्वविद्यालय द्वारा दी गई छूट का विवरण प्रस्तुत करें। यह भी सुनिश्चित करें कि दिव्यांग छात्रों के लिए दिव्यांगजन अधिकार अधिनियम, 2016 का अनुपालन किया जा रहा है और दिव्यांग छात्रों को सभी सुविधाएँ प्रदान की जा रही है।

10. अगली सुनवाई दिनांक 02.05.2018 को 1500 बजे सुनिश्चित की गई।

11. दिनांक 02.05.2018 को सुनवाई के दौरान शिकायतकर्ता ने पुनः अपनी शिकायत और अनुरोध को दोहराया।

12. प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने अपने उत्तर में प्रतिवादी द्वारा जारी पत्र दिनांक 01.05.2018 और उसके साथ सत्र 2015-16, 2016-17 तथा 2017-18 में दिव्यांग अभ्यर्थियों के नामांकन का विवरण भी प्रस्तुत किया जिसके अनुसार क्रमशः 04 , 03 और 04 दिव्यांग अभ्यर्थियों का नामांकन किया गया। पत्र के अनुसार अलीगढ़ मुस्लिम विश्वविद्यालय में दिव्यांगजन अधिकार अधिनियम, 2016 का पूर्णतः अनुपालन किया जा रहा है। दिव्यांग अभ्यर्थियों के लिए अंकों में 5 प्रतिशत की छूट, 55 प्रतिशत से 50 प्रतिशत, या ग्रेड में उसके समकक्ष छूट देने का प्रावधान होना बताया गया। विभिन्न पाठ्यक्रम में नामांकन हेतु दिव्यांग अभ्यर्थियों के लिए 5 प्रतिशत का आरक्षण का प्रावधान है। पीएचडी कार्यक्रम को पूरा करने के लिए दिव्यांग अभ्यर्थियों को दो वर्ष की छूट दी गई है जबकि सामान्यतः न्यूनतम अवधि तीन वर्ष का है। दिव्यांग अभ्यर्थियों के नामांकन हेतु प्रक्रिया शुल्क और नामांकन शुल्क नहीं लिया जाता है।

13. उपरोक्त के आलोक में प्रतिवादी को यह सलाह दी जाती है कि पीएचडी तथा एम.फिल. दोनों में दिव्यांग अभ्यर्थियों के नामांकन हेतु विश्वविद्यालय अनुदान आयोग द्वारा जारी अधिसूचना संख्या 278 दिनांक 5 मई/जुलाई, 2016 में दिए गए न्यूनतम मानदंड और प्रक्रिया का पालन करें ताकि दिव्यांग अभ्यर्थियों को उत्तीर्णांक में 5 प्रतिशत छूट का लाभ मिल सके।

14. तदनुसार इस मामले को यहीं बन्द किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 8047/1031/2017

R-10907

Dated 20.08.2018

In the matter of:

Pt. Vikas Sharma,
Chairman, MD, Disabled Helpline Foundation,
1520, Shri Chandi Road,
Pilkhuwa-245304, Hapur, (UP)
Email – sharmaptvikas@gmail.com

Smt. Ranita Singh
W/o Shri A.P. Singh,
D-1/1901, Supertech Livingstun,
Crossing Republic, Ghaziabad (UP)

R-10908

.... Complainant(s)

Versus

Central Board of Secondary Education,
[Through: The Secretary]
P.S.-1-2, Institutional Area,
I.P. Extension, Patparganj, Delhi-110092

R-10909

.... Respondent No.1

Principal,
Delhi Public School Ghaziabad,
Site No.3, Meerut Road,
Ghaziabad-201003 (UP)

R-10910

.... Respondent No.2

Date of hearing: 24.05.2018

Present:

1. Smt. Ranita Singh, mother of Kumari Vaibhavi Singh and for complainant
2. Shri Arvind, Assistant Secretary, CBSE, for respondent No.1
3. None appeared for respondent No.2

O R D E R

The above named complainant filed a complaint vide email dated 13.05.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding denial of admission to Class XI of Miss Vaibhavi Singh, a student with 45% locomotor disability (Spastic Palsy in both lower limbs) by Delhi Public School Ghaziabad [respondent No.2]. The complainant alleged that the student had cleared the test but the Principal of the school denied admission in Class XI due to her disability.

2. The matter was taken up with the respondents vide this Court's letter dated 02.06.2017 under Section 75 of the Act for submission of their comments.

3. In the meanwhile, Office of the State Commissioner for Persons with Disabilities (Divyangjan), Govt. of Uttar Pradesh [SCPD UP] vide their letter dated 19.07.2017 forwarded a

Page 1 of 3

copy of the similar complaint filed by the complainant and it was intimated that an inquiry in the matter was got conducted by the District Magistrate and Dy. Commissioner for Persons with Disabilities, District Ghaziabad. The Inquiry Report dated 06.05.2017 concluded that “डी०पी०एस०जी० में दिव्यांग छात्रा के प्रति किन्हीं पूर्वाग्रह से ग्रसित होने के कारण कु० बैभवी सिंह के प्रवेश करने से इंकार कर दिया। दिव्यांग छात्रा को प्रवेश न देकर “डी०पी०एस०जी० की प्रधानाचार्या ने सी०बी०एस०ई० के बायलॉज तथा PWD Act 1995 का घोर उल्लंघन किया है। अतः इन पर कानून और बायलॉज का उल्लंघन करने के लिए समुचित कार्यवाही किया जाना आवश्यक है।”

4. DPS Ghaziabad filed their reply dated nil [received on 03.07.2017] and submitted that the complaint was wrong, incomplete and frivolous information to mislead the Administration. Miss Vaibhavi Singh sought Provisional Admission in Humanities stream but she did not meet the eligibility criteria in mathematics as the candidate secured C2 grade in math. As per laid down criteria, for the eligibility to admission in Humanities Stream, the candidate should have at least a B2 grade in Math. The respondent denied that the school came to know through parent during interview that the candidate is a person with disability and submitted that school had prior knowledge of the candidate's disability when she had filled up the registration form for seeking provisional admission.

5. Since no reply was received from CBSE, a reminder dated 13.11.2017 was issued by this Court to submit comments along with the admission policy framed for the admission in Class XI.

6. In the meanwhile, DPS Ghaziabad filed another reply dated 13.11.2017 on the instruction given by CBSE, RO, Dehradun. DPS Ghaziabad submitted that the child Vaibhavi Singh was studying in a prestigious school of Ghaziabad, ‘Silver Line Prestige School’, which is affiliated to CBSE and continues to study in the same school even in Class XI. CBSE discourage to move to another school in the same region after registration process is complete until and unless there is a valid reason like transfer of the parents/shifting of parent. Further, CBSE gives freedom to all the schools to set their own criteria for the admissions but expects the schools to transparently follow the same criteria for all the students without any discrimination.

7. The complainant filed his rejoinder dated 09.03.2018 wherein Smt. Ranita Singh, the mother Miss Vaibhavi Singh submitted that her daughter met the eligibility criteria of CGPA 7 for admission in Humanities Stream without Mathematics without up gradation or minimum CGPA 7.4 with up gradation as she has got CGPA 8.2. Further, she was shortlisted for counseling. During counseling on 17.04.2017 with parents, when the Principal came to know about the disability of Vaibhavi Singh, her attitude changed and the list which was published on 18.04.2017 did not contain her name. She was denied admission on the ground of disability. The complainant further submitted that when she filed the complaint to the District Magistrate, Ghaziabad and the matter was highlighted, the school changed the criteria of provisional admission from its website in order to justify their plea.

8. The Regional Officer, CBSE Regional Office, Dehradun filed their reply dated 26.03.2018 and intimated their policy for admission in Class XI and submitted that Rule 7.4 of the CBSE Affiliation Bye-laws stipulates that – *Admission to Class XI in a school shall be open to such a student who has:*

- (a) *Obtained minimum Grade D in at least five subjects (excluding the 6th Additional Subject) under scholastic Area A as per the Scheme of Studies and a Qualifying Certificate / Gradesheet cum Certificate of Performance at the Secondary School (Class X) Examination conducted by this Board / Schools affiliated to this Board.*
- (b) *has passed an equivalent examination conducted by any other recognized Board of Secondary Education / Indian University and recognized by this Board as equivalent to its secondary school examination*

CBSE further intimated that DPS Ghaziabad has conducted school-based admission test and prepared a merit list keeping certain criteria and on the basis of performance of the aspiring students, in which the child was unable to put herself in the Merit List. The entire admission process and allocation of stream, wherever applicable, is done at school level at its own discretion and the CBSE has no role in it.

9. Upon considering the facts submitted above, the case was listed for hearing on 24.05.2018 and Notice of Hearing dated 04.05.2018 was issued to the parties.

10. During the hearing on 24.05.2018, the representative of CBSE relied on their reply already filed.

11. Anyone neither appeared for DPS Ghaziabad nor was any communication received from them for non-appearance.

12. Smt. Ranita Singh submitted that her child was shortlisted for admission in Class XI after taking written exam on 10.04.2017 conducted by the School. She was called with her parents for interview on 17.04.2017. During the interview when the Principal heard about her disability she denied her admission saying that the child is not eligible. In addition to that not a single child with disability was given admission in Class XI. She requested for appropriate action against the Principal of DPS Ghaziabad.

13. In the light of the facts submitted in the preceding paragraphs and the documents available on file, this Court is of the view that the Principal, DPS Ghaziabad has denied admission of Miss. Vaibhavi Singh to Class XI (Humanities without Mathematics) despite having secured 8.2 CGPA by the child with disability and thereby violated the provisions of Section 16 of the Rights of Persons with Disabilities Act, 2016. Since the school comes under the administrative control of the Govt. of Uttar Pradesh, a copy of this Order be issued to the State Commissioner for Persons with Disabilities (Divyangjan), Govt. of Uttar Pradesh for taking appropriate action against DPS Ghaziabad as provided in the Act.

14. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No: 8414/1021/2017

Dated : 27.08.2018

Dispatch No.

In the matter of :

Shri Kulwant Singh,
85, Backside of Telephone Exchange,
Patiala Road,
Zirakpur,
Dist. Mohali,
Punjab
Email<aftabsinghkhara7@gmail.com>

.....Complainant

Versus

The Oriental Insurance Company,
(Thru Chairman),
Head Office,
A 25/27, Asaf Ali Road,
New Delhi – 110 002

.....Respondent

Date of Hearing : 22.03.2018, 09.05.2018 and 14.06.2018

Present :

1. Shri Kulwant Singh, Complainant along with Shri Aftab Singh Khara, Advocate.
2. Shri Pawan Kumar, The Oriental Insurance Company Limited, on behalf of Respondent.

ORDER

Shri Aftab Singh Khara, Advocate, had filed a complaint dated 03.07.2017 under the Rights of Persons with Disabilities Act, 2016 regarding denial of promotion to Shri Kulwant Singh, a person with 75% disability on harassment and non-implementation of Rights of Persons with Disabilities Act, 2016 by the Oriental Insurance Company Limited.

2. Shri Aftab Singh Khara, Advocate submitted that Shri Kulwant Singh is a person with 75% disability. He joined as Sub-staff on 12.12.1990 under PH quota in the Oriental Insurance Company, Chandigarh. He was then promoted to the post of Assistant on 29.06.2001 under General Quota. He was not provided with the benefits as per Sec 32 and 33 of the Disability Act. No roster had been maintained by the Regional Offices and no action was taken to work out on the backlog of vacancy and fill up the vacancy. The complainant submitted that Oriental Insurance Company is not following the Rights of Persons with Disabilities Act 2016. The Complainant has prayed this Court to direct his establishment to explain the delay for non compliance of the Rights of Persons with Disabilities Act 2016 and he be given his promotion as per vacancy from the due date.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 19.09.2017;

4. The Deputy General Manager, The Oriental Insurance Company Limited vide his letter no. HO/HR/LEGAL/Misc dated 12.10.2017 had submitted that to be eligible for promotion to the cadre of Senior Assistant, an employee first needs to fulfill the eligibility criteria as per Para 14 of the Promotion Policy for Supervisory, Clerical and Subordinate Staff. He submitted that the reservation under PH quota is provided on horizontal basis and the roster for persons with disability category in each year of Promotional Exercise is being maintained. Accordingly a panel is prepared for each category, i.e. UR, SC and ST categories. Only those candidates who appear in the panel are considered for promotion. As the reservation to candidate with disability is applied on horizontal basis, no separate panel is prepared for them. The candidates belonging to PwD category appearing in panel are picked for promotion, if so required, adjusting them against the vacancies declared for their respective category. He submitted that the complainant did not make his place in the panel of employees to be considered for promotion to the cadre of Senior Assistant till the Promotion Exercise-2016. Thus the provisions of PwD reservation are not attracted for the complainant till date. The Respondent further submitted that the matter was personally clarified to the complainant in the presence of Liaison Officer at Regional Office, Chandigarh where the Office of the Promoting Authority to the cadre of Senior Assistant is situated.

5. The Complainant vide his rejoinder dated 15.11.2017 had submitted that the Respondent had concealed many facts and has given distorted and false reply. He submitted that he was never promoted under PH category. He was promoted as Assistant on 29.06.2001 under General Quota. He submitted that while the Respondent specified that no separate panel is prepared for PwD employees and at para (v) it specified that promotion exercise was being taken for PwD employees. He submitted that the reply given by the Respondent is in casual manner. He further submitted that roster for PwD is not maintained by his department.

6. After considering Respondent's reply dated 12.10.2017 and Complainant's rejoinder dated 15.11.2017, a personal hearing in the matter was scheduled on 22.03.2018.

7. During the hearing the Complainant submitted that he joined as sub-staff on 12.12.1990 under PH quota in the Oriental Insurance Company, Chandigarh. He was promoted to the post of Assistant on 29.06.2001 under General Quota. He was not provided with the benefits as per Section 32 and 33 of the Act. He submitted that no Roster has been maintained by the Regional Offices to prepare 100 point vacancy based Roster and no action was taken to work out on the backlog vacancy and filling up the vacancy. The Complainant submitted that his establishment is not following the Rights of Persons with Disabilities Act, 2016.

