



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.3286/1011/2014

Dated:- 27.05.2016

In the matter of:

Shri Jitendra Singh,
S/o Shri Bhanu Pratap Singh,
Village & Post – Shahjahanpur,
Selroha-212622,
District – Fatehpur (U.P.).

..... Complainant

Versus

Department of Posts,
Through the Secretary,
Dak Bhawan, Sansad Marg,
New Delhi-110001

..... Respondent

Date of hearing : 29.03.2016, 12.04.2016

Present :

29.03.2016

1. Sh. Rakesh Tripathi, Advocate, on behalf of Complainant.
2. S/Sh. R.L. Patel, ADG(GDS), & P.K. Bhatla, Asstt. Director (PCC), Department of Posts, on behalf of Respondent.

12.04.2016

1. Complainant absent.
2. S/Sh. R.L. Patel, ADG(GDS), & P.K. Bhatla, Asstt. Director (PCC), Department of Posts, on behalf of Respondent

ORDER

The above named complainant, a person with disability filed a complaint before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding non grant of 3% reservation in the appointment of Gramin Dak Sewak by Postal Department.

2. The complainant has submitted that Superintendent of Post Offices, Fatehpur invited applications for the post of Gramin Dak Sewak. But the Section 33 of the Persons with Disabilities Act, 1995 was not applied according to which 3% reservation is provided for the persons with disabilities.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 09.04.2015 directing the respondent to intimate action taken in the matter.

4. Despite reminders dated 30.06.2015 and 30.09.2015, no reply was received, therefore, a hearing was scheduled on 29.03.2016.

.....2/-



सत्यमेव जयते

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5. On 29.03.2016, the representatives of the respondent submitted a copy of their reply/comments dated 29.03.2016, which was taken on record. The respondent was directed to forward a copy of this reply/comments to the complainant within one week, who will submit his comments on respondent's reply to this Court atleast 02 days prior to the date of hearing with copy to respondent. The complainant did not appear for hearing. On his behalf Shri Rakesh Tripathi, Advocate appeared but was unable to produce either the Vakalatnama or the letter of authority. Hearing of the case adjourned to 12.04.2016.

6. On 12.04.2016, none appeared on behalf of the complainant nor any intimation received about their inability to attend the hearing despite the fact that the Record of Proceedings were sent on 31.03.2016. This Court noted with serious concern, the utter disregard shown by the complainant by neither intimating his inability to attend the hearing nor caring to appear to explain his version of the case.

7. The representative of the respondent submitted that the Hon'ble Supreme Court in the matter of Superintendent of Post Offices Versus P.K. Rajamma (1977) (3) SCC held that the Gramin Dak Sevaks are not governed by CCS (Conduct) Rules, 1964, CCS (Pension) Rules, 1972, Fundamental & Supplementary Rules, CCS (Recognition of Service Association) Rules, 1993 which apply only to the regular Government servants. GDS are governed by GDS (Conduct and Engagement) Rules, 2011. GDS and Regular employees of the Government belong to two distinct and separate groups. GDS is a separate and distinct category and this category does not fall in the category of civil posts within the regular civil services and hence has not been notified under any of the classification Group 'A', 'B' or 'C'. As they are not considered Government servant, hence no pay scale has been given to them. They are paid Time Related Continuity Allowance of maximum Rs.5,000/- per month. They are part time employees. The compulsory main condition for appointment of them is that they should have another source of income. Selection is done on merit. They should be tenth class pass. Reservation has not been given to them. The age limit for them is 65 years. They work as Postman and Branch Post Master. These posts are not outsourced or contract posts. After selection, it is necessary for the appointee to reside in that village. At present, approximately three lakh two thousand Gramin Dak Sevaks are working in the country. They further submitted that the Department has also taken up the issue of exemption of posts/establishment from the purview of Section 33 and 47 of the Persons with Disabilities Act, 1995 with the Ministry of Social Justice & Empowerment. They have also drawn attention of this Court towards the Order dated 18.09.2014 passed by this Court in the Case No. 677/1011/11-12 in the matter of Shri Dharendra Kumar Singh Versus Department of Posts, New Delhi.

...3/-

सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006
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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)



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
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8. The respondent have also cited Hon'ble Supreme Court judgment passed in the year 1977 in the matter of Superintendent of Post Offices Versus P.K. Rajamma (1977) (3) SCC which is prior to coming the Act of 1995 in force. Since then there have been very clear directions from the Hon'ble Supreme Court that 3% posts are required to be reserved for persons with disabilities in all civil posts. The Department of Posts is having about 3 Lakh posts of Gramin Dak Sevaks whose duties are akin to the duties of Postman in the layman's language and other similar misc. work. Since the Department of Posts is a Government Department, this large chunk of employment should not be left out of any general guidelines/instructions. The instructions of the Postal Service Board cited by the respondent were issued way back in 1983-84 which is also prior to the enactment of the PWD Act, 1995. This Court views that a thorough review of these instructions is required especially in view of the fact that the post of Postman and other similar categories have been identified as posts suitable for the persons with disabilities. The Court directs that a thorough review by the Department of Posts should be done and in case any exemption is considered justified, this may formally be taken up with the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment. A copy of the Order may also be sent to the Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities for considering the policy involved therein.

9. Ordered accordingly.

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

Copy to:-

The Director,
Department of Empowerment of Persons with Disabilities,
Ministry of social Justice and Empowerment,
B-II Block, 5th Floor, Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi-110003 for information and necessary action.

N.O.O.:-

Copy to:- Record File.