



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.2697/1022/2014

Dated:-10.10.2016

In the matter of:

Shri Jagmohan Verma, 0395  
2, Blocki-2, Type IIIrd,  
Telephone Colony,  
Foundry Nagar,  
Agra-282006  
Uttar Pradesh  
E-mail <arushgurjar@gmail.com>

..... Complainant

Versus

Bharat Sanchar Nigam Limited, 0396  
(Thru The Chairman & Managing Director),  
BSNL Corporate Office,  
Bharat Sanchar Bhawan,  
H.C. Mathur Lane, Janpath,  
New Delhi-110001

..... Respondent

Date of hearing : 22.04.2016, 03.06.2016

Present :

22.04.2016

1. Shri Jagmohan, Complainant.
2. S/Shri Rajesh Kumar, Addl.G.M., V.K. Kulshrestha, SDE, Legal, S.P.Sharma, Advocate, on behalf of the Respondent.

03.06.2016

1. Shri Jagmohan, Complainant.
2. S/Shri Rajesh Kumar, Addl. G.M., V.K. Kulshrestha, SDE, Legal, S.P.Sharma, Advocate and Shatrunjay Sharma, Advocate, on behalf of the Respondent.

O R D E R

The above named complainant Shri Jagmohan Verma, father of 90% locomotor disabled daughter filed a complaint dated 25.07.2014 (received on 10.09.2014 through Portal for Public Grievances) on the Portal for Public Grievances praying for his transfer.

2. He submitted that his daughter is a person with 90% locomotor disability and she is residing with him in Government quarter located in the same campus of his office. Adherence of residence with the office facilities, his daughter in rehabilitation process. He is the main caregiver of his daughter. GM of BSNL, Agra transferred him having no ground except that of discrimination. In a RTI response BSNL, Agra vide letter dated 26.05.2014 clearly admitted that there is no public complaint against him, no criteria of transfer was responded, interest of service was not clarified in his RTI. He joined BSNL on 30.04.2009 employees of same status working since 1994, 1999, 2000 are not transferred. He further submitted that he personally met GM and insisted to implement the O.M. dated 06.06.2014 but he is not ready to implement the same.

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

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 17.09.2014.

4. The respondent vide letter No.28-1/2014-SCT(SG)/990 dated 02.12.2014 has submitted that it is true that the complainant is residing with his disabled daughter in the Government accommodation at Telephone Exchange, Foundry Nagar, Agra. The complainant has been transferred from Agra Foundry Nagar Telephone Exchange to Sanjay Place Telephone Exchange hardly at a distance of 4 Kms. In the heart of Agra City, to enable him for supporting his disabled daughter.. Transfer and posting of the personnel in the BSNL is a regular process. The complainant has been posted and working continuously at Telegraph Office/Customer Service Centre, Foundry Nagar, Agra since the year 1998. Prior to it, he was working at Telegraph Office/Telecom Centre, Kheragarh (Agra) at a distance of near about 40 Kms. From Agra SSA H.Qr. While transferring the complainant on longest stay basis from CSC, Foundry Nagar to CSE, Sanjay Place, Agra, the instructions laid down in Memorandum dated 06.06.2014 of the Department of personnel & Training have been followed scrupulously. After having been relieved by his controlling Officer i.e. SDE (Foundry Nagar), BSNL, Agra on dated 11.04.2014, the complainant Sh. Jagmohan Verma is continuously on medical leave without submitting the medical certificate etc. in support of his leave. Despite of several requests from his office, the complainant has simply produced the prescription slips of District Hospital, Agra for which his leave case is yet pending and salary could not be paid to the complainant by the Accounts Officer (Cash) of this office. In the light of all the above aspects, it is very clear that all the allegations made by the said complainant in his above complaint are totally fabricated, false and baseless.

5. A copy of reply received from the respondent dated 02.12.2014 was forwarded to the complainant vide this Court's letter dated 09.12.2014 for his comments/rejoinder.