8. During the hearing the representative of Respondent reiterated his earlier submissions.
9. The Court directed the Respondent to submit the Reservation Roster of their Bank to this Court since 1996 onwards duly attested by the Liaison Officer within one month from the date of hearing.
10. The next hearing has been scheduled on 09.05.2018 at 3 p.m.
11. During the hearing the Complainant reiterated that he was promoted to the post of Assistant under General quota and not under disability quota whereas he was appointed under PH quota. His disability was not considered while giving promotion. He submitted that his establishment has not maintained any Roster for filling up the vacancies and not following the Rights of Persons with Disabilities Act 2016.
12. During the hearing the representatives of Respondent submitted a signed copy of Reservation Roster being maintained by their establishment.
13. The next hearing has been scheduled on 14.06.2018 at 3 p.m.
14. During the hearing the Complainant submitted that he should have received two promotions, one in 1997 and the other in 2002 against persons with disabilities quota.
15. The Court directed the Respondent that the Complainant should be given promotions as due to him with retrospective effect. His loss should be compensated by promoting him w.e.f. 1997. The Respondent is also advised to ensure that the rights of persons with disabilities are not infringed.
16. The case is disposed off.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं०: 8874 / 1014 / 2017

R-10903

दिनांक: 30.08.2018

श्री धर्मवीर कुमार
काको मोड़, जहानाबाद
बिहार

वादी

बनाम

पश्चिम रेलवे
(द्वारा अध्यक्ष)
श्रेलवे भर्ती सेल, पार्सल डिपो
अली भाई, प्रेमजी रोड, ग्रंट रोड, मुम्बई - 400007

R-10904

प्रतिवादी

सुनवाई की तिथि : 03.05.2018 एवं 07.08.2018

उपस्थित :

- श्री धर्मवीर कुमार - शिकायतकर्ता
- श्री राजेश चौधरी, अध्यक्ष एवं डॉ० टी.सी.शर्मा, ए.सी.एच.डी. विपक्षी की ओर से

आदेश

उपरोक्त शिकायतकर्ता श्री धर्मवीर कुमार ने पश्चिम रेलवे में ग्रुप 'घ' में चयनित होने पर बार-बार मेडिकल में अनफिट कर दिए जाने से संबंधित शिकायत - पत्र the Rights of Persons with Disabilities Act, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपनी शिकायत में कहना है कि जब उनका पहला मेडिकल हुआ तो उसमें उन्हें दोनों आँखों से न दिखाई देने वाला बोलकर अनफिट कर दिया, दूसरे मेडिकल में 2/60 बोलकर एवं तीसरे मेडिकल में 3/60 बोलकर ग्रुप 'घ' के पद पर अनफिट कर दिया। प्रार्थी का आगे कहना है कि उन्होंने एम्स, दिल्ली से भी विकलांगता प्रमाण पत्र बनवाया है जिसमें उनकी विकलांगता 6/60 (75 प्रतिशत) दर्शाया गया है।

3. मामला the Rights of Persons with Disabilities Act, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 11.12.2017 द्वारा प्रतिवादी के साथ उठाया गया।

4. जवाब में अध्यक्ष, रेलवे भर्ती सेवा, पश्चिम रेलवे का अपने पत्र दिनांक 27.12.2017 में कहना है कि रेलवे भर्ती सेल, पश्चिम रेलवे, मुंबई ने रोजगार सूचना सं 2/13 के अंतर्गत कुल 8662 पदों की रिक्तियों हेतु अधिसूचना जारी की थी, जिसमें से

...2...

कुल 107 पद खलासी/हेल्पर कारखाना एवं मण्डल कार्यालय में दृष्टिबाधित/कम दृष्टि के अभ्यर्थियों के आबंटन हेतु आरक्षित है, यह पद रेलवे बोर्ड के दिनांक 27.08.2009 के पत्र के अनुरूप आरक्षित किए गए हैं, अभ्यर्थी श्री धर्मवीर कुमार ने इस अधिसूचना के तहत पी.एच./वी.एच. कोटा में आवेदन किया था, लिखित परीक्षा उत्तीर्ण करने और दस्तावेजों के सत्यापन के बाद उन्हें रेलवे अस्पताल-रतलाम में पी.एच. (वी.एच./लो विजन) में शारीरिक परीक्षण हेतु भेजा गया था, मुख्य चिकित्सा अधिकारी-रतलाम ने दिनांक 16.03.2015 को जारी प्रमाणपत्र सं 557416 द्वारा उन्हें पी.एच. (वी.एच.) एल.वी. में अनफिट घोषित किया, इसकी सूचना उन्हें दिनांक 30.04.2015 के पत्र द्वारा दे दी गई है, उन्हें यह भी सूचित किया गया है कि यदि वे चाहें तो मुख्य चिकित्सा निदेशक को इस निर्णय के विरुद्ध पुनः चिकित्सा परीक्षण हेतु अपील कर सकते हैं। श्री धर्मवीर कुमार की पुनः चिकित्सा परीक्षण हेतु अपील प्राप्त होने के पश्चात् दिनांक 15.09.2015 को जगजीवन राम रेलवे अस्पताल, मुंबई सेंट्रल में पुनः चिकित्सा परीक्षण किया गया, यह चिकित्सा परीक्षण तटस्थ मेडिकल बोर्ड द्वारा किया गया, जिसमें रेलवे से बाहर के दो सरकारी आँख विशेषज्ञ, एक रेलवे के आँख विशेषज्ञ (जिन्होंने पहले जांच नहीं की थी) तथा एक वरिष्ठ रेलवे डॉक्टर थे, पुनः चिकित्सा परीक्षण के बाद श्री धर्मवीर कुमार को पी.एच./वी.एच. (एल.वी.) कैटेगरी में पुनः अयोग्य पाया इसकी सूचना उन्हें इस कार्यालय के दिनांक 05.11.2015 के द्वारा दी गई। विपक्षी का आगे कहना है कि श्री धर्मवीर कुमार ने पहले भी 07 अन्य पीएच/वीएच अभ्यर्थियों के साथ मिलकर केस सं. 5642/1014/2016 द्वारा माननीय न्यायालय मुख्य आयुक्त दिव्यांगजन के समक्ष शिकायत दर्ज की थी दोनों पक्षों की सुनवाई के बाद माननीय न्यायालय ने दिनांक 28.11.2016 द्वारा आदेश दिया कि मामले में एक स्वतंत्र चिकित्सा बोर्ड का गठन किया जाए जिसमें राज्य सरकार द्वारा मनोनीत दो डॉक्टर राज्य सरकार के अस्पतालों के हों और एक डॉक्टर मुख्य चिकित्सा निदेशक, पश्चिम रेलवे द्वारा मनोनीत हो, माननीय न्यायालय के आदेशानुसार पश्चिम रेलवे ने इन 08 अभ्यर्थियों का पुनः चिकित्सा परीक्षण दिनांक 22.02.2017 एवं 01.03.2017 को जगजीवनराम रेलवे अस्पताल, मुंबई सेंट्रल-मुंबई में मेडिकल बोर्ड का गठन किया जिसमें दो डॉक्टर बी.वॉय.एल. नायर अस्पताल से और एक डॉक्टर रेलवे अस्पताल के उपस्थित थे, इन पुनः चिकित्सा परीक्षण में एक महिला अभ्यर्थी अनुपस्थित रही अतः कुल 07 अभ्यर्थियों में से 06 उम्मीदवार पीएच(वीएच/एलवी) में फिट पाए गए एवं एक अभ्यर्थी श्री धर्मवीर कुमार अनफिट हुए।

5. प्रार्थी ने अपने प्रति उत्तर में अपनी शिकायत को फिर से दोहराया है कि उनका तीन बार मेडिकल कराया गया जिसमें पहला मेडिकल में दोनों आँखों से न दिखाई देने वाला दूसरा मेडिकल में 02/60 एवं तीसरा मेडिकल में 03/60 विजन दर्शाया गया है प्रार्थी का आगे कहना है कि उन्होंने एम्स, दिल्ली से सर्टिफिकेट बनवाया है जिसमें उनकी विकलांगता 75 प्रतिशत एवं विजन 6/60 है। प्रतिवादी के पत्र एवं वादी के पत्र के मददेनज़र, दिनांक 03.05.2018 को सुनवाई रखी गई।

6. सुनवाई के दौरान, प्रार्थी ने अपने लिखित कथनों को दोहराया और कहा कि उन्होंने आर.आर.सी., पश्चिम रेलवे, मुम्बई द्वारा आयोजित चतुर्थ वर्ग खलासी/हेल्पर के पद के लिए परीक्षा दी थी, जिसमें वे चयनित हो गए थे। सब कुछ सही होने के बावजूद उन्हें बार-बार मेडिकल में अनफिट कर दिया गया जबकि वे कम दृष्टिबाधित कैटेगरी से संबंधित थे शिकायतकर्ता का कहना था कि उनकी विजन 6/60 से 4/60 है जो कैटेगरी-2 में 75 प्रतिशत विकलांगता की श्रेणी में हैं उन्होंने एआईआईएमएस, नई दिल्ली से जांच करवाने के पश्चात् सर्टिफिकेट बनवाया है और उसमें रेलवे विभाग 75 प्रतिशत विजन मांगता है।

7. दोनो पक्षों को सुनने के बाद, प्रतिवादी को निर्देश दिया गया कि वह इस मामले में एक बार फिर से चिकित्सा बोर्ड का गठन करें और एआईआईएमएस, नई दिल्ली द्वारा जारी विकलांगता प्रमाण पत्र के मध्य अपना निर्णय दे । गठित चिकित्सा बोर्ड उपरोक्त दिव्यांग व्यक्ति की चिकित्सा परीक्षा सामाजिक न्याय और अधिकारिता मंत्रालय की अधिसूचना दिनांक 01.06.2001 और कार्मिक और प्रशिक्षण विभाग के कार्यालय ज्ञापन संख्या 36035/3/2004-स्थापना (आरक्षण) के पैरा 23 को ध्यान में रखते हुए करें और अपनी रिपोर्ट इन टिप्पणों के साथ दें कि क्या उपरोक्त विकलांग अभ्यर्थी खलासी/हेल्पर का पद ग्रहण करने के लिए उपयुक्त है। अगली सुनवाई की तिथि 07.08.2018 को तय की गई।

8. अगली सुनवाई दिनांक 07.8.2018 में विपक्षी की ओर से उपस्थित प्रतिनिधियों ने लिखित रूप से बताया कि श्री धर्मवीर कुमार, दृष्टिबाधित अभ्यर्थी का पुनः चिकित्सा परीक्षण मेडिकल बोर्ड का गठन करते हुए दिनांक 02.07.2018 को जगजीवनराम रेलवे अस्पताल में किया गया, जिसमें रेलवे अस्पताल के दो चिकित्सा अधिकारी एवं एक बाहरी चिकित्सा अधिकारी उपस्थित थे तथा मेडिकल बोर्ड के अनुसार श्री धर्मवीर कुमार दृष्टिबाधित/कम दृष्टि में अयोग्य घोषित किए गए।

9. उक्त मुद्दा सुनने के बाद, केस को खारिज किया जाता है



(डॉ कमलेश कुमार पाण्डेय)
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 7773/1141/2017

Dated 27.08.2018

In the matter of:

Shri Medhavi Krishna,
C/o Shri Prasun Kumar Jha,
Sail – 16 Floor, Core-2,
Scope Minor, Laxmi Nagar,
District Centre, Delhi – 110092

R-10818

.... Complainant

Versus

University of Delhi,
[Through: Registrar],
Delhi-110007

R-10899

.... Respondent

Date of hearing: 15.02.2018, 13.03.2018, 11.07.2018 and 19.07.2018

Present:

15.02.2018:

1. Shri Medhavi Krishna, complainant and Shri Ayush Anand, Advocate for complainant.
2. Prof. (Dr.) Anil K. Aneja, Nodal Officer, Persons with Disabilities, University of Delhi - for the respondent.

13.03.2018:

1. Shri Ayush Anand, Advocate for the complainant; Shri Hemant Kumar General Secretary, Association for the Right of Disabled Person on behalf of complainant and other persons for complainant
2. Prof. (Dr.) Anil K. Aneja, Nodal Officer, Persons with Disabilities; and Dr. Bipin Tiwari, OSD, University of Delhi - for the respondent.

11.07.2018:

1. Shri Ayush Anand, Advocate for the complainant
2. Shri Bikram Singh Advocate; Shri Jitender Anand, S.O.(Off.), Jubilee Hall; and Dr. B.W. Pandey, Warden Jubilee Hall - for the respondent

19.07.2018:

1. Shri Bikram Singh Advocate; and Shri Jitender Anand, S.O.(Off.), Jubilee Hall for the respondent
2. None appeared for complainant

ORDER

The complainant, a person with 77% locomotor disability (lower limbs) and a student of Ph.D. course (Buddhist Studies) in University of Delhi, filed a complaint dated 27.02.2017 for allotment of hostel accommodation to him as a special case.

(Page 1 of 6)

2. The complainant submitted that due to delay in granting admission to him in the Ph.D. course i.e. after passing of the Order dated 14.12.2016 by the Hon'ble High Court of Delhi in W.P(C) 8232/2016 and the advice of this Court vide order dated 14.03.2017 in Case No.6872/1031/2016, he remained deprived of applying for hostel accommodation and scholarship. He also expressed his difficulties in living outside being a person with disability.

3. Under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the matter was taken up with the respondent vide letter dated 03.04.2017.

4. The respondent filed their reply dated 28.08.2017 and intimated that while admission to the Ph.D. programmes, may take place more than once in a particular academic year, applications for admissions to the hostels are invited only once in a year. The case of complainant could only be considered for admission to the hostel for the academic year 2017-18 as per rules in case the complainant submitted an application for the same as prescribed. The respondent further submitted that after passing order dated 14.03.2017 of this Court, a request was sent to a number of hostels with a view to explore if the complainant could be accommodated in any of the hostels. The respondent furnished two letters - one dated 29.03.2017 of Provost, V.K.R.V. Rao Hostel and the other dated 03.04.2017 of Provost, D.S. Kothari Hostel. On the basis of their report given by the Provost, D.S. Kothari Hostel, the respondent requested this Court to dismiss the complaint.

5. As per the Provost, D.S. Kothari hostel, they admitted 5 students with disabilities in the hostel in view of 97 sanctioned seats. The complainant stayed in the hostel from 03.11.2014 to 30.05.2016 and he was supposed to vacate the hostel within 7 days after the last examination whereas he did not follow the hostel rules and stayed upto 08.08.2016 in spite of several reminders. Thereafter he illegally stayed in the hostel in Room No.18 occupied by Mr. Rohit Kesarwani without following hostel rules. Further, he stayed in Room No.101 illegally and misbehaved with Security Guards after several warnings and continued to stay in Room No.101.

6. The complainant filed his rejoinder / comments dated 08.01.2018 to the aforesaid reply of respondent and submitted that the allegations made against him by the respondent are false and misleading and his right to hostel accommodation was denied with malicious intention by all the hostel authorities, viz., 'Jubilee Hall', 'N.S. Kothari' etc. He has requested to protect his rights.

7. Upon considering the aforesaid facts, the case was listed for hearing on 15.02.2018 and Notice of Hearing 06.02.2018 was issued to the parties.

8. During the hearing on 15.02.2018, the learned Counsel for the complainant submitted that his client, Shri Medhavi Krishna was allotted hostel (Room No.22) in the Jubilee Hall in December, 2017 as a candidate with disability enrolled for Ph.D. at the University of Delhi in Buddhist Studies. But he was denied to deposit fees and taking possession of the allotted room by the Hostel Authority when he came with bag & baggage to shift in the allotted room. He was harassed and handled with utmost rude and inhuman manner by the Hostel Authority. On request of the complainant, the Equal Opportunity Cell (EOC) of the respondent, vide their letter No.370/2018 dated 09.01.2018 requested the Provost for due consideration for admission to Jubilee Hall, but the Admission Committee of the Hostel denied to extend any relief to the complainant vide their letter dated 19.01.2018. The learned Counsel submitted that he had already submitted point-wise rebuttal of the grounds raised by the Hostel Authority to the Provost, Jubilee Hall, University of Delhi vide their letter dated 25.01.2018. The learned Counsel also filed a copy of the letter dated 25.01.2018 which was taken on record.

9. The representative for the respondent submitted that the letter dated 19.01.2018 issued by the Provost, Jubilee Hall was under investigation by the Legal Cell of the University and the allotment of the room in the Hostel to the complainant was to be decided by the University. Hence, it was not appropriate that the complainant was denied for allotment of Hostel. The representative requested that since no cause of action had arose, there was no complaint and the case might be dismissed.

