



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

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

भारत सरकार / Government of India

Case No. 2240/1014/2014

Dated:- 06.10.2016

In the matter of:

Shri Rajiv Kumar, ⁰³⁹⁷
F-11, Ground Floor, HCTM,
Kaithal-136027 (Haryana).

..... Complainant

Versus

National Institute of Technology, ⁰³⁹⁸
(Through Deputy Registrar (GA & Legal),
Kurukshetra -136119 (Haryana)

..... Respondent

Date of hearing : 16.08.2016

Present :

1. Dr. Rajiv Kumar, Complainant.
2. Shri G.R. Sasmananay, Deputy Registrar, on behalf of the Respondent.

O R D E R

The above named complainant, a person with disability filed a complaint dated 19.07.2013 bearing Registration No. MOSJE/E/2013/00312 on the Portal for Public Grievance (received through PG Portal on 27.06.2014) regarding facilities/concessions available to disabled person

2. The complainant has submitted that he applied for the post of Assistant Professor in PwDs category against the advertisement No.05/2013 issued by the National Institute of Technology (NIT), Kurukshetra. As per him, interview was conducted but there is no information available for candidates with disability till now. He has requested for taking action against the NIT, Kurukshetra.

3. The matter was taken up with the respondent vide this Court's letter dated 03.07.2014.

4. Dy. Registrar (GA & Legal), National Institute of Technology vide letter dated 08.08.2014 has submitted that the complainant had applied for the post of Assistant Professor and total 337 applications for the post of Assistant Professor (ECE) were received. As Screening Committee was constituted for short-listing the eligible candidates to be called for interview, Shri Rajiv Kumar was not short-listed by the Screening Committee as he has completed his M. Tech. Degree as part time. The Institute will advertise the Group 'A' posts in near future in which backlog vacancy of persons with disability will be filled up.

5. The complainant in response to respondent's reply filed his rejoinder dated 08.09.2014 submitting that the reply is only an eye wash to only state that the reply has been given. He also

....2/-

सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006
Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 ; Tel.: 23386054, 23386154 ; Telefax : 23386006

E-mail: ccpd@nic.in ; Website: www.ccdisabilities.nic.in

(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

submitted that the thorough reading of the matter does not clear anything except that only two persons have been recruited under PwD category. He shows his dissatisfaction to the respondent's reply.

6. Upon considering the respondent's letter dated 08.08.2014 and complainant's letter dated 08.09.2014, a hearing was scheduled on 26.12.2014.

7. During the course of hearing, the complainant submitted that no fee exemption and age relaxation were provided to the candidates with disabilities in accordance with DoP&T's O.M. No.36035/3/2004-Estt. (Res) dated 29.12.2005 in which it is clear that these should invariably be mentioned in all recruitment notices/advertisements. The complainant also submitted certain question for the clarification of the respondent, a copy of which was handed over to the respondent. The Counsel for the respondent reiterated the written statements submitted by the respondent and agreed that recruitment notices/advertisements should be published as per the norms of Government. In view of the above, the respondent is advised to submit all the information in addition to the number of vacancies in Group 'A' and Group 'B' posts occurring since 1996 and the vacancies filled up. The queries raised by the complainant vide rejoinder dated 08.09.2014 is still not replied by the respondent. They are supposed to submit the same within 30 days from the date of receipt of this Record of Proceedings with a copy to the complainant. After receipt of the reply from the respondent, the case will be disposed off on the basis of documents placed on record with or without next hearing.

8. The respondent vide letter No.Gen-1/3708/7472 dated 17.12.2014 submitted the required information as desired by this Court and also enclosed the attested copy of the Advertisement No.05/2013 and copy of appointment note/norms given to the Screening Committee.

9. This Court vide letter dated 24.04.2015 advised the respondent to clear that how many disabled candidates have been selected and how many backlog vacancies exists for persons with disabilities. It may also be cleared whether any reservation or relaxation were provided to the persons with disabilities in selection.

10. National Institute of Technology, Kurukshetra vide letter No. Gen-1/3708/1707 dated 14.05.2015 have furnished the requisite information. In PwD category, 03 candidates were selected and one PwD candidate was offered the post of Assistant Professor vide Advt. No.14/2012 but he did not join. Further, they have notified 06 vacancies in their Advt. No.24/2014 dated 21.10.2014 for recruitment of Faculty and 02 vacancies have been notified vide Advt. No.19/2014 dated 24.07.2014 for recruitment of Non-faculty. They have further intimated that reservation to PwD persons is being provided as per Govt. Of India Rules. No relaxation in qualification is given as per MRR for faculty a copy of which they have enclosed. However, relaxation in age and fee is being given to PwD candidates.

11. The complainant vide his emails dated 26.07.2015 and 26.08.2015 has desired to know the status of his case so that he may pursue his case to the Hon'ble Supreme Court of India as Janhit Yachika for PwD candidates. DDC-II vide his minutes on email dated 26.07.2015 has directed that we may intimate the status of the case to the complainant.