6. The complainant in his rejoinder dated 20.12.2014 has inter-alia submitted that he was sanctioned medical leave from 04.04.2014 to 18.04.2014. During his leave period, he was transferred on dated 05.04.2014. After availing the medical leave, he got fit but he was not allowed to resume duty on 19.04.2014. After a lapse of more than one year, the disputed order was modified only in respect of the complainant and he was again transferred on dated 30.01.2015. While complying the transfer order, he joined his duty on 02.02.2015. After joining his duty on 02.02.2015, his services from 19.04.2014 to 21.05.2015 and from 05.02.2015 to 21.05.2015 were seized by SDE and AGM (Admn.). On the amended order of newly GM, the complainant resumed his duties on 22.05.2015. Thus, he has not been paid the salary from 22.05.2015 till the date of hearing i.e. 20.07.2015 for about two months. He prayed to this Court for release of his salary, reimbursement of medical expenses and other allowances. His transfer order dated 05.04.2014 may be got cancelled.

7. Upon considering the respondent's letter dated 02.12.2014 and complainant's rejoinder letter dated 20.12.2014, a hearing was scheduled on 20.07.2015.

8. During the hearing on 20.07.2015, the complainant reiterating his written submissions stated that he was sanctioned medical leave from 04.04.2014 to 18.04.2014. During his leave period, he was transferred on dated 05.04.2014. After availing the medical leave, he got fit but he was not allowed to resume duty on 19.04.2014. After a lapse of more than one year, the disputed order was modified only in respect of the complainant and he was again transferred on dated 30.01.2015. While complying the transfer order, he joined his duty on 02.02.2015. After joining his duty on 02.02.2015, his services from 19.04.2014 to 21.05.2015 and from 05.02.2015 to 21.05.2015 were seized by SDE and AGM (Admn.). On the amended order of newly GM, the complainant resumed his duties on 22.05.2015. Thus, he has not been paid the salary from 22.05.2015 till the date of hearing i.e. 20.07.2015 for about two months. He prayed to this Court for release of his salary, reimbursement of medical expenses and other allowances. His transfer order dated 05.04.2014 may be got cancelled.

9. The representatives of the respondent submitted that the complaint of the complainant was forwarded to their Head Office at New Delhi and all the correspondence was done from the Head Office. The whole record of the complainant is not available with them.

10. After hearing out the parties, the complainant is directed to submit immediately a fresh application to the respondent alongwith a copy of Disability Certificate of his daughter with a request to consider his transfer in the light of DoP&T's instructions dated 06.06.2014. Even if presently he has been transferred in the office of the same station within a distance of 5 kilometer, he wants to be retained in the office where his quarter is located because in case of emergency call from his house in case of any problem of his mentally disabled daughter, he would attend them within no time. The respondent is also advised to submit reply on the following points within one month from the date of issue of these Record of Proceedings :-

- (i) Why the complainant was not allowed to join his duty for more than one year after his returning from medical leave.
- (ii) Even after joining on 22.05.2015 till 20.07.2015, the date of hearing, he is not being paid his salary. What is the reason and stand of the BSNL.

11. After receipt of reply from the respondent and the rejoinder of the complainant, the case will be examined and if necessary, the case will be scheduled for hearing or else will be disposed off.

12. The complainant vide letter dated 30.10.2015 submitted that he by enclosing the copy of the relevant Order DOPT and Disability Certificate had requested the respondent for cancellation of his transfer order but the respondent till today has not taken any action. On the issue of disbursement of pay to the complainant, what action has been taken by the respondent, is not known to him. From this it appears that the respondent has violated the directions of this Court. By snatching the Fundamental Rights of the complainant, the respondent have violated the Constitution. By violating the Payment of

Wages Act and other statutory Acts, the respondent have questioned the legislative power of the Government. For this contempt, the General Manager Shri Anup Kumar and Assistant General Manager, Shripati Lal are liable to be punished. This is a most serious case against the supremacy of the Constitution and conduct against the rule of law. The complainant prayed before this Court to direct the Secretary to take disciplinary action against the delinquent officers.

13.. The respondent vide letter No.28-01/2014-SCT(SG)/685 dated 14.12.2015 submitted that in this regard it is brought into your kind notice that Shri Jagmohan Verma has withdrawn his complaint. His issues have been resolved. The letter dated 22.05.2015 from Shri Jagmohan Verma is enclosed herewith for your kind reference. It is requested that the case may kindly be closed on the basis of request of the applicant.

14. After considering the reply dated 14.12.2015 of the respondent and complainant's letter dated 30.10.2015, a hearing was scheduled on 22.04.2016.