10. In view of the above, the respondent was advised to expedite investigation in the matter and submit their report within three weeks from the date of receipt of this Record of Proceedings. A copy of the letter dated 25.01.2018 filed by the learned Counsel, addressed to the Provost, Jubilee Hall, University of Delhi was also forwarded for reference to the respondent as well as the Nodal Officer of the respondent with the Record of Proceedings dated 15.02.2018. Next date of hearing was fixed on 13.03.2018.

11. During the hearing on 13.03.2018, the learned Counsel for the complainant submitted that his client, Shri Medhavi Krishna was being harassed and neglected by the authorities of University of Delhi in the matter of providing hostel accommodation to him in disabled category. Despite lapse of the stipulated time given by this Court, the respondent had not filed any positive response. Once a day, while his client was going to University to meet with administration, he suddenly fell on the road due to mental stress. He was admitted in Hindurao Hospital then he was referred to IHBAS/GTB Hospital for treatment. He was suffering with Guillain-Bare Syndrome and at that time he was in ICU and his four limbs were not working properly. This all happened on account of the negligence of the University. He requested, if his client could be compensated in terms of money by the University.

12. Prof. (Dr.) Anil Aneja, the representative of the respondent submitted that, the matter of allotment of hostel accommodation to Shri Medhavi Krishna was under process in the University. He sought 7-10 days time to submit the decision taken by the authorities before this Court.

13. After hearing the parties, the respondent was advised to be sensitive and expedite process of allotment of hostel accommodation to the complainant and submit their report by 28th March, 2018.

14. The respondent filed their reply dated 28.03.2018 which was received on 02.04.2018. As per the reply, the name of the complainant was provisionally shortlisted for allotment of room in the Jubilee Hall and displayed on 13.12.2017 and on 15.12.2017 after receiving objections from stakeholders. Rooms in Jubilee Hall were to be allocated to only those students whose documents were in order and who deposited the fee and only after their admission to the hostel are confirmed by the University of Delhi. The complainant was never allocated any room in the Jubilee Hall because upon verification of the documents and other facts after provisionally declaring his name it was found that he had deliberately and wrongly concealed vital information in his application form. Concealing such information invites actions as per Hand Book of Information Rule 2.4.4 of Jubilee Hall. It is a matter of record that he deliberately concealed the information about his stay at Gwyer Hall and got admission in DS Kothari Hostel and enjoyed the fee waiver applicable in the case of PwD category students. He thus deprived the right of other deserving student with disability. On the date of submission of documents and declaration i.e. on 19.12.2017, he had two voter IDs and two enrolment numbers of the University of Delhi. However, keeping in view that he is a student with disability, the Managing Committee of Jubilee Hall specifically met on 16.03.2018 to consider his case if he could be helped by way of affirmative action and reasonable accommodation. The Managing Committee resolved that the wrongdoings of the complainant cannot be condoned as it was against the Hand Book of Information Rule 2.4.4 and condoning such would be against the sanctity and propriety of Hostel Rules and the same would sent a wrong precedence and it would be an injustice with those applicants whose applications have been rejected/cancelled/denied admissions on similar grounds. Seventeen applications were rejected/cancelled/denied admissions on similar grounds during academic session 2017-18. In view of the observations of the Managing Committee of Jubilee Hall, a Committee with Deputy Registrar (Legal) met on 22.03.2018 to further discuss the case of complainant and agree that Shri Medhavi Krishna may apply afresh in the next academic session (2018-19) and ranking of 2017-18 be taken in account while making admission in next academic session (2018-19). The Committee further recommended that he may explore the possibility of staying as a guest in any hostel wherever such facility is available.

15. The learned Counsel for the complainant filed rejoinder dated 06.05.2018 to the reply dated 28.03.2018 filed by respondent and submitted that complainant never concealed any information. The complainant availed the Hostel facility of Gwyer Hall but discontinued the hostel and course within 6 months of the course with a NOC and never completed the course as being a person with disability he was unable to bear the pain to stand and work in Lab for long hour. So, the complainant never fully availed the Hostel facility while pursuing M.Sc., a basis PG as per the hostel rules. In the next session the complainant got admission in M.A. Buddhist Studies and availed the hostel facility of D.S. Kothari in a basic PG Course for full term after due process of law as per hostel rules and duly disclosed about their short stay at Gwyer Hall, but in utter disregard only for the sake of denial of a hostel seat, it has been said that the complainant committed something illegal two years back. Even if the contention of respondent is considered to be true, the non-disclosure was not material at all, as the complainant in the present instance has applied as a Ph.D. student. Non-disclosure would be material and would have barring consequences if he would be applying for Hostel as a P.G. student. There was no such mention in the Application Form to disclose about his incomplete/short stay at Delhi University hostel, which the respondent university deliberately not disclosed to evade the liability. Having two Voter ID Cards by the complainant, the learned Counsel submitted that checking it on the National Voter's Service Portal and considering it as a punishable fault on the part of the complainant is absolutely absurd for the purpose of denying hostel. The fact is that the Voter ID in his name issued at his home was wrong as there was incorrect mentioning of his age (39 years) and mistake in father's name. The complainant has already written to Election Commission of India while applying for Voter ID Card at Delhi and at his home place for cancellation of his Voter ID issued at his home place. It was the fault on part of concerned officials of Election Commission of India that his name is still being reflected on two places though the Voter ID of Bihar has been surrendered and not in use. It is the procedural lapse on the part of University of Delhi and its administrative part that they did not erase complainant's previous enrollment ID which was generated manually at the time of admission in M.Sc. as they have now switched on to online process. At present the complainant has only one enrollment ID. The decision taken by the respondent that they will accommodate the complainant for the next Academic Year with the rank of this year further substantiates that he has been wrongfully denied a hostel seat. If the complainant is fit for the next year why he is being deprived of the hostel for present academic year. The learned Counsel also submitted for condoning the two weeks delay in filing the rejoinder because the complainant became bedridden and bound to wheelchair due to 'Guillain-Bare Syndrome' (an auto-immune disease) and undergoing treatment.

16. Upon considering the reply dated 28.03.2018 of the respondent and the rejoinder / comments dated 06.05.2018 of complainant, the case was listed for hearing on 11.07.2018.

17. During the hearing on 11.07.2018, on the request of the learned Counsel for the respondent, the hearing was adjourned to 19th July, 2018 for submission of reply to the rejoinder/comments filed by complainant.

18. During the hearing on 19.07.2018, none appeared for the complainant.

19. The representative for the respondent reiterated their reply and added that the decision taken by the Managing Committee of Jubilee Hall is final and as agreed by the Committee the complainant Shri Medhavi Krishna may apply afresh in the next academic session (2018-19) and his ranking of the year 2017-18 will be taken in account while making admission to the next academic session 2018-19.

20. In view of the above and since the Academic Session 2018-19 has commenced the complainant is advised to submit his application afresh for allotment of hostel accommodation in Jubilee Hall with the concerned authority of the respondent. Further, the respondent is advised to ensure that the complainant, Shri Medhavi Krishna has been allotted the hostel accommodation and he has been provided reasonable accommodation.

21. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



सत्यमेव जयते

Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 9446/1032/2018
9464/1040/2018

Dated 27.08.2018

In the matter of:

Dr. Satendra Singh
A5-303, Olive County, Sector-5,
Vasundhara, Ghaziabad-201012 (UP)
Email – dr.satendra@gmail.com.... Complainant No.1
(Case No.9446/1032/2018)Shri SGS Sisodia,
General Secretary,
Indian Association of the Blind,
S.K. 33, Sindhorakalan Village, Delhi – 110052
Email – iabdelhi.india@gmail.com.... Complainant No.2
(Case No.9464/1040/2018)

Versus

The Secretary/Director,
UGC-National Eligibility Test,
Central Board of Secondary Education,
H-149, Sector - 63, Phase-IV
Distt. Gautam Budh Nagar, NOIDA - 201309, U.P.

.... Respondent

Date of hearing: 11.06.2018

Present:

1. Dr. Satendra Singh, complainant No.1
2. Shri Shekhar Chandra, Asst. Secretary, CBSE-UGC-NET, Delhi for respondents
3. None appeared for complainant No.2

ORDER

The complainants, filed their complaints vide emails dated 25.02.2018 and 04.03.2018 respectively under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' that no provision of Test Booklets in Braille has been made for visually impaired candidates in the UGC-NET-2018 by the Central Board of Secondary Education (respondent).

2. The complainant No.1 furnished a copy of the Notification for UGC-NET-2018 published by Central Board of Secondary Education and pointed out that at Serial No.9 - 'Provisions for persons with disability (including visually challenged candidates) having 40% or more disability' at point (iv) 'There is no provision of Test Booklet in Braille for visually impaired candidates' in the notification, and thereby the respondent violated the Clause XIV of the Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 issued by Clause XIV which reads as under:

"XIV. The examining body should also provide reading material in Braille or E-Text or on computers having suitable screen reading softwares for open book examination. Similarly online examination should be in accessible format i.e. websites, question

Page 2 of 2

papers and all other study material should be accessible as per the international standards laid down in this regard"

3. The complainant No.1 further submitted that the Hon'ble Madras High Court on 27.12.2013 had directed University Grant Commission, in Writ Petition No.35157/2013 filed by Mirinda Tomkinson, a person with visual impairment, to furnish Braille questionnaire to him and similarly placed persons and fulfill the other conditions mentioned in the Office Memorandum dated 26.02.2013 to enable the petitioner and others to take part in the examination scheduled to be held on 29.12.2013.
4. Some other cases have also been taken up by this Court with the respondent regarding non-implementation of the provisions of the guidelines as contained in the Office Memorandum dated 26.02.2013 in the Notification issued by CBSE for UGC-NET November 2017 published by CBSE. Since no replies were filed by the respondent despite lapse of sufficient time, it was decided to hold a hearing on 11.06.2018 jointly in all the six cases, and Notice of Hearing dated 07.05.2018 was issued.
5. After issuance of Notice of Hearing, the respondent filed their reply dated 08.05.2018 and intimated that no provision to provide question paper in Braille in the UGC-NET Examination in July 2018 was made and it was notified after the approval of Competent Authority of the Board and in accordance with the provisions of the UPSC. Additional facility of Braille Test Booklet in Paper-I and other subjects for candidates with visual impairment was discontinued because these candidates are allowed to appear in the examination with the help of scribes with compensatory time to write the answers. The respondent further submitted that a matter of providing Test Booklet in Braille is pending before the Hon'ble High Court of Delhi in the case of Nitin Jain Vs CBSE.
6. During the hearing on 11.06.2018, the representative of the respondent relied upon the reply already filed on record.
7. Neither the complainant No.2 nor anyone on his behalf appeared during the hearing nor any intimation in this regard was received from him.
8. In view of the above and the documents available on record the respondent has violated the Clause XIV of the guidelines issued by the Ministry of Social Justice & Empowerment, Department of Disability Affairs vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013. However, as stated by the respondent that the matter is sub-judice before the Hon'ble High Court of Delhi, no direction can be passed in these cases and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Dated: 20.08.2018

Cash No. 8762/1132/2017

In the matter of:

Shri M S Umesh
No. 2/2 Rathnasabaparthi Street
Old Washemrmenpet
Chennai-600 021

R-10892

Complainant

Versus

Indian Bank
(through: the Managing Director & CEO)
Corporate Office
PB No. 5555, 254-260, Avvai Shanmugam Salai
Royapettah, Chennai – 600 014

R-10893

Respondent

Date of Hearing : 02.05.2018

Present:

None appeared either of the party.

ORDER

The above named complainant filed a complaint dated 12.10.2017 to this Court regarding Sarfassi Notice issued by the Bank under the Rights of Persons with Disabilities Act, 2016 referred to as "the Act".

2. The matter was taken up with the Respondent vide letter dated 11.12.2017 under Section 75 of the Act followed by reminder letter dated 15.02.2018.

3. Deputy General Manager(R&L), Indian Bank vide letter no. CO:LEGL:HO:REF:482:2017-18 dated 22.02.2018 informed that shri Umesh, a retired employee from RBI availed several loan facilities(eight facilities) from Esplanade Branch totaling to Rs. 89.50 lakhs. These facilities are secured by EM of an immovable property at Washermanpet (Ground floor plus two floors) valued at Rs. 2.10 Crores as per EVR dated 11.12.2014. The EM was created based on certified copies of settlement deeds, as reportedly the original documents were lost and an affidavit cum undertaking to the said effect was executed. The exit age was also approved as 67 years relaxing the then norms. The details of the facilities availed, amount due and status of the account of the said borrower is given here under:-

SL NO	Name of the facility	Account no.	Amount in lakhs	Status of the accounts
1.	IML-MS UMESH	6308892170	2600.00	Irregular from Nov.2016
2.	IML-FLOOD MS UMESH	6405685141	2.00	Irregular from Nov. 2016
3.	IB PENSION LOAN	6431794578	4.50	Irregular from May 2017

Contd. Pg/2

4.	INDSME SECURE-MTL MASS SPORTS CAFÉ	6397926660	10.00	Irregular EMI remittance
5.	INDSME SECURE-OD-MASSE SPORTS CAFÉ	6379757757	10.00	No business transactions
6.	INDSME SECURE-MASSE SPORTS -MTL CAFE	6444623891	14.00	Irregular EMI remittance
7.	INDSME SECURE-OD-THANJAVUR CAFÉ	6475904897	10.00	No business transactions
8.	INDSME SECURE-MTL-HOTEL THANJAVURE CAFÉ	6476042752	13.00	Irregular EMI remittance


At this juncture, the borrower again approached seeking yet another loan-IML of Rs. 15 lakhs on 07.03.2017, which request was turned down by the bank as it was against RBI norms viz.,

- Low CIBIL score of 603
- Inadequate net take home pay
- Loan history is not encouraging as all the facilities were as it is overdue
- As it is original settlement deeds were not available and EM was created only with certified copies.

These loan facilities were classified as NPA on 31.08.2017. SARFAESI action was taken by issuance of demand notice on 26.09.2017, followed by action of taking possession on 30.11.2017. Further, on inspection, it came to light that the borrower/complainant was not routing his funds through loan account, changed the name of the unit without informing the bank from 'Hotel Tanjavur Café' to Lalitha's' and has also disposed the assets created out of bank finance, without knowledge of the bank. In fact, all these actions tantamount to 'Willful default'. The borrower never responded to any steps taken by the bank to set things right. Branch took all measures including personal visits by the branch manager to impress upon the borrower to regularize the account, which were of no avail. Two letters datd 26.05.2017 were sent by the bank pointing out the disposal of assets, misutilization of public money and change of unit name without branch knowledge and the same also failed to evoke any response from the borrower. Instead, the borrower has resorted to making complaints to various forum on false allegations. Bank has never discriminated the complainant on the ground of his disability. In fact the bank has relaxed its norms even at the time of loan sanctioning by permitting creation of EM by certified copies of documents and approved the exit age of the borrower as 67 years. Bank has taken only legitimate steps in accordance with law and regulatory frame work for recovery of its dues. On the contrary, it is the complainant who has been resorting to making frivolous complaints to various forum including to your good office, perhaps with an intent to avoid repayment of his dues and delay SARFAESI actions initiated by the bank.

4. On the perusal of written submissions of Respondent, it has been decided to hold a personal hearing in the matter on 02.05.2018.