12. This Court vide letter dated 25.09.2015 informed the respondent that as per Record of Proceedings, they need to submit the information regarding number of vacancies in Group 'A' and 'B' posts occurring since 1996 and the vacancies filled up. Followed by reminder dated 29.02.2016.

13. Upon considering the complainant's letter dated 18.04.2015, emails dated 26.07.2015, 26.08.2015, 30.01.2016 and 27.05.2016 and the respondent's reply dated 14.05.2015, a hearing was scheduled on 16.08.2016.

14. During the hearing on 16.08.2016, the complainant reiterated his written submissions and submitted that I belong to a PwD category. I had applied for the post of Assistant Professor in the Department of Electronics & Communication Engineering in NIT, Kurukshetra. My candidature under PwD category has not been considered by the Institute. As far as he understands that NIT, Kurukshetra is not fulfilling the norms of para 4 of letter No.R8609 dated 26.11.2014. I, therefore, pray to this Court that I may kindly be issued an appointment letter for the post of Assistant Professor in the grade of g.p. Rs.8000/- since the date of declaration of interview result, seniority and arrears with interest since that date.

15. The representative of the respondent submitted that before 26.06.2002, the Institute was under the administrative control of State Government of Haryana. At that time, all the reserved vacancies were identified on the basis of State Government reservation policy. Now, the Institute is fully under the administrative and financial control of Government of India w.e.f. May, 2003. Since then, the Institute is following reservation policy of Government of India. Shri Rajiv Kumar, complainant had applied for the post of Assistant Professor in the Electronics & Communication Engineering Department against advertisement No. 05/2013. Total 337 applications for the post of Assistant Professor (ECE) were received. A Screening Committee was constituted for short-listing the eligible candidates to be called for interview. The complainant was not short-listed by the Screening Committee as he has completed his M.Tech. Degree as part time. The Ministry of HRD had provided Recruitment Rules to the Institute in 2012. According to that Recruitment Rules, the posts were advertised and screening was done..

16. This Court observed that the Advertisement No. 5/2013 issued by the National Institute of Technology, Kurukshetra is not issued as per Para 25 of the DOPT's O.M. dated 29.12.2005 though the vacancies were reserved for SC,ST but no vacancies were indicated reserved for persons with disabilities in the said advertisement.

17. In compliance of judgment dated 08.10.2013 of Hon'ble Supreme Court of India in Civil Appeal No. 9096 of 2013 (arising out of SLP (Civil No.7541 of 2009) titled Union of India & Anr. Vs. National Federation of the Blind & Ors., the Department of Personnel & Training vide O.M. No.36012/24/2009-Estt.(Res) dated 03.12.2013 has modified para 14 of its O.M. No.36035/3/2004-estt. (Res) dated 29.12.2005 to the effect that "Reservation for persons with disabilities in Group 'A' of Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively in the cadre."

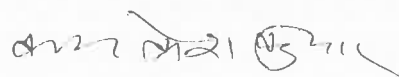
18. Department of Personnel & Training vide its O.M. No.36035/2/2012-Estt. (Res) dated 08.01.2014 has amended the Para 4 of its OM No.36035/3/2004-Estt. (Res) dated 29.12.2005 relating to identification of jobs/posts and all the Ministries/Departments are now requested to utilize the list of identified posts specified in Annexure-C of the Ministry of Social Justice & Empowerment's Notification No. 16-15/2010-DD.III dated 29.07.2013. It is further stated that the list of jobs/posts notified by the Ministry of Special Justice and Empowerment is illustrative and the concerned Ministries/Department can further supplement the list to suit their job requirements.

19. Department of Personnel Training further in compliance of the Directions of the Hon'ble High Court of Delhi passed on 17.07.2014 in Civil Miscellaneous Appeal No. 230/2014 vide its O.M. No.36035/4/2013-Estt.(res) dated 06/07.01.2015 has amended para 15(i) of the said O.M. No.36035/3/2004-Estt.(Res) dated 29.12.2005 to the extent that "Reservation for persons with disabilities in Group "A" or Group "B" posts shall be computed on the; basis of total number of vacancies occurring in direct recruitment quota ;in all the Group "A" posts or Group "B" poss respectively in the cadre." Separate roster for Group "A" posts and Group "B" posts in the establishment shall be maintained.

20. DoP&T vide its O.M. No.36012/39-2014-Estt. (Res) dated 25th May, 2015 had issued instructions regarding special recruitment drive to fill up the vacancies for persons with disabilities and has fixed 01.02.2016 as the target date for issuing offer of appointments to the selected candidates.

21. After hearing the parties and perusal of the record available on file, this Court is of the view that the complainant should be considered for appointment to the post of Assistant Professor (if the vacancies are still vacant) after following the due procedure under PwD category. Since this will be considered as backlog vacancies on the part of the University, therefore, the process may be completed at the earliest. The Compliance Report may be sent to this Court within 45 days from the receipt of this Order.

22. Ordered accordingly.



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