



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.2758/1023/2014

Dated:- 03.11.2016

In the matter of:

Dr. Pradeep Kumar,
Assistant Registrar,
D-8 (29-31), Probyn Road,
Chatra Marg,
North Campus,
University of Delhi,
Delhi-110007.

0476

..... Complainant

Versus

National Institute of Health & Family Welfare,
(Through the Director),
Baba Gangnath Marg,
Munirka,
New Delhi-110067.

0477

..... Respondent

Date of hearing : 15.09.2016

Present :

1. Dr. Pardeep Kumar, Complainant (attended the Court after hearing at 4.30 P.M.)
2. S/Shri Rajiv R. Singh, DD(A), S.P. Singh, WMO & Shri Mukesh Kumar, LDC, on behalf of the Respondent.

O R D E R

The above named complainant, a person with 63% locomotor disability filed a complaint dated 12.09.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as 'Act' against harassment and discrimination by his establishment.

2. The complainant submitted that some employees of NIHFV were allotted to retain the Govt. accommodation while on deputation to Government of India, while he is being discriminated by his establishment by charging market rent for the accommodation. He also submitted that some officers namely, Prof. N.K. Sethi, Prof. A.K. Sood and Prof. J.K. Das who were proceeded on deputation/lien were neither charged market rent nor asked to vacate the accommodation. He was issued a memorandum by the Institute for vacating the staff quarter saying that he was entitled to retain the staff quarter for a period of two months, whereas a similar memorandum was issued to Prof. Y.L. Tekhre, who proceeded on deputation to National Human Rights Commission two to three months before the complainant and Prof. Tekhre was allowed to retain the accommodation on same terms and conditions as in the case of the complainant but Prof. Tekhre neither vacated the staff quarter nor he was charged any rent on market rate for retaining staff quarter for a period of more than two months.

.....2/-

Referring to para 1(i) of the reply dated 18.05.2015, it is stated therein that the Government of India Rule SR 317-B-11(2) allows retention of staff quarter for a period of 2 months and whereas in para 1(iv) of reply it is stated that your Institute allows the retention of staff quarter for a period of one year. As such, it seems the management of NIHFWS is applying different rules for different employees.

3. The matter was taken up with the respondent vide this Court's letter of even number dated 20.10.2015.

4. The Deputy Director (Admn.), National Institute of Health and Family Welfare vide his letter No.NIHFWS/E-52(B)/95 dated 18.05.2015 had stated that the complainant who was working as Research Assistant proceeded on deputation as Research Officer in the Ministry of Minority Affairs w.e.f. 23.12.2009 to 29.07.2011. The complainant was occupying Institute's staff quarter while on deputation. He requested for retention of staff quarter. The Management of NIHFWS clarified to him that he was entitled to retain the staff quarter for a period of two months only on payment of normal license fee and asked the complainant to vacate the flat by 19.03.2010. Due to the failure to vacate the staff quarter, the complainant was asked to make a payment of market rent Rs.13,318/- p.m. w.e.f. 23.02.2010. The respondent vide its Office Order dated 05.10.2011 directed the complainant to apply the market rent of Rs.1,08,150/-. On receipt of his letter dated 05.03.2013, the matter was re-examined and it was found that as per the allotment rules of NIHFWS, the complainant could be allowed retention of staff quarter for one year. Accordingly, the amount was recalculated and the complainant was asked to deposit Rs.50,933/- instead of Rs.1,08,150/-.

5. A copy of NIHFWS's letter dated 18.05.2015 has been sent to the complainant for his comments vide this Court's letter dated 11.06.2015.

6. The complainant vide his rejoinder dated 22.06.2015 has submitted that while other employees of the Institute were allowed to retain the accommodation while on deputation then why he is being discriminated by charging market rent. He gave names of two officers, namely, Prof. N.K. Sethi and Prof. A.K. Sood who were on deputation were neither charged the market rent nor asked to vacate their accommodation. The present Director of the Institute Prof. J.K. Das was on lien to Govt. Medical College, Chandigarh for more than a year but he was not charged any market rent.

7. A copy of the rejoinder dated 22.06.2015 of the complainant was sent to the Deputy Director (Admn.), NIHFWS for his comments.

8. The Deputy Director (Admn.), NIHFWS vide letter No.NIHFWS/E-52(B)/95 dated 30.11.2015 has stated therein that as regards the case of Prof. N.K. Sethi, Prof. Y.L. Tekhre, Prof. A.K. Sood and Prof. J.K. Das, there are 32 Staff Quarters of Type V category and owing to the non-availability of sufficient number of Senior Officers who are eligible and need Type V staff quarters, the Institute allowed the occupants of Type V Quarters to retain them while they remain on deputation/lien.

However, the borrowing departments in such cases are required to pay the Institute the value of HRA to which the employees would have otherwise been entitled. As the complainant is entitled to Type II accommodation, this decision does not apply in his case.

9. A copy of NIHFW's letter dated 30.11.2015 was sent to the complainant for his comments vide this Court's letter dated 05.02.2016. The complainant vide his rejoinder dated 03.03.2016, submitted that it is discriminatory on the part of the Management of the Institute to allow to retain Type V quarters by the higher officials while on deputation/Lien while not giving the same facility to other staff of the Institute. The complainant further submitted that the decision to allow occupant of Type V quarter during their deputation/lien was not approved by the Governing Body.


10. Upon considering respondent's replies dated 18.05.2015 and 30.11.2015 and complainant's rejoinders dated 22.06.2015 and 03.03.2016, a hearing was scheduled on dated 15.09.2016.

11. During the hearing, the representative of the respondent submitted that Dr. Pardeep Kumar, the complainant was allowed accommodation for one year from the date of the deputation i.e. 23.12.2009 as per NIHFW norms for allotment of quarters. Thereafter, Dr. Pardeep Kumar retained the unauthorized occupation of the quarter from 23.12.2010 to 28.07.2011. Hence, he was charged market rate for this period of unauthorized occupation. The market rent and other charges for this period against Dr. Pardeep Kumar comes to Rs.96,341/-. Since the Institute has already received HRA of Rs.46,250/-, Dr. Pardeep Kumar was asked to pay Rs.59,933/- (which included balance water charges of Rs.7023/-) which he readily made. Hence, in the case, the existing norms were made applicable to him. His case is quite different from those who were allowed Type-V quarter during the deputation because Type-V Quarters were vacant and there was no eligible officer to occupy the same. Further while allotting Type V quarter, the Institute was benefit by getting HRA also. Accordingly the same may be decided

12. The complainant submitted that due to traffic congestion, he could not appear during the hearing in time as mentioned in the Notice of Hearing, for which he apologies. He further reiterated his written submissions and submitted that since NIHFW has already allowed two of its Professors to retain their flats which were officially accommodated while on deputation and they were not charged any market rent in lieu of their additional stay /retention of official accommodation, so the same policy be adopted in my case keeping in view of principles of natural justice.

13. After hearing the parties and after perusal of the record available on the file, there does not seem any violation of provision of Persons with Disabilities Act, 1995, Rules or Government instructions, no relief can be granted to the complainant.

14. The case is disposed off accordingly.


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