5. None appeared from any party during the hearing on afore mentioned schedule. For the natural justice next hearing in the matter was scheduled on 19.06.2018.
6. During the hearing the representative of Respondent Bank has submitted his earlier submissions submitted in the matter.
7. After hearing the Respondent's Representative, it is revealed that there is no deprivation of a person with disability in the matter and no violation of any provisions of the Rights of Persons with Disabilities Act, 2016.
8. Accordingly the case is closed without any directions to the Respondent.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं० 9000/1021/2017

दिनांक: 20.08.2018

के मामले में:-

श्री विजय कुमार रजक

निम्न श्रेणी लिपिक

विधि अध्ययनशाला

डॉ. हरीसिंह गौर विश्वविद्यालय

सागर, मध्य प्रदेश

R-10869

-वादी

बनाम

डॉ. हरीसिंह गौर विश्वविद्यालय

(द्वारा : उप कुलसचिव-स्था.)

सागर, मध्य प्रदेश

R-10870

-प्रतिवादी

सुनवाई की तिथि: 20.07.2018

उपस्थित -

श्री राजकुमार, अधिवक्ता - वादी की तरफ से

श्री संजीव कुमार, सहायक रजिस्ट्रार - प्रतिवादी की ओर से

श्री बृजभूषण सिंह, विधि अधिकारी - प्रतिवादी की ओर से

आदेश

श्री विजय कुमार रजक, 40 प्रतिशत अस्थि दिव्यांग ने पदोन्नति में दिव्यांगजन को मिलने वाले आरक्षण का लाभ प्रदान करने से संबंधित प्रतिवेदन दिनांक 01.12.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे बाद में अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 25.01.2018 द्वारा प्रतिवादी के साथ उठाया गया। जब पर्याप्त समय व्यतीत होने के बावजूद भी प्रतिवादी के टिप्पण प्राप्त नहीं हुए तो उन्हें स्मरण पत्र दिनांक 02.04.2018 भी प्रेषित किया गया।

3. वादी ने अपने पत्र दिनांक 11.04.2018 द्वारा न्यायालय को सूचित किया कि आदेश दिनांक 06.04.2018 के माध्यम से उनको दिव्यांग कोटे के अन्तर्गत निम्न श्रेणी लिपिक वेतनमान 5200-20200+ग्रेड पे 2400 से उच्च श्रेणी लिपिक वेतनमान 5200-20200+2400 पर पदोन्नति प्रदान की गयी।

4. कुलसचिव, डॉ. हरीसिंह गौर विश्वविद्यालय ने पत्र क्र./स्था./2018/3991 दिनांक 25.04.2018 द्वारा अवगत कराया कि विश्वविद्यालय की पदोन्नति समिति की बैठक दिनांक 07.08.2017 की समीक्षा बैठक दिनांक 22.03.2018 में की गई अनुशंसा पर सक्षम स्वीकृति उपरांत इस विश्वविद्यालय में कार्यरत श्री विजय कुमार रजक, नि.श्रे.लि. को दिव्यांग कोटे के अन्तर्गत आदेश क्रमांक स्था./पदोन्नति/2018/3949 दिनांक 06.04.2018 द्वारा उच्च श्रेणी लिपिक के पद पर दिनांक 07.06.2017 से पदोन्नति प्रदान करते हुए प्रकरण का निराकरण किया जा चुका है।

5. वादी ने अपने स्मरण पत्र दिनांक 09.05.2018 द्वारा उल्लेख किया कि 10 वर्ष की सेवाएं पूर्ण होने पर समयमान वेतनमान के अन्तर्गत 13-11-2008 से ग्रेड पे 2400 के वेतनमान का लाभ प्रदाय किया जा रहा है और उ.श्रे.लि. वर्ग-2 के वेतनमान का ग्रेड पे 2400 प्रचलित है।

पृष्ठ 2

- i. मूलभूत नियम एफआर 22(1) क्लॉज(ए)(1) व(2) में प्रावधानित है कि पदोन्नति से पूर्व ही पदोन्नति का वेतनमान आहरण करने पर एफआर 22(1) क्लॉज(ए)(1) व(2) के अन्तर्गत विद्यमान वेतनमान के लाभों के अनुरूप प्रचलित वेतनमान के अतिरिक्त वेतन वृद्धियों को समाहित करते हुये प्रदत्त की गयी, पदोन्नति में देय वेतनमान का निर्धारण किया जायेगा ।
- ii. वित्त विभाग के परिपत्र क्र. एफ-1/5/2007/नियम/चार दिनांक 09.04.2007 के अन्तर्गत समान ग्रेड पे के पद पर पदोन्नति विभागीय भर्ती नियमों के अनुसार होने पर पदोन्नति पूर्व पद के वेतन एवं ग्रेड पे के 3-प्रतिशत की दर से वेतन वृद्धि जोड़कर पदोन्नति पद पर वेतन निर्धारण किया जाये । इस तरह पदोन्नति पर वही ग्रेड पे प्राप्त होगा जो पूर्व पद पर प्राप्त हो रहा है।

उन्होंने निवेदन किया कि प्रकरण का पूर्ण अवलोकन करते हुये विश्वविद्यालय प्रशासन को वादी के वेतनमान को एफआर 22(1) क्लॉज (ए)(1) व(2) के प्रावधानों के अनुरूप प्रदाय करने हेतु निर्देश किया जाए ।

6. मामले में एक व्यक्तिगत सुनवाई दिनांक 20.07.2018 के लिए निर्धारित की गयी ।
7. सुनवाई के दौरान वादी के प्रतिनिधि ने लिखित दस्तावेज प्रस्तुत किया जिसमें निम्न उल्लेखित है कि :-

- i. श्री विजय कुमार रजक की प्रथम नियुक्ति आदेश क्रमांक-स्था/अनु.नि./विर./7203 दिनांक 13.11.1998 द्वारा निम्न श्रेणी लिपिक के पद पर अस्थायी रूप से वेतनमान रूप्ये 3050-75-3950-80-4590 में नियम वेतन रूप्ये 3050/- प्रतिमाह तथा नियमानुसार देय अन्य मंहगाई भत्तों सहित प्रदान की गई । तत्पश्चात् इन्हें आदेश क्रमांक -स्था/विविध/3/6263 दिनांक 15.09.2005 द्वारा दिनांक 11.08.2005 से विश्वविद्यालयीन सेवा में स्थायी किया गया ।
- ii. मध्य प्रदेश शासन, वित्त विभाग भोपाल के परिपत्र क्रमांक /एफ.11/1/2008/नियम/चार, भोपाल दिनांक 24.01.2008 के अनुक्रम में श्री विजय कुमार रजक को विश्वविद्यालय द्वारा जारी आदेश क्रमांक -स्था/पी/विविध/8-11/2013/327 दिनांक 24.09.2013 द्वारा सीधी भर्ती में नियुक्ति दिनांक से 10वर्ष पूर्ण होने के फलस्वरूप दिनांक 13.11.2008 से अगला उच्चतर वेतनमान रूप्ये 5200-20200+ग्रेड पे 2400 का लाभ प्रदान किया गया ।
- iii. श्री विजय रजक द्वारा प्रस्तुत विशेष मेडीकल बोर्ड, जिला सागर द्वारा दिनांक 07.02.2011 को जारी दिव्यांगता प्रमाण पत्र का इन्द्राज उनकी सेवा पुस्तिका में दिनांक 10.01.2013 को किया गया, जो पांच वर्षों के लिए वैध था । तत्पश्चात् उनके द्वारा जिला विकलांग पुनर्वास केन्द्र जिला चिकित्सालय परिसर, सागर द्वारा जारी स्थायी शारीरिक निःशक्तता प्रमाण-पत्र दिनांक 17.05.2017 को सेवा पुस्तिका में इन्द्राज करने हेतु प्रस्तुत किया गया ।
- iv. आदेश क्रमांक -स्था/पदोन्नति/2018/3949 दिनांक 06.04.2018 द्वारा श्री विजय कुमार रजक को दिव्यांग कोटे के अन्तर्गत उच्च श्रेणी लिपिक के पद पर वेतनमान रूप्ये 5200-20200+ग्रेड पे 2400 में नियमानुसार देय मंहगाई भत्ते, भविष्य निधि एवं अन्य लाभ सहित दिनांक 07.06.2017 से पदोन्नति प्रदान की गई ।
- v. श्री विजय कुमार रजक द्वारा दिनांक 15.05.2018 को प्रस्तुत आवेदन में उन्होंने समान ग्रेड पे परंतु उच्च उत्तरदायित्व पद पदोन्नति दिये जाने पर वेतन निर्धारण किये जाने का निवेदन किया था, इस संबंध में पत्र क्रमांक आर/स्था/2018/4156 दिनांक 27.06.2018 द्वारा उन्हें उनके वेतन निर्धारण किये जाने तथा नियमों के संबंध में अवगत करा दिया गया है।

8. प्रतिवादी के प्रतिनिधियों ने सुनवाई के दौरान कहा कि वर्ष 1998 में वादी की अनुकंपा आधार पर नियुक्ति हुई थी और उन्हें उचित समय पर नियमानुसार एमएसीपी प्रदान कर दी गई । उनके वेतन का पुनः आकलन भी नियमानुसार कर दिया गया है। समीक्षा समिति ने वादी को पदोन्नति दे दी है तथा वर्तमान में उन्हें उच्च श्रेणी लिपिक का स्केल पे दिया जा रहा है।
9. मामले में दिव्यांगजन अधिकार अधिनियम, 2016 के अनुसार प्रतिवादी को सलाह दी जाती है कि वादी को अधिनियम के प्रावधानों के अन्तर्गत नियमानुसार सभी पद लाभ प्रदान करें ताकि दिव्यांग कर्मचारी संस्थान की प्रगति हेतु उत्कृष्ट प्रदर्शन हेतु उत्साहित हो सकें ।
10. तदानुसार प्रकरण को यही बन्द किया जाता है।

कमलेश कुमार

(डा. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

दिनांक: 20.08.2018

केस सं० 7909/1024/2017

के मामले में:-

श्री टेकचन्द पुत्र श्री नानक चन्द
मं.नं. 1074, इन्द्रानगर,
गली नं. 12, नियर यामाहा मोटर
फरीदाबाद-121006

R-10867

-वादी

बनाम

मेराथन इलेक्ट्रिक इण्डिया प्रा.लि.
(द्वारा: मुख्य कार्यकारी अधिकारी)
सेक्टर-11, मॉडल टाउन
फरीदाबाद-121006

R-10868

-प्रतिवादी

सुनवाई की तिथि: 28.06.2018

उपस्थित - श्री टेकचन्द - स्वयं (वादी की तरफ से)
श्री आशीष भटनागर, उप प्रबन्धक - प्रतिवादी की ओर से

11.07.2018

श्री एन.एस. राजपूत, अधिवक्ता - प्रतिवादी की ओर से
श्री आशीष भटनागर, उप प्रबन्धक - प्रतिवादी की ओर से

आदेश

श्री टेकचन्द, अस्थि दिव्यांग ने मेराथन इलेक्ट्रिक इण्डिया प्रा. लि. में नियुक्ति से संबंधित शिकायत दिनांक 29.03.2017 दिव्यांगजन अधिकार अधिनियम, 2016 के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 09.11.2017 द्वारा प्रतिवादी के साथ उठाया गया ।

3. महा प्रबन्धक-एच.आर व आइ.आर., मेराथन इलेक्ट्रिक इण्डिया प्रा. लि. ने पत्र दिनांक 23.11.2017 द्वारा न्यायालय को मामले में निम्न टिप्पण भेजे :-

- I. The complainant Sh. Tek Chand S/o Sh. Nanan Chand, R/o H.No. 1074, Indira Nagar, Faridabad, was never employed by M/s. Marathon Electricals India Pvt. Ltd., and no relationship of master and servant ever existed between Sh. Tek Chand and the respondent. The complaint of Sh. Tek Chand is false and unnecessary qua the respondent M/s. Marathaon Electrical India Pvt. Ltd. The complaint may kindly be rejected and dismissed.
- II. That M/s. Marathon Electrical India Pvt. Ltd., came into existence at the present address and the premises on 24.04.2008, and it started carrying on the manufacturing activities. Prior to that there was a company G.E. Motors Pvt. Ltd., which was carrying on the manufacturing activities at the same place and the premises. After the above notice, an old file in the name pertaining to Sh. Tek Chand has been traced and only on the basis of the said file, the following facts have been revealed:-

Contd. Pg /2

- a. That one person named Tek Chand had made an application for employment to M/s. G.E. Motors India Pvt. Ltd., Faridabad on 03.12.2005 for an employment. He was employed as a temporary casual worker daily wager designated helper w.e.f. 03.12.2005. This post was likely to last for maximum 6 months. His daily wages were fixed at Rs. 90.75 paise per working day. He was made member of the Employees State Insurance Scheme and was allotted ESI No., he met with an accident on 17.06.2006 in the General shift when he was removing hassin cloth packing from a CRCA roll to make the strip naked for cutting the sample for testing. A role fell on his right foot and his right foot had received an injury. He was given first Aid in the factory and immediately taken to the Escorts Medical and Research Center Faridabad for treatment. From there he was referred to Indraprastha Apollo Hospital, Sarita Vihar New Delhi for treatment. He was admitted on 17.03.2006 and after due treatment including plastic surgery discharged on 30th March 2006. The company M/s. G.E. Motor had spent entire amount of treatment, which amounted to Rs. 1.58 lakhs.
- III. The complainant was covered under the Employees State Insurance Scheme. After the accident, his treatment was taken at Indraprastha Apollo Hospital, Sarita Vihar New Delhi. He was referred to ESI Corporation. The employees State Insurance Corporation constituted a Medical Board and his disability was assessed by the Medical Board. On the basis of the assessment of the disability a life long pension amounting to approximately Rs. 4,000/- per month, has been granted to the complainant and he is enjoying the said monthly pension since then.
- IV. He filed a case before the Employees State Insurance Court at Faridabad for the enhancement of %age of his disability. The case was dismissed as it was not found proper and in order.
- V. The complainant raised an Industrial dispute vide his demand notice dated 27.02.2007 alleging that his services have been illegally terminated. Before that Labour Cum Conciliation Officer a settlement was made u/s 12(3) dated 27.07.2007 of I.D. Act whereby the management had agreed to employ him again on the same terms and conditions. The complainant was called by the company to join employment on casual basis as he was previously working on casual basis before the accident. The complainant did not join duty and demanded that he should be employed as a permanent worker and not as casual employee. In view of this, the settlement could not be implemented.
- VI. The Govt. of Haryana through the Labour Inspector, prosecuted the factory manager of the employer M/s. G.E. Motors for non implementation of the settlement dated 27.07.2007. The prosecution was lauched on 22.01.2010. By that time the company M/s. G.E.Motors had ceased to exist and in its place another company M/s. Marathon Electrical India Pvt. Ltd., has come into existence on the same premises. The learned Chief Judicial Magistrate adjudicated the complaint filed by the Labour Inspector. The learned Magistrate took a sympathetic view to benefit the claimant being a poor man and imposed a fine of Rs. 25,000/- on the management. The complainant was called in the court and a sum of Rs. 25,000/- was paid to the complainant.
- VII. That the complainant has moved the present application dated 29.03.2017 in the Court of Chief Commissioner for Persons with Disabilities dated 29.03.2017. In the present application he sought the relief from this Honourable Court as under:-
 - a. That his case should be sent to High Court or to the Labour Court and a case be registered so that the complainant should get justice.