15. During the hearing on dated 22.04.2016, Reiterating his written submissions, the complainant submitted that his request for transfer in the light of DoP&T's instructions dated 06.06.2014 has not been considered. Though, presently he has been transferred in the office at the same station within a distance of 5 Kilometers, he wants to be retained in the office where his quarter is located because in case of emergency call form his house or in case of any problem to his daughter with mental disability, he would attend her within no time. The complainant also alleged that he was not allowed to join his duty for more than one year after his returning from medical leave. He is not being paid salary. His Medical Card was forfeited and not renewed till filing of grievance.

16. The representative of the respondent submitted that the complainant's complaint is not maintainable because complainant is not disabled. The complainant's grievance is against the BSNL, whereas his daughter Rashmi Verma, a person with disability, is working as Shiksha Mitra in the Department of Education since 12.09.2009 at Vidholi, Tehsil Kheragarh, District Agra and has no complaint against BSNL. He also submitted that since his daughter is employed, she is not dependant on the complainant. The complainant, if at all, has any objection against the Department of BSNL, he can get the same adjudicated from Central Administrative Tribunal and not from this Court. This Court has no jurisdiction to try and decide the grievances raised by the complainant against BSNL because he is neither a person with disability nor his daughter with disability has raised any grievance in this Court. He drew the Court's attention towards Annexure No.1 of the reply of the respondent which states that disabled daughter is working as Shiksha Mitra from 12.09.2009 at Primary School, Vidholi, Tehsil Kheragarh, District Agra, which is 50 kms. far from Agra city whereas this complainant is raising his objection to his posting which is only 2 or 4 kms. far from his previous posting. He also submitted that Annexure-8 of the reply disclosed the address of complainant's daughter which is Vidholi, Tehsil Kheragarh. In the interest of justice, if this Court orders that the complainant, deserves to be transferred at Tehsil Kheragarh where his daughter with disability resides, the respondent has no objection and will revise complainant's transfer order.

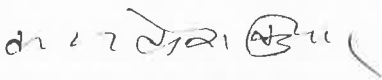
17. After hearing both the parties, the Court directed both the parties to exchange their replies filed during the hearing and to submit their respective comments in the matter with copy to other. The complainant is also directed to submit the document that substantiate his contention that his daughter is dependent on him. The case will be next heard on 03.06.2016..

18. During the hearing on 03.06.2016, the complainant reiterated his written submissions and submitted that his request for transfer in the light of DoP&T's instructions dated 06.06.2014 has not been considered. Though, recently he has been transferred in the office at the same station within a distance of 5 kilometers, he wants to be retained in the office where his quarter is located because in case of emergency call from his house or in case of any problem to his daughter with mental disability, he would attend her within no time. The complainant also alleged that he was not allowed to join his duty for more than one year after his returning from medical leave. He is not being paid salary. His Medical Card was forfeited and not renewed till filing of grievance.

19. The Counsel appearing on behalf of the respondent submitted that since the complainant himself states that his daughter is having 90% disability. She is about 38 years old and is working as Shiksha Mitra in village Bidhauri, Tehsil Kheragarh, District Agra, which is about 50 kms. far from Agra. Whereas the Department of BSNL has transferred him only 2-1/2 kms. from Foundry Nasgar to Nunahi. Hence, if the complainant request before the Department of BSNL, the Department may consider for transfer of the complainant to Kheragarh where his daughter is in employment. The disabled girl has not come forward before this Court and she has not filed any complaint before this Court for her transfer. Under these circumstances, the complaint of the complainant may be rejected. The other contentions of complainant may be considered in some other forum like CAT, if he files his case before competent forum. This Court is not competent to hear the case of complainant for transfer, sanction of leave and salary. The better forum is CAT, where he can approach.

20. After hearing the parties and after perusal of the record available in the file, this Court observed that the daughter of the complainant is working as Shiksha Mitra in the Department of Education since 12.09.2009 at Vidholi, Tehsil Kheragarh, District Agra did not complained of her grievance either to this Court or the Education Department where she is working. Thus, this Court do not find any violation of any provision of the Persons with Disabilities Act or Government instructions in this case. If the respondent may desire, consider the request of the complainant for his transfer nearby the place where his daughter is working. For other reliefs as sought by the Complainant, the complainant is directed to approach the appropriate forum.

21. With the above directions, the case is disposed off.

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