ज्यादा से ज्यादा 6 महीने थी । जब श्रमिक की अवधि 6 महीने थी तो कंपनी प्रबन्धकों ने दिनांक 27.02.2007 को श्रम तथा समझौता अधिकारी सर्कल-4 फरीदाबाद के सम्मुख 12(3) का समझौता क्यों किया । कंपनी प्रबन्धक कोर्ट से यह भी झूठ बोल रहे हैं ।

- v. यह कि मेराथन इलेक्ट्रिक इण्डिया के प्रबन्धकों का कहना है कि श्रमिक टेकचन्द कर्मचारी राज्य बीमा निगम से 400/- रुपये प्रति माह प्राप्त कर रहे हैं जिससे वह मोज मस्ती कर रहे हैं । आज के जमाने में 400/- रुपये में कैसे कोई मोज मस्ती कर सकता है । कंपनी के प्रबन्धक श्री रणजीत सिंह ने एक दिव्यांग श्रमिक का मजाक उड़ाया है इससे दिव्यांग श्रमिक के दिमाग पर बहुत बुरा असर पड़ा है ।
- vi. यह कि यदि कोई श्रमिक पहले दिन कारखाने में एक घंटा काम करने के बाद दुर्घटना ग्रस्त हो जाता है तो कारखाना प्रबन्धक श्रमिक को नौकरी से नहीं हटा सकते ।
- vii. यह कि श्रम विभाग हरियाणा सरकार अपनी रिपोर्ट में दिनांक 27.02.2007 को धारा 12(3) के समझौते का तो जिक्र करते हैं परन्तु हरियाणा के श्रम आयुक्त चण्डीगढ़ की रिपोर्ट बनाते समय यह ब्यौरा नहीं देते कि श्रमिक कार्य करते समय दुर्घटना के बाद पूर्ण रूप से दिव्यांग हो चुका है ।
- viii. यह कि गिडगिडाने पर भी प्रबन्धकों ने उनकी एक ना सुनी और उनसे धारा 12(3) के समझौते की परिपालना की आड में उनसे सादे कागजों पर और खाली प्रपत्रों पर धोखा धड़ी और बल पूर्वक हस्ताक्षर करवाने का असफल प्रयास किया ।
- ix. यह कि अपोलो चिकित्सालय में उनकी चिकित्सा की गई जबकि राज्य कर्मचारी बीमा निगम में चिकित्सा होनी चाहिए थी प्रबन्धकों ने अपोलो चिकित्सालय में श्रमिक की पूरी चिकित्सा नहीं करवाई ।
- x. यह कि उन्हें मालूम नहीं कि कंपनी प्रबन्धक नियम अनुसार चिकित्सा राशि बीमा कार्यालय में जमा करते थे या नहीं ।

वादी ने उपरोक्त के अतिरिक्त कहा कि श्रम विभाग और जी.ई. मोटर्स अब मेराथन इलेक्ट्रिक इण्डिया के प्रबन्धकों के विरुद्ध तुरन्त कार्यवाही करते हुए दुर्घटना हित लाभ, बैठे दिनों की 10 प्रतिशत चक्रवर्ती ब्याज के साथ भरपाई करवायी जाएं ।

5. उपरोक्त के मद्देनजर नोटिस दिनांक 24.05.2018 द्वारा मामले में एक व्यक्तिगत सुनवाई दिनांक 28.06.2018 को निर्धारित की गयी ।

6. प्रतिवादी के प्रतिनिधि द्वारा सुनवाई के दौरान प्रस्तुत लिखित अनुरोधानुसार मामले में सुनवाई दिनांक 11.07.2018 के लिए स्थगित की गयी । वादी की दिव्यांगता के कारण उनको सुनवाई के दौरान व्यक्तिगत उपस्थिति से छूट प्रदान की गयी ।

7. मामले में पूर्व में श्रम विभाग हरियाणा द्वारा आदेश पारित किये जा चुके हैं और प्रतिवादी के कथनानुसार वादी क्षतिपूर्ति के रूप में 25,000/- रुपये प्राप्त कर चुके हैं तथापि प्रतिवादी को सलाह दी जाती है कि वह वादी के प्रति सहानुभूति रखते हुए उन्हें नियमानुसार उनके सभी सेवा/दिव्यांगता सम्बन्धी लाभ प्रदान करें ।

8. तदनुसार मामले को बन्द किया जाता है ।



(डा. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त दिव्यांगजन



extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 8361/1032/2017

Dated 21.08.2018

In the matter of:

Shri Ramesh Kumar
C-207, NTPC Samridhi Colony,
Sector-33, Noida-201307 (UP)
Email – remeshkumar01@rediffmai.com

.... Complainant

Versus

Kendriya Vidyalaya Sangathan,
[Through: Commissioner]
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi – 110016

.... Respondent No.1

Navodaya Vidyalaya Samiti,
[Through: Commissioner]
B-15, Institutional Area, Sector-62,
Noida-201307 (UP)

.... Respondent No.2

Date of hearing: 13.03.2018

Present:

1. Shri Ramesh Kumar, complainant
2. Shri Tajuddin Shaik, Assistant Commissioner, for respondent No.1
3. Shri Uma Maheswara Rao N, Assistant Commissioner, for respondent No.2

O R D E R

The above named complainant filed a complaint through email dated 27.06.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding not providing the facility for inclusive education in the schools run by the respondents.

2. The complainant submitted that as per the guidelines of CBSE, the Right of Children to Free and Compulsory Education Act, 2009 and the Right to Persons with Disabilities Act, 2016, it is the duty of all the schools to provide inclusive education to all children. Complainant's child is diagnosed with Down Syndrome and is having 75% intellectual disability. His son was 6 years old. As parents of special need child, he felt problems in getting his child admitted in a school. Though many private schools offer facility for inclusive education with the help of special educators, yet it is not possible for

normal income people to get their children educated in private schools which charges exorbitant fees for special need children. In such situation, he looks towards the premium government schools like Kendriya Vidyalaya and Navodaya Vidyalaya. But these schools, though sponsored by Central Government, do not have the facility in form of special educators for such children and they are not aware of laws & circulars for children with special needs.

3. Under Section 75 of the Act, the case was taken up with the respondents vide this Court's letter dated 18.09.2017 for submission of their comments in the matter.

4. Respondent No.2 filed their reply dated 23.10.2017 and intimated that admission to Class VI in Jawahar Navodaya Vidyalaya (JNV) is done through the entrance test conducted by Central Board of Secondary Education on the basis of the set criteria under the Jawahar Navodaya Vidyalaya Admission Policy. There is no other provision for admission in JNV. The minimum age of a candidate for admission in Class VI should be between 9 and 13 years as per the policy. The complainant's son had no eligibility as his age was only 6 years.

5. The complainant in his rejoinder dated 24.11.2018 to the reply of respondent submitted that his complaint is not related to getting his child admitted in JNV and merely admitting his child is not a solution to the problem that these schools are not providing the facilities for inclusive education in form of special educators and other facilities as statutorily required in line with the CBSE Circular No.CBSE/ACAD/JSIC (AT)/2015 dated 25.06.2015 and also provided in the Act. In one of the replies dated 01.02.2016, respondent No.2 had replied that since they have residential schools, they do not admit children with mental retardation. Jawahar Navodaya Vidyalaya and Kendriya Vidyalaya are fully sponsored by the Central Government and is the largest government school network of the country. Respondent No.2 should have the information as to which branches are providing facility for inclusive education so that parents like him can to and contact that school for admission of their children. Admitting the child without proper facility to cater to these children is like admitting a cancer patient in a hospital having no facility for chemo therapy. His child will turn 9 one day and by that these schools should come with adequate facility for providing inclusive education.

6. The respondent No.1 filed their reply dated 08/15.11.2017 and inter-alia intimated that the process of employing special teachers for teaching children with intellectual disability is going on. KVs are admitting students with bench mark disability in Class I as per the provisions of RTE Act.

7. Upon considering the facts mentioned above, the case was listed for hearing on 13.03.2018.

8. During the hearing on 13.03.2018, both the representatives of the respondent No.1 and No.2 relied upon the respective replies already on record.

9. In the light of the facts submitted in the preceding paragraphs and on the basis of the documents available on record, this Court observed that Central Board of Secondary Education vide letter dated 25.06.2015 has already written to all Heads of Schools affiliated to the Board and has made it mandatory to appoint Special Educators in all schools to ensure effective and meaningful inclusion of children with disabilities in schools in terms of the Affiliation Byelaws Rule No.23(18), Rule No.13.11 and Rule No.11 regarding inclusive practices in CBSE Schools. The respondents are advised to appoint Special Educators in their schools and provide the benefits as envisaged in Section 16 and Section 17 of the Act for the children with disabilities as soon as possible. A copy of this Order be also endorsed to the Secretary, Department of School Education & Literacy, Ministry of Human Resource Development for information and taking appropriate action in the matter.

10. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

Copy to:

The Secretary,
Department of School Education & Literacy,
Ministry of Human Resource Development,
Shastri Bhawan, 'C' Wing,
Dr. Rajendra Prasad Road,
New Delhi – 110001+



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं० 7977 / 1023 / 2017

दिनांक: 20.08.2018

के मामले में:-

श्री प्रदीप कुमार श्रीवास्तव
पुत्र स्व. श्री कन्हैया लाल श्रीवास्तव
111 ए/275, अशोक नगर
कानपुर, उत्तर प्रदेश

-वादी

बनाम

पंजाब एण्ड सिंध बैंक
(द्वारा : अध्यक्ष एवं प्रबन्ध निदेशक)
8वां तल, 21, बैंक भवन
राजेन्द्रा पैलेस, नई दिल्ली-110008

-प्रतिवादी सं० 01

पंजाब एण्ड सिंध बैंक
(द्वारा : जोनल प्रबन्धक)
14/15, पुराना कोर्ट हाउस गली
कोलकाता-700001

-प्रतिवादी सं० 02

सुनवाई की तिथि: 23.05.2018

उपस्थित - श्री प्रदीप कुमार श्रीवास्तव - स्वयं (वादी की तरफ से)
श्री संजय रावत, अधिवक्ता - प्रतिवादी की ओर से

02.07.2018

श्री प्रदीप कुमार श्रीवास्तव - वादी की ओर से
श्री संजय रावत - प्रतिवादी की ओर से

19.07.2018

श्री प्रदीप कुमार श्रीवास्तव - वादी की ओर से
श्री संजय रावत - प्रतिवादी की ओर से

आदेश

श्री प्रदीप कुमार श्रीवास्तव, 100 प्रतिशत दृष्टि दिव्यांग ने उनको लिपिक पद से अधिकारी पद पर नियमानुसार मेरिट तैयार कर पदोन्नत नहीं करने से संबंधित शिकायत दिनांक 19.05.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे बाद में अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 29.05.2017 द्वारा प्रतिवादी के साथ उठाया गया। जब पर्याप्त समय व्यतीत होने के बावजूद भी प्रतिवादी के टिप्पण प्राप्त नहीं हुए तो उन्हें स्मरण पत्र दिनांक 06.02.2018 भी प्रेषित किया गया।

3. सहा० महा० प्रबन्धक(मा०सा०वि० विभाग), पंजाब एण्ड सिंध बैंक ने पत्र सं. दिनांक 28.06.2017 द्वारा न्यायालय को बिन्दुवार निम्न टिप्पण भेजे :-

पृष्ठ 2

- i. विभाग द्वारा किसी भी कर्मचारी को केवल उसकी निशक्ता के आधार पर प्रोन्नति से वंचित नहीं किया गया है बल्कि उक्त कर्मचारी ने लिपिक वर्ग से अधिकारी वर्ग के प्रोन्नति के लिखित परीक्षा में 100 में से निर्धारित न्यूनतम 40 अंक में से 30 अंक प्राप्त किये हैं हाँलाकि उसे श्रुतिलेखक की सुविधा भी प्रदान की गयी थी ।
 - ii. बैंक ने कार्मिक एवम् प्रशिक्षण विभाग के कार्यालय ज्ञापन सं० 36035/3/2014-स्था. (आरक्षण) दिनांक 29.12.2005 के पैरा 15(क) के अनुसार निःशक्ता से ग्रस्त व्यक्तियों के लिए आरक्षण निर्धारित किया है एवं 100 बिन्दुओं वाला आरक्षण रोस्टर भी बनाया है तथा सीधे भर्ती के माध्यम से भरे जाने वाले समूह ख पदों के लिए, सीधे भर्ती के माध्यम से भरे जाने वाले समूह ग पदों के लिए, सीधे भर्ती के माध्यम से भरे जाने वाले समूह घ पदों के लिए अलग-अलग एक-एक आरक्षण रोस्टर तैयार किया है। बैंक में उक्त ज्ञापनों के आधार पर वर्ष 1996 से प्रारम्भ करते हुए आरक्षण रजिस्टर तैयार किया गया है।
 - iii. बैंक ने आरक्षण रजिस्टर कार्मिक एवम् प्रशिक्षण विभाग के विभिन्न निर्देशों का पालन करते हुए तैयार किया है कोई भी रिक्ति जोकि आरक्षित श्रेणी में आती है उसको अनारक्षित नहीं किया गया है तथा विकलांगजन के उपलब्ध न होने पर उस आरक्षित सीट को अगले वर्ष के लिए आगे ले जाया गया है।
4. मामले में नोटिस दिनांक 11.05.2018 द्वारा व्यक्तिगत सुनवाई दिनांक 23.05.2018 के लिए निर्धारित की गयी ।
5. मामले में उपरोक्त उल्लेखित दिनांक को सुनवाई सम्पन्न हुई । वादी ने सुनवाई के दौरान कहा कि वर्ष 2017 में पदोन्नति की सूची जारी की गई जिसमें उनका नाम सम्मिलित नहीं था, उनके कहने पर तुरन्त उनका नाम परीक्षा हेतु सम्मिलित किया गया । उन्हें दिव्यांग श्रेणी में सम्मिलित न कर सामान्य श्रेणी के अन्तर्गत अनुत्तीर्ण घोषित किया गया । वादी ने कुछ अन्य मुद्दों को भी सुनवाई के दौरान उठाया जैसे कि वरिष्ठता का प्रकार, पदोन्नति नियम, बैंक द्वारा वर्ष 2018 में दिव्यांग श्रेणी में रिक्ति स्पष्ट न करना, इत्यादि ।
6. प्रतिवादी की तरफ से उपस्थित अधिवक्ता ने कहा कि उक्त संदर्भ में बैंक पूर्व में ही जवाब दे चुका है।
7. मामले में कार्यवाहियों के रिकार्ड दिनांक 12.06.2018 द्वारा बैंक को आदेशित किया गया कि निम्न दस्तावेजों की प्रतियाँ इस न्यायालय को अगली सुनवाई से एक सप्ताह पूर्व भेजें :-
- पदोन्नति की पूर्ण प्रक्रिया से सम्बन्धित दस्तावेजों की प्रतियाँ;
 - संलग्न प्रोफार्मा में दिनांक 01.01.1996 से वर्ग 'क', 'ख', 'ग' एवं 'घ' की पदोन्नति का ब्यौरा संपर्क अधिकारी के प्रमाण पत्र के साथ कि पदोन्नति के लिए आरक्षण रजिस्टर कार्मिक और प्रशिक्षण-विभाग के निर्देशानुसार बनाया गया है;
8. मामले में अगली सुनवाई दिनांक 02.07.2018 के लिए स्थगित की गयी।

9. उपरोक्त तिथि को सुनवाई के दौरान प्रतिवादी बैंक के अधिवक्ता ने इस न्यायालय द्वारा वांछित सभी दस्तावेजों की प्रतियाँ न्यायालय में प्रस्तुत की ।

10. वादी ने न्यायालय को बताया कि उनको सामान्य श्रेणी के अन्तर्गत लिपिक कैडर से अधिकारी कैडर में पदोन्नति दी गई है जिससे उनको काफी आर्थिक हानि हुई है । दूसरे उन्हें अभी तक अधिकारी कैडर का वेतनमान भी नहीं दिया जा रहा है ।

11. मामले में अगली सुनवाई दिनांक 19.07.2018 के लिए पुर्ननिर्धारित की गयी ।

12. The Learned Counsel of the Respondent Bank during the hearing on 19.07.2018 has submitted as under :-

- The petitioner was promoted from clerical cadre to the Officer cadre as an Officer to JMGS-I vide letter dated 22.06.2018.
- Basic salary of the petitioner at the time of his working as a Clerk was Rs. 31,540/-.
- His basic salary after promotion as an Officer to JMGS-I stands as Rs. 35,470/-
- For the month of June 2018, the Petitioner was paid a salary of Rs. 53,198.69/-.
- Arrears of salary, if any, pursuant promotion from Clerical to Officer, just in case of other similarly placed/promoted persons, will be given in the next salary payable to him in July, 2018.

14. उपरोक्त के परिप्रेक्ष्य में प्रतिवादी बैंक को निर्देश दिए जाते हैं कि वादी को अधिनियम के प्रावधानानुसार सभी सेवा लाभ अविलम्ब प्रदान किए जाएं । सुनिश्चित करें कि दिव्यांगजन अपने संवैधानिक अधिकारों से वंचित न रह जाएं ।

15. मामले को यही बन्द किया जाता है ।

कमलेश कुमार पाण्डेय

(डा. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त दिव्यांगजन



Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 9391/1041/2018

Dated 20.08.2018

In the matter of:

Shri Shivam Agrawal
Doctoral Scholar,
Zakir Hussain Centre for Educational Studies,
School of Social Sciences,
Jawaharlal Nehru University,
New Delhi-110067,
Email – agrawal.shivam5@gmail.com

R-10851

R-10852

.... Complainant

Versus

The Secretary/Director,
UGC-National Eligibility Test,
Central Board of Secondary Education,
H-149, Sector - 63, Phase-IV
Distt. Gautam Budh Nagar, NOIDA - 201309, U.P.

.... Respondent

Date of hearing: 11.06.2018

Present:

1. Shri Shivam Agrawal, complainant
2. Shri Shekhar Chandra, Asst. Secretary, CBSE-UGC-NET, Delhi for respondents

O R D E R

The complainant, Convener, JNU Visually Challenge Students Forum 2017-18 filed a complaint vide email dated 09.02.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to 'RPwD Act, 2016', regarding harassment to the candidates with disabilities at examination centre in UGC-NET November, 2017 and violation of the guidelines issued by the Ministry of Social Justice and Empowerment, Department of Disability Affairs, vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013.

2. The complainant forwarded copies of the Admission Card (Provisional) for UGC-NET November, 2017 in respect of Ms. Dharamwati (Roll No.15005807); Ms. Guddi Jha (Roll No.15060312); Shri Pankaj Singh Kushwaha (Roll No.15066886); Shri Krishna Kumar Dubey; Shri Rishiraj Yadav (Roll No.15038514); Shri Dalbeer Shahi (15040862); and Shri Santosh Singh Kandari (Roll No.15021671) who appeared in UGC-NET

November 2017. A large number of candidates were not allowed their own scribe which they brought adhering to the scribe guidelines duly formed by CBSE. In many cases the candidates were not provided the writer fee even though the same was mentioned in the information bulletin. The replacements of the scribe provided by various centres were sheer mockery of the hard work put in by the scribe user aspirants for appearing in the exam and their careers were put at stake. The complainant requested the following for the candidates with disabilities :-

- (1) Adoption and implementation of the Office Memorandum No.16-110/2003-DD.III dated 26.02.2013;
- (2) Reintroducing the provision of test booklets in Braille and large print;
- (3) Ensuring accessible infrastructure at their designated exam centres;
- (4) Providing voluntary assistance to them at their exam centres for navigation; and
- (5) Providing the writer fee to all scribes at their respective centres on the day of the NET Exam itself.

3. Under Section 75 of the RPwD Act, 2016, the matter was taken up with the respondent vide this Court's letter dated 14.03.2018 for submission of their comments. Since no reply received from the respondent, the case was listed jointly for hearing on 11.06.2018, vide Notice of Hearing dated 07.05.2018.

4. After issuance of Notice of Hearing, the respondent filed their reply dated 08.05.2018 and intimated that they had already sent their reply to the complainant vide their letter dated 14.12.2017 and furnished a copy of the same for reference of this Court. The respondent submitted that in UGC-NET November, 2017 they followed the guidelines issued by the Ministry of Social Justice & Empowerment. The Board also issued instructions to each and every examination centres to facilitate the candidates with disabilities and make their seating provisions in the Ground Floor only as far as possible, provide them accessible and suitable friendly toilets/washrooms, proper drinking water at the examination centres. As regards the Test Booklet in Braille and Large Print for candidates with visual impairment in Paper I and other 43 subjects, this time it was discontinued because these candidates were allowed to appear in the examination with the help of scribes to write the answers. The candidates with disabilities were remembered through emails and SMS to visit their examination centres in advance so that on the day of the examination they could not find any difficulty to reach on time. The examination centres were instructed to Rs.1000/- fixed for payment to the scribe per candidate for all the 03 papers or complete examination against proper acknowledgement.

5. During the hearing on 11.06.2018, the complainant reiterated his complaint and added that the scribe fees be released to the scribes who were not paid at the exam centres

and also to those who went all the way to the centre with the candidates but were unlawfully prevented from scribing. The complainant further requested that CBSE reprimand all the guilty exam centres and seek explanation from them for their unruly behaviour. The Board should ensure that from now onwards, there should not be violation of any kind for persons with disabilities in any exam conducted by it.

6. The representative of the respondent relied on the reply already filed on record and added that a Writ Petition has been filed by Shri S G S Sisodia, General Secretary, Indian Association of the Blind before the Hon'ble High Court of Delhi in the matter and decision has yet to come.

7. In the light of the documents available on file and the facts submitted above, it appears that the examination centres have not adhered to the guidelines / notifications issued for conducting the UGC-NET November, 2017. The respondent is advised to immediately arrange to release the scribe fee to the scribes who have not received the fees as well as to those who were unlawfully prevented from scribing; and appropriate action should be taken against the erring examination centres who violated the guidelines / notifications issued by the respondent. The respondent should also ensure that reasonable accommodations are provided to the candidates with disabilities at the examination centre. The respondent is further advised to adhere to the guidelines issued vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 in conducting the exams in future.

8. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



O/c

न्यायालय मुख्य आयुक्त दिव्यांगजन**COURT OF 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 and Empowerment****भारत सरकार/Government of India**

वाद संख्या 8370/1141/2017

दिनांक 13.08.2018

के मामले में -

स्व प्रेरणा से

बनाम

खेल विभाग
(द्वारा - खेल विभाग के सचिव),
युवा कार्यक्रम और खेल मंत्रालय,
शास्त्री भवन, नई दिल्ली-110001

.... प्रतिवादी

सुनवाई की तिथि - 30.07.2018

उपस्थित -

श्री तरुण पारीक, अनुभाग अधिकारी और श्री अमोघ आनन्द शुक्ला, सहायक अनुभाग अधिकारी प्रतिवादी पक्ष की ओर से

आदेश

दैनिक हिन्दुस्तान, समाचार-पत्र में दिनांक 02 अगस्त 2017 को "शर्म - पाँच पदक जीतकर लौटे दिव्यांगों का स्वागत तक नहीं" शीर्षक से समाचार प्रकाशित किया गया था। समाचार पत्र के अनुसार अन्तर्राष्ट्रीय मंच पर पदक जीतने वाले खिलाड़ियों को आमतौर पर स्वदेश लौटने पर सिर आँखों पर बैठा लिया जाता है जबकि तुर्की में समपन्न हुए बधिर ओलम्पिक 2017 में न सिर्फ सोना बल्कि रिकार्ड पाँच पदक जीतकर लौटे 46 दिव्यांग खिलाड़ियों को स्वदेश लौटने पर न तो स्पोर्ट्स अथॉरिटी ऑफ इण्डिया और न ही खेल मंत्रालय से कोई अधिकारी हवाई अड्डे पर स्वागत के लिए पहुँचे, जिससे खिलाड़ियों का मनोबल गिरा। खिलाड़ियों ने इसके लिए हवाई अड्डे पर प्रदर्शन भी किया था।

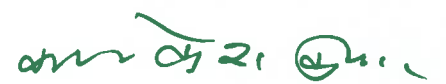
2. दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 75 के अन्तर्गत स्वप्रेरणा से इस न्यायालय के पत्र दिनांक 22.09.2017 के द्वारा प्रतिवादी से इस मामले टिप्पणी माँगी गई। परन्तु स्मरण पत्र दिनांक 20.02.2018 और 13.04.2018 भेजे जाने के उपरान्त भी प्रतिवादी से उत्तर अप्राप्त रहने पर दिनांक 30.07.2018 सुनवाई की तिथि सुनिश्चित की गई और प्रतिवादी को सुनवाई की सूचना दिनांक 12.07.2018 जारी की गई।

3. सुनवाई के दौरान प्रतिवादी पक्ष की ओर से उपस्थित प्रतिनिधि ने कोई लिखित उत्तर प्रस्तुत नहीं किया, तथापि ऑल इण्डिया स्पोर्ट्स काउंसिल ऑफ दि डेफ, नई दिल्ली द्वारा सहायक अनुभाग अधिकारी, एसपी-1 अनुभाग, युवा कार्यक्रम और खेल मंत्रालय को प्रेषित पत्र की एक प्रति न्यायालय के सम्मुख प्रस्तुत किया। पत्र में दिए गए विवरण के अनुसार मंत्रालय द्वारा सम्बन्धित निर्देश विलम्ब से दिनांक 26.12.2017 को जारी किए गए जबकि टीम का आगमन 01.08.2017 को हुआ था। खिलाड़ियों की टीम सुबह साढ़े चार बजे हवाई अड्डे पर पहुँची थी जिसके स्वागत के लिए ऑल इण्डिया स्पोर्ट्स काउंसिल ऑफ दि डेफ, नई दिल्ली के कुछ एशोसिएट्स टीम के स्वागत के लिए उपस्थित थे, पदाधिकारीगण विलम्ब से पहुँचे थे।

4. इस सम्बन्ध में प्रतिवादी को यह अवगत किया जाता है कि दिव्यांगजन अधिकार अधिनियम, 2016 की धारा 93 के अन्तर्गत निम्नलिखित प्रावधान है :-

"93. जो कोई इस अधिनियम या इसके अधीन किए गए किसी आदेश या निर्देश के अधीन पुस्तिका, लेखा या अन्य दस्तावेज पेश करने में या कोई विवरणी, जानकारी या विशिष्टियाँ इस अधिनियम या इसके अधीन किए गए किसी आदेश या निर्देश के उपबन्धों के अनुसरण में पेश करने या देने या किए गए किसी प्रश्न का उत्तर देने के लिए कर्तव्यबद्ध है, को पेश करने में असफल रहता है वह प्रत्येक अपराध की बाबत जुर्माने से दंडनीय होगा जो पच्चीस हजार रुपये तक का हो सकेगा और चालू असफलता या इंकार की दशा में अतिरिक्त जुर्माने से जो जुर्माने के दंड के अधिरोपण के मूल आदेश की तारीख के पश्चात् चालू असफलता या इंकार के लिए प्रत्येक दिन के लिए एक हजार रुपये तक हो सकेगा, दंडनीय होगा।"

5. उपरोक्त के आलोक में प्रतिवादी को सलाह दी जाती है कि अपने मंत्रालयों/सम्बन्धित विभागों के अधिकारियों/कर्मचारियों को दिव्यांगजन अधिकार अधिनियम, 2016 में प्रदत्त उनके अधिकारों के प्रति संवदेनशील रहने के लिए समुचित निर्देश जारी करें ताकि दिव्यांगजन खिलाड़ी का मनोबल बढ़े और वे उपेक्षित महसूस न करें।



(डॉ. कमलेश कुमार पाण्डेय)
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No: 7437/1013/2017

Dated: 09.08.2018

In the matter of:-

Shri Abhishek Mahesh
403, 5/A, Anju Apartments
Rajendra Nagar, Kulupwadi Road
Borivli (East), Mumbai – 400066

Complainant

Versus

Reserve Bank of India
Through the Secretary
16th Floor, Central Office Building
Shahid Bhagat Singh Marg, Mumbai – 400001

Respondent

Date of Hearing: 30.07.2018

Present:

1. Shri Abhishek Mahesh Kandoi - Complainant
2. Shri S.D. Bodalkar, AGM on behalf of Respondent

ORDER

The above named complainant Shri Abhishek Mahesh Kandoi filed a complaint dated 28.05.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act regarding rejected candidature for post of Officers in Group 'B' (General) by RBI.

2. The complainant in his complaint submitted that he had given RBI Grade 'B' examination in September 2016 and got selected for the interview which was scheduled on 04.11.2016 but he got an e-mail from RBI stating that his interview was rejected because he is a cerebral palsy with both arms.

3. The matter was taken up with the respondent vide letter dated 21.09.2017 under Section 75 of the Rights of Persons with Disabilities Act, 2016.

4. In response, General Manager, Reserve Bank of India vide letter dated 15.11.2017 has inter-alia submitted on scrutiny of the documents filed by Shri Abhishek Mahesh at the time of interview for the post of Officer in Gr 'B' (DR) General PY-2016, it was found that he was a case of CP with quadriplegia having 60% permanent physical impairment in relation to his whole body and suffering from Cerebral Palsy – both arms and Both legs. He further submitted that as per the suitability identified by Govt. of India for the post of Gr 'B' (General), OH persons with one arm/one leg/both legs affected are eligible for the above post. Hence, as stated in the advertisement for the above post Shri Kandoi was not eligible to apply for the said post and hence his candidature was rejected and he was intimated accordingly.

5. Complainant vide rejoinder dated 06.02.2018 has inter-alia submitted that he is working in a Public Sector bank in the Front Office facing customers daily since 03 years and he can work on a computer and he has worked on Finance and Bancs 24 software and he does RTGS/NEFT daily and open SB/CA accounts and do everything a PO does in a bank. He further submitted that it is clearly mentioned in the identified list, that the list is only illustrative not exhaustive.
6. After considering the respondent's letter dated 15.11.2017 and complainant's e-mail dated 06.02.2017, it was decided to hold a personal hearing in the matter. Therefore, the case was listed on 30.07.2018.
7. During the hearing, complainant reiterated his earlier written submissions and stated that list of identified job published by Ministry of Social Justice and Empowerment vide notification No. 16 – 15/2010 – DD-III dated 29.07.2018 is only indicative and not exhaustive and the action of RBI of cancelling his interview without even seeing him by making a general assumption is against the principle of natural justice. The representative of the respondent reiterated his earlier written submissions.
8. After hearing both the parties and material available on record, the response of the respondent is found satisfactory as the post in question is not identified for Cerebral Palsy – both arms and both legs as per the Notification No. 16 – 15/2010-DD.III dated 29.07.2013 of Ministry of Social Justice and Empowerment. Therefore, this court is forwarding this matter to Department of Empowerment of Persons with Disabilities (Divyangjan) for their consideration and necessary action. Case is disposed off accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities

To,

The Director (DD – III)
Department of Empowerment of Persons with Disabilities (Divyangjan)
Ministry of Social Justice & Empowerment
5th Floor, Block B – I, B – II & B – III
Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi -110003



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No.: 9481/1041/2018

Dated 07.08.2018

In the matter of:

Shri Nitin Kumar Tyagi,
Email – nitinkumarsw@gmail.com

R-10720

.... Complainant

Versus

University of Delhi
[Through: Registrar]
Delhi – 110007

R-10721

.... Respondent

Date of hearing: 20.07.2018

Present:

1. Advocate Bikram Singh for Advocate Saurabh Banerjee for respondent
2. None appeared for complainant

ORDER

The complainant, a person with 100% visual impairment, filed a complaint under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', and submitted that he is the student of Economics Hons, 1st Year, at Shri Ram College of Commerce, University of Delhi. He appeared in 1st Semester Exam in December, 2017 and got a lot of graphical questions in Introductory Micro Economics and Mathematical Methods of Economics papers which were held on 4th and 12th December, 2017. He requested the University to provide some benefits in place of graphical answers required but the University ignored his request.

2. Clauses XV of the guidelines issued vide OM No.16-110/2003/DD.III dated 26.02.2013, by the Ministry of Social Justice & Empowerment, Department of Disability Affairs (now renamed as 'Department of Empowerment of Persons with Disabilities') provides as under:

XV. *Alternative objective questions in lieu of descriptive questions should be provided for Hearing Impaired persons, in addition to the existing policy of giving alternative questions in lieu of questions requiring visual inputs, for persons with visual Impairment.*

3. The matter was taken up with the respondent under Section 75 of the Act for submission of their comments in the matter, vide this Court's letter dated 13.04.2018.

4. The respondent filed their reply dated 15.05.2018 and submitted that the representation of the complainant was forwarded to Head, Department of Economics who opined that the question paper complied with the guidelines for candidates with visual impairment and nothing in the paper requires visual inputs.

Page 1 of 2

5. Upon considering the reply filed by the respondent, the case was listed for personal hearing on 06.07.2018 and Notice of Hearing dated 15.06.2018 was issued to the parties to the case to appear before the Court for hearing. A copy of the reply dated 15.05.2018 filed by respondent was also sent through email to the complainant for submission of his rejoinder / comments to this Court one week prior to the date of hearing. However, due to administrative reasons, the hearing was rescheduled to 20.07.2018 and the parties were accordingly informed vide this Court's letter dated 22.06.2018 both by post and through email dated 26.06.2018.

6. In the meanwhile, the respondent filed a detailed reply dated 17.07.2018 and submitted that the complainant/student appeared for examination/s for 'Introductory Microeconomics' on 04.12.2017 and again on 'Mathematical Methods for Economics' on 12.12.2017. Pursuant whereeto, after taking both the examinations, vide his letters of even dates, he gave vague/cryptic letter/s to the Principal, Shri Ram College of Commerce, University of Delhi requesting for consideration as he was unable to attend few questions in both the questions papers wherein diagrams/graphic representations were to be made, without specifying the 'exact question/s' in either of the questions papers. The respondent repeatedly asked the complainant for the exact specifications about the question referred to by him, but he was unable to respond and give a direct reply. He was repeatedly conveyed that his representation could not be considered in view of the vagueness and it was set up after due verifications and it has been again verified/confirmed that there were no diagrams/graphic representations involved in either of the questions papers. Furthermore, vide email dated 08.02.2018, the respondent asked the 'Professor and Head, Department of Economics, if the same require visual inputs, who vide email dated 09.02.2018 confirmed that "Nothing in this paper requires visual inputs." The above was conveyed to the Principal, Shri Ram College of Commerce vide email dated 12.02.2018. Despite thereto, the complainant again gave another representation dated 28.02.2018 for analyzing both question papers. As the same issue was already settled, the respondent vide email dated 24.04.2018 again wrote to the College about the same. The respondent further submitted that the grievance raised by the complainant has been duly looked into and he has been repeatedly conveyed about the same. The complainant cannot be allowed to take benefit of the fact that he was unable to solve the question/s in both the question papers.

7. During the hearing on 20.07.2018, neither the complainant nor anyone appeared for the complainant nor was any intimation received from the complainant with regard to his absence during the hearing.

8. In the lights of facts submitted above and on the basis of documents available on the file, the case is dismissed on default in terms of Rule 38(4) of the Rights of Persons with Disabilities Rules, 2017.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

केस सं०: 8934 / 1014 / 2017

दिनांक: 01.08.2018

श्री अनीस असलम

वादी

नि० - 163 / 1 फेथफलगंज छावनी

कानपुर नगर - 208004

बनाम

भारतीय कृत्रिम अंग निर्माण निगम (एल्मिको)

(द्वारा अध्यक्ष और प्रबंध निदेशक)

जी.टी.रोड़, कानपुर - 2092217

प्रतिवादी

सुनवाई की तिथि : 25.07.2018

उपस्थित :

- श्री अनीस असलम - वादी
- श्री एम. अवस्थी, जूनियर प्रबंधक (कानूनी - आईआर) विपक्षी की ओर से

आदेश

उपरोक्त शिकायतकर्ता श्री अनीस असलम ने मेटल पालिसर के पद पर नियुक्ति से संबंधित शिकायत - पत्र the Rights of Persons with Disabilities Act, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. शिकायतकर्ता का अपनी शिकायत में कहना है कि भारतीय कृत्रिम अंग निर्माण निगम ने विकलांग विशिष्ट भर्ती के तहत, अक्टूबर 2016 में विज्ञापन प्रकाशित किया जिसमें मेटल पालिसर के तीन पद थे तथा प्रार्थी ने दिव्यांग ओ.ए. कैटेगरी के अन्तर्गत सम्पूर्ण योग्यता के आधार पर आवेदन पत्र प्रेषित किया था। प्रार्थी का आगे कहना है विश्वस्त सूत्रों से उन्हें पता चला है कि भारतीय कृत्रिम अंग निर्माण निगम, कानपुर की वरिष्ठ प्रबंधक (कार्मिक एवं प्रशासन) कु० नीलू द्विवेदी ने प्रार्थी का आवेदन पत्र द्वेष भावना की रवैया अख्तियार करके गायब कर दिया। प्रार्थी को साक्षात्कार के लिए नहीं बुलाया गया चूंकि कु० नीलू द्विवेदी ने भ्रष्टाचार का सहारा लेते हुए तीन रिक्त पदों की भर्ती कर ली जो कि असंवैधानिक तथा प्रार्थी के लिए निन्दनीय कुठाराघात कृत्य है।

3. मामला the Rights of Persons with Disabilities Act, 2016 की धारा 75 के अन्तर्गत पत्र दिनांक 23.11.2017 द्वारा प्रतिवादी के साथ उठाया गया।

4. जवाब में प्रबंधक, भारतीय कृत्रिम अंग निर्माण निगम, कानपुर पत्र दिनांक 27.03.2017 ने अपने टिप्पण न देकर, आरक्षण रजिस्टर एवं extract of minutes of the 159th meeting of Board of Directors की प्रति दी।

5. प्रार्थी का अपने प्रति उत्तर में संक्षिप्त में कहना है कि भारतीय कृत्रिम अंग निर्माण निगम वर्ष रोस्टर 1996 का जवाब प्रेषित किया हैं वो दिव्यांग भर्ती को तोड़ मरोड़ कर भ्रामक रूप से किया है जिसमें एनेकजर-1 बी, वर्ष रिक्रटुमेंट जिसमें आफिसर श्री ए.के. द्विवेदी को दिनांक 01.01.2014 से बी.एच.दिव्यांग कैटेगरी में दर्शाया है उपरोक्त श्री ए.के.द्विवेदी 01.01.2014 से आफिसर कैडर में पदोन्नति पाया है भर्ती नहीं किया गया है प्रार्थी को विश्वस्त सूत्रों से ज्ञात हुआ है कि उपरोक्त श्री ए.के. द्विवेदी बी.एच. कैटेगरी में नहीं पी.बी.कैटेगरी में आते हैं प्रार्थी का आगे कहना है कि प्वाइन्ट नं: 96 में श्री अजय चौधरी जो कि डिप्टी जनरल मैनेजर के पद पर नियुक्त हैं उनको जनरल मैनेजर दर्शाया गया है। प्रार्थी का आगे कहना है कि दिव्यांग व्यक्तियों का रोस्टर भारतीय कृत्रिम अंग निर्माण निगम में टोटल गलत है।

6. प्रतिवादी के पत्र दिनांक 27.03.2017 एवं वादी के पत्र दिनांक 12.04.2018 के मददेनजर, दिनांक 03.07.2018 को सुनवाई रखी गई तथा दोनों पक्षों को सुनने के पश्चात्, न्याय के हित में, प्रतिवादी को निर्देश दिया गया था कि वह अगली सुनवाई के दौरान दिनांक 25.07.2018 को निम्नलिखित जानकारी के साथ प्रस्तुत हो।

- भारतीय कृत्रिम अंग निर्माण निगम का मूल रोस्टर प्रस्तुत करें
- मेटल पालिसर पद के लिए आवेदन करने वाले आवेदकों की सूची का रजिस्टर प्रस्तुत करें।

7. प्रार्थी को भी निर्देश दिया गया था कि वह अपने आवेदन प्रपत्र की प्रति एवं स्पीड पोस्ट रसीद प्रस्तुत करें।

8. दिनांक 25.07.2018 की सुनवाई के दौरान विपक्षी से मांगी गई जानकारी उनके द्वारा उपलब्ध कारवाई गई तथा दस्तावेजों की जाँच की गई। जाँच उपरांत दस्तावेजों को उपयुक्त पाया गया तथा सुनवाई के दौरान प्रार्थी से मांगी गई जानकारी वह उपलब्ध नहीं करवा पाए। इसलिए इस केस को खारिज किया जाता है।



(डॉ कमलेश कुमार पाण्डेय)
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No. 7518/1011/2017

Dated: 06.08.2018

In the matter of:-

Dr. Nitesh Kumar Tripathi

H.No. B – 241, B Block

Sant Nagar Burari, Delhi – 110084

<niteshtripathi85@gmail.com>

R-10710

Complainant

Versus

All India Institute of Medical Science

Through the Director

Basni Phase – II, Jodhpur – 342005

Rajasthan

R-10711

Respondent

Date of Hearing: 28.06.2018 & 30.07.2018

Present:

1. Complainant - absent
2. Mrs. Bharathi Raju Advocate on behalf of respondent

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi filed an e-mail dated 19.01.2017 under the Persons with Disabilities Act, 1995, hereinafter referred to as the Act regarding non implementation of provisions of Persons with Disabilities Act, 1995 by AIIMS, Jodhpur.

2. The complainant in his complaint submitted that AIIMS, Jodhpur has published an advertisement for various posts and the advertisement is not showing exact number of seats reserved for persons with disabilities. He has requested this court to direct the respondent to provide various facilities like full exemption from the payment of application fee, extra time during examination, travel expenses to attend interview along with an escort, disabled friendly environment during the interview and to also conduct the Special Recruitment Drive for filling up the backlog vacancies for persons with disabilities.

3. The matter was taken up with the respondent vide letter dated 24.03.2017 under Section 59 of the Persons with Disabilities Act, 1995.

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4. In response, Administrative Officer, AIIMS vide letter dated 26.04.2017 has inter-alia submitted that while issuing the advertisement dated 31.12.2016, it is clearly mentioned at point No. 2 under heading note that the reservation will be as per Govt. of Policy, which postulates the reservation for all classes as per the Government policy including persons with disability also. They further submitted that the regular recruitment for the posts as first time conducted by the respondent institution in the year 2015 in which all the posts were filled up and in 2016 at present only. Thus, there is no question of any backlog vacancy as claimed. So far as instant advertisement is concerned necessary reservation for all the categories including physically disabled is being carried out in its letter and spirit in accordance with law. Other relaxation available during the course of recruitment like exemption from examination fees etc. has already been provided and even under the instant advertisement no examination fees has been charged from PH person. They also submitted that three vacancies have already been filled up from persons with disabilities.

5. Complainant vide rejoinder dated 17.09.2017 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised in his original complaint.

6. After considering the respondent's letter dated 26.04.2017 and complainant's e-mail dated 17.09.2017, it was decided to hold a personal hearing in the matter. Therefore, the case was listed on 28.06.2018 and subsequently on 30.07.2018.

7. On the date of hearing, complainant was absent instead of attending hearing, complainant has sent an e-mail which is reproduced below:

"Please allow me to attend the hearing of case over phone/Video Conferencing /Skype which is scheduled for 30/07/2018 at 02:30 PM . Here I want to mention that I have to face too much Difficulty for attending hearing in this court of CCPD as I have to drive my invalid carriage for more than 60 km and this may be fatal someday . Its a rainy season and driving of a disabled friendly scooter may be injurious to me (This is well known that Delhi is at edge of dangerous flood at this time) at a larger extent. Second issue is that please don't mention that complainant is absent and disposed off case without recording of my statement on phone. This is the era of Digital India Campaign so we PwD as an important Stakeholders must be included through this way .My phone number 9818952084 will be free at time of hearing so please allow me for telephonic hearing accordingly.

The e-mail was not considered by the Court as there is no provision in either the Rights of Persons with Disabilities Act, 2016 or the Rights of Persons with Disabilities Rule, 2017 for conducting hearing over phone or video conferencing or Skype etc.

8. After hearing and material available on record, response of the respondent found satisfactory. The Court noted with serious concern, the utter disregard shown by the complainant by sending such e-mail directing the court dated 30.07.2018 which is not acceptable. Accordingly, complainant is advised to avoid giving any direction to the Court.

9. In view of the above, case is closed accordingly.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Cash No. 4724/1101/2015

Dated: 08.08.2018

In the matter of:

Shri Tushar Kanti
tkpal50@gmail.com

R-10644

Versus

New Delhi Municipal Council (NDMC)
(through: the Secretary)
Palika Kendra, Parliament Street
New Delhi-110001

R-10645

Date of Hearing : 11.06.2018

Present:

None appeared either of the party.

ORDER

The above named complainant submitted a representation dated 06.07.2015 to this Court regarding universal accessibility to DTC Bus Stops in New Delhi under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 referred to as "the Act" (now replaced with newly passed Act by the Parliament of India as Rights of Persons with Disabilities Act, 2016).

2. The matter was taken up with the Respondent vide letter dated 27.07.2015 under Section 59 of the Act and followed by letter dated 08.01.2016, 14.10.2016 & 27.02.2018.

3. Despite repeated reminders, no reply received from the side of Respondent, therefore a personal hearing in the matter was held on 11.06.2018.

4. Executive Engineer (RIP), Office of the Executive Engineer (RIP), New Delhi Municipal Council vide letter No. D/288/EE(RIP)/2018 dated 20.04.2018 has submitted that the Bus-Q-shelters in NDMC area constructed in 2008 onwards have proper Ramp on both side of Bus-Q-shelter towards the existing footpaths and the footpaths in NDMC area have also good connectivity to roads through ramps.

5. None appeared from either of the party during the hearing.

6. The NDMC is advised to explore the possibilities in respect of public transport for better disabled friendly environment for persons with disabilities to enjoy their mobility without any obstacle. It is also to ensure the provisions of the RPwD Act while constructing future projects.

7. The case is accordingly closed.

(Signature)

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No. 7574/1011/2017

R-10606

Dated: 01.08.2018

In the matter of:-

Dr. Nitesh Kumar Tripathi

H.No. B – 241, B Block

Sant Nagar Burari, Delhi – 110084

<niteshtripathi85@gmail.com>

Complainant

Versus

Union Public Service Commission

Through the Secretary

Dholpur House, Shahjahan Road, New Delhi

R-10607

Respondent

Date of Hearing: 28.06.2018 & 25.07.2018

Present:

1. Complainant – absent
2. Shri T.K.Das, Under Secretary, Shri OM Prakash, Under Secretary & Shri Ranjit Singh, A.S.O. on behalf of respondent.

ORDER

The above named complainant Dr. Nitesh Kumar Tripathi filed an e-mail dated 31.01.2017 under the Persons with Disabilities Act, 1995, hereinafter referred to as the Act regarding non implementation of provisions of Persons with Disabilities Act, 1995 by UPSC, New Delhi.

2. The complainant in his complaint inter-alia submitted that UPSC has published an Computer Based Combined Medical Services Examination, 2016 in which total 25 vacancies were reported for PwD candidates but in final result only 21 candidates with disabilities has been selected and there is no reserved waiting list for the candidates with disabilities while there is waiting list for all most all categories of candidates. He further submitted that give direction to UPSC to submit 100 point reservation roster, details of PwD candidates who applied, appeared in written examination, out of those how many were invited for PT and out of those how many appeared in PT and out of those how many got finally selected and how many were kept in waiting list same like other categories of candidates etc.

3. The matter was taken up with the respondent vide letter dated 30.03.2017 under Section 59 of the Persons with Disabilities Act, 1995.

4. In response, Under Secretary, UPSC vide letter dated 05.05.2017 has inter-alia submitted that the examination centre "Fringe Institute of Advanced Studies – All computer labs were in First Floor, lift was working fine, wheel chair was also available for PwD candidates. In front of centre parking ground was available. All the 21 vacancies reserved for PH category have been filled up as per the final vacancy intimated by the nodal Ministry i.e. Ministry of Health & Family Welfare.

5. Complainant vide rejoinder dated 01.04.2017 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised in his original complaint.

6. After considering the respondent's letter dated 05.05.2017 and complainant's e-mail dated 17.09.2017, it was decided to hold a personal hearing in the matter. Therefore, the case was listed on 18.07.2018.

7. On the date of hearing, complainant was absent and the representative of the respondent has reiterated his written submissions. After hearing, this Court had directed the respondent to clarify the reason for 04 vacant positions out of 25 vacancies. Thereafter, representative of the respondent was requested for grant of extension of 03 weeks time.

8. On the next date of hearing i.e. 25.07.2018, complainant was again absent and representatives of the respondent submitted written statement and apprised that at the notification of Combined Medical Services Examination, 2016 i.e. on dated 05.03.2016 the participating Ministry/Department has reported the approximately 25 vacancies for PH category, in which the Ministry of Defence and East/North/South Delhi Municipal Corporations had reported vacancies 01 and 03 for PH category respectively and after conducting the written examination, all Cadre Controlling Authorities were again requested to furnish the firm number of vacancies to be filled up on the basis of CMSE, 2016. At that time, Ministry of Defence had East/North/South Delhi Municipal Corporations had reported NIL vacancy for PH category which reduced 04 vacancies (i.e.21) at the time of declaration of CMSE 2016, result. After hearing and material available on record, response of the respondent found satisfactory.

9. In view of the above, case is closed accordingly.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन
COURT OF 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 and Empowerment
 भारत सरकार/Government of India

Case No.: 9442/1041/2018

R-10512

Dated 07.08.2018

In the matter of:

Ms. Rosina Situng
 B.Ed. Spl. Edu (HI) – (2017-2019)
 Ali Yavar Jung National Institute of Speech and
 Hearing Disabilities (Divyangjan), Mumbai
 Email – rosinasitung@gmail.com

.... Complainant

Versus

Ali Yavar Jung National Institute of Speech and
 [Through: The Director]
 Hearing Disabilities (Divyangjan),
 K.C. Marg, Bandra Reclamation,
 Bandra (West), Mumbai-400050

R-10513

.... Respondent

Date of hearing: 30.07.2018

Present:

1. Dr. Gayatri Ahuja, Lecturer, AYJNISHD, Mumbai for respondent
2. None appeared for complainant

ORDER

The above named complainant submitted representations dated 23.02.2018 and 26.02.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', for providing her Interpreter by Ali Yavar Jung National Institute for Speech and Hearing Disabilities (Divyangjan) [respondent] during the lecture given by teachers.

2. The complainant is a 60% hearing impaired student pursuing her B.Ed. Spl. (HI) 2017-2019 course from respondent institute. She has been requesting the respondent from the start of her course to provide her Interpreter as she was not getting the benefit from the hearing aids proved by tests. Her classmates helped her, teachers gave her notes and they also gave PPTS but she missed on the lectures especially the example given by teachers.

3. The matter was taken up with the respondent on 18.04.2018 for submission of their comments.

4. The respondent filed their reply vide letter dated 03.05.2018 and submitted that on her admission a request letter dated 28.07.2017 was received from complainant for

interpreter services. The respondent constituted a committee to ascertain the nature of support services required for her. The committee vide their report dated 02.08.2017 recommended peer tutoring, note taking, preferential seating, and distribution of lecture notes prior to lectures and use of PPT while teaching as support services. Additionally, an audiological evaluation was also carried out by the Department of Audiology of the Institute on 19.08.2017 and the report revealed that she would not be benefitted with hearing aids. The respondent stated to have explored the possibility of hiring an interpreter for complainant but could not identify a suitable full time ISL interpreter for 8 hours per day. They offered the interpreter services through her classmates. The complainant was also asked if any of her known persons could do interpreting service for her during the vacation. The collective efforts of teachers, peer group and the efforts of complainant made her succeeded to pass Semester I of B.Ed Spl Ed (HI) in first attempt.

5. The complainant filed her rejoinder/email dated 23.05.2018 and agreed that her teachers and classmates are helping with the lecture notes. But she missed out classroom discussion and example given by her lecturers. Her friends did help her by interpreting the lectures/PPT, but the teachers' explanations which were so important to understand was not understood by her. She was not benefiting by this arrangement of lecture notes distribution and her fellow students interpreting for her, why should her friends lose concentration in class because of her. She requested to provide her a separate interpreter. She could not pass her first semester in first attempt due to not providing her interpreter.

6. Upon considering the reply filed by respondent and rejoinder by the complainant, the case was listed for personal hearing on 30.07.2018, vide Notice of Hearing dated 26/29.06.2018.

7. In the meanwhile, the complaint vide letter dated 17.07.2018 submitted that she had received the time table and allocation of topics for 3rd Semester and the interpreter services are clearly mentioned in the time table. Three peer tutors, namely, Sr. Maria Goretti Nongrem, Ms. Ariba Marji and Ms. Suchi Rana would be helping her in daily class activities. From the school placement (Lesson Plan and Observation) she has been assigned to Rotary Sanskadam Academy, Mumbai which is based on Educational Bilingualism philosophy. Notes are given on soft copy as well as hard copy. She expressed her happiness with the services provided by the Co-ordinator Dr. Gayatri Ahuja.

8. A letter dated 17.07.2018 was also received from the respondent with regard to the accommodations provided to the complainant that conformed the submissions made by her. Further, it was also found that respondent assigned additional responsibility of interpreting during lecture & practical hours to Shri S. Vijay Kumar, Sign language Trainer, Dept. of SERD and Ms. Kinjal Shah, Sign Language Interpreter, Dept. of Speech

& Language Pathology of the Institute. Preferential seating arrangement during theory and practical hours has been made as per the needs of complainant. A common email ID bedhi1719@gmail.com has been created wherein the majority of lecture notes/PPTs have been mailed and remaining will be made.

9. During the hearing on 30.07.2018, the representative of the respondent relied on the replies filed by the respondent and submitted that the complainant/student have been provided interpreter services during lectures and other reasonable accommodations for her study by the Institute. She is satisfied.

10. In the lights of the facts submitted above and the documents available on record, it appears that complainant's grievance has been redressed.

11. The case is accordingly disposed of.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF 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 and Empowerment

भारत सरकार/Government of India

Case No: 948/1022/2014

Dated : 06.08.2018

Dispatch No.

In the matter of :

Shri Abhinav Diwedi,
E 503, Shree Rang Oasis,
GIFT City Road,
Randesan,
Gandhinagar,
Gujarat – 382 009
Email>abhinav8886@gmail.com>

..... Complainant

Versus

Bharat Sanchar Nigam Limited,
(Through Chairman & Managing Director)
Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
Janpath,
New Delhi – 110 001

... Respondent

Date of Hearing : 12.06.2018

Present :

1. Shri Abhinav Diwedi, the Complainant along with his father Shri Sheo Kant Dube – Present
2. Shri Sanjay Kumar, Deputy Manager and Shri Parimal Kumar, AGM(Estt.IV), present on behalf of Respondent.

ORDER

The above named complainant, a person with 65% locomotor disability had filed a complaint dated 15.01.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding his transfer from Gandhinagar to his home town, i.e. Azamgarh, Uttar Pradesh.

2. The Complainant vide has submitted that he is posted as JTO in Bharat Sanchar Nigam Limited at Gandhinagar, Gujarat. He had been seeking transfer to his home town Azamgarh in Uttar Pradesh. His wife Smt. Shudha Tiwari is also a person with disability and she is working in State Bank of India at Faizabad in Uttar Pradesh. He is the only son of his aged father who is 75 years of age. Being alone in Gandhinagar, he has to manage all the things himself with great difficulty. His establishment has told him that his transfer can be considered when he completes five years.

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3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 04.04.2014 followed by reminder dated 24.10.2014.

4. The Asstt. Gen. Manager (Estt.IV), Bharat Sanchar Nigam Limited, New Delhi vide letter no. 5-21/2014/Estt.IV dated 12.11.2014 has submitted that the Complainant was recruited JTO under Special Recruitment Drive for filling backlog vacancies of JTO (Telecom) for Persons with Disability category for which the examination was held on 19.02.2012 in all the circles of BSNL throughout India. Gujarat Circle conducted exam for 25 posts whereas UP(E) conducted for one post. Shri Diwedi applied for Gujarat circle and accordingly appeared in the examination conducted by Gujarat Telecom Circle. The examination was conducted throughout India on the same date and question paper was same throughout India. It was the prerogative of the candidate to apply in the circle of his choice and then he is appointed in that particular circle only. As per BSNL transfer policy, an employee has to serve in that particular circle for a minimum five years before his case for Rule-8 transfer to other Telecom Circle can be considered. The Complainant had applied and was selected by Gujarat Circle under Hearing Impairment category. The Complainant stood at Serial No.10 in the merit list of 14 candidates selected in 2012. The Respondent vide their reply stated that if the Complainant wanted to get his posting in his hometown Azamgarh then he should have applied in Uttar Pradesh-E Circle and not Gujarat Circle. It appeared that because there was only one vacancy in Uttar Pradesh Circle, the Complainant must have applied in Gujarat Circle where the number of vacancies were 25 and where the chances of his selection was very high compared to his selection in UP(E) Circle. Further there is an acute shortage of JTOs in Gujarat Circle and hence it is not possible to transfer the Complainant from Gujarat Circle to UP(E) Circle before the completion of five years of service in Gujarat Circle.

5. The Complainant vide his reply dated 02.12.2014 has submitted that he has been requesting for relaxation of transfer eligibility criteria of BSNL employees transfer policy which permits to relax transfer eligibility criteria with approval of competent authority for deserving cases. He submitted that the Transfer and posting of persons with disability is not mentioned in BSNL Transfer Policy. However, in 6(h) of BSNL Transfer Policy, it is clearly mentioned that "In respect of matters which are not specifically covered in these rules, the Central Government Rules, in so far they are not inconsistent with these rules, shall be followed. The Complainant vide his letter dated 22.06.2015 has submitted that he opted for Gujarat Circle because there was no vacancy advertised for OH persons in UP East and UP West Circles. The Complainant vide his email dated 11.04.2017 has submitted that he had urged BSNL to consider his request of transferring him to his native place, but his request was denied by BSNL by stating that it will create precedence for those applicants who are seeking transfer to their native place after completion of five years of his service on the disability ground.

6. The BSNL vide their letter no.5-21/2014/Estt-IV/Abhinav Diwedi dated 26.12.2016 has stated that the transfer to native place would be possible on the basis of mutual consent of other employees willing to join his present place of posting. He submitted that the competent authorities of BSNL has not considered his candidature as a deserving case of transfer to the native place as mentioned in Rule 8(c) under BSNL's Transfer Policy. The Respondent vide letter no. 5-21/2016/Estt-IV/Abhinav Diwedi dated 26.12.2016 has submitted that letters have been issued to Gujarat Circle and UP (East) Circle for exploring the possibility of Mutual Transfer with another employee in UP (East) Circle who is willing to be posted in Gujarat from Uttar Pradesh. The Respondent further vide its letter no. 5-21/2016/Estt-IV/Abhinav Diwedi dated 03/17.03.2017 has submitted that the UP(East) Telecom Circle vide their letter dated 31.01.2017 that no application for transfer under Rule-8 (One way or Mutual Transfer) in the cadre of JTO from UP(East) Circle to Gujarat Telecom Circle is pending in their office.

7. After considering Respondent's replies dated 13.11.2014, 02.06.2015, 26.12.2016, 03/17.03.2017 and Complainant's rejoinders dated 02.12.2014, 22.06.2015, 11.04.2017, a personal hearing in the matter was scheduled on 12.06.2018.

8. During the hearing the hearing the Complainant submitted that he opted for Gujarat Circle because there was no vacancy advertised for OH persons in UP East and UP West Circles. He submitted that he had urged BSNL to consider his request of transferring him to his native place, but his request was denied by BSNL by stating that it will create precedence for those applicants who are seeking transfer to their native place after completion of five years of his service on the disability ground. The BSNL had informed him that the transfer to native place would be possible on the basis of mutual consent of other employees willing to join his present place of posting. He submitted that the competent authorities of BSNL has not considered his candidature as a deserving case of transfer to the native place as mentioned in Rule 8(c) under BSNL's Transfer Policy.

9. During the hearing the representatives of Respondent submitted that they are ready to transfer the Complainant on mutual basis. They submitted that if CGM recommends for transfer, then the Complainant can be transferred to his native place.

10. The Court directed the Respondent to explore the feasibility of transferring the Complainant to his native place, i.e. Azamgarh and conveyed that the persons with disabilities are to be given relaxation in the case of transfer as per DOP&T OMs No.14017/41/90-Estt. (RR) dated 10.05.1990 and OM No. AB14017/16/2002.Estt.(RR) dated 13.03.2002. This Court advises the Respondent to ensure

that no rights as provided under the Rights of Persons with Disabilities, Act, 2016, are infringed.

The Court also directed the Complainant to apply for transfer under Rule (9) to his Office.



11. The case is disposed off.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities