



न्यायालय मुख्य आयुक्त निःशक्तजन
Court of Chief Commissioner for Persons with Disabilities
सामाजिक न्याय एवं अधिकारिता मंत्रालय
Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No. 3368/1011/2006

Dated: 16.04.2014

In the matter of:

Suo Motu

Versus

East Uttar Pradesh Geo-spatial Data Centre (NZ),
Survey of India, B-2, 2nd Floor,
Through the Director,
PICUP Bhawan, Vibhuit Khand,
Gomti Nagar,
Lucknow – 226010 (Uttar Pradesh)

.... Respondent

Date of Hearing – 02.04.2014

Present :

Shri Sanjay Kumar, Director, on behalf of the Respondent.

O R D E R

Survey Of India Published an advertisement in the Employment News dated 28 October – 3 November, 2006 for 62 posts of Topo Trainee Type 'A' without reserving vacancies for persons with disabilities in accordance with Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act.

2. Department of Personnel & Training (DoP&T)'s O.M. No.36035/3/2004-Estt. (Res) dated 29.12.2005 contains detailed procedure for effecting reservation of vacancies for persons with disabilities and is available in the website of DoP&T at <http://www.persmin.ni.in/dopt/index.html>.

3. This Court took suo motu notice of non-compliance of Section 33 of the Act and took up with the respondent.

4. Respondent vide letter dated 30.11.2006, inter-alia, submitted that the nature of Topo Trainee Type 'A' post is to carryout Topographical Mapping that include rigorous field work which involves extensive day and night movements through cross-country, jungles, hilly areas, deserts and working in remote and treacherous areas where accessibility is difficult. They in Survey of India have to map

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every inch of land of the country. Persons are required to stay in inhospitable condition (in tents) and carryout Topographical Surveying involving astronomical observations and Geo-spatial Data collection using Theodolights, EDM instruments, GPS instruments and difficult electromagnetic/optical instruments. The duties attached to the post are of arduous nature and carry the liability to serve anywhere in India including Military Service with a mobilized Survey unit and even otherwise are such which can endanger the life of a person with disabilities. They had approached the Ministry of Social Justice & Empowerment for exemption.

5. After a series of correspondence, the respondent was directed to appear at the venue of the joint mobile Court of the Chief Commissioner for Persons with Disabilities and State Commissioner, Disabilities, Govt. of Uttar Pradesh at Lucknow on 30.04.2008. During the hearing, the respondent submitted that a Topo Trainee Type 'A' after two years training is designated as Surveyor. The work of Surveyor in their establishment is very different from that in other departments. Hence, they submitted a proposal to Ministry of Social Justice & Empowerment on 18.09.2006 for exemption of the post from purview of Section 33 of the Act. Apart from this post, they are providing reservation to persons with disabilities against other identified posts.

6. Following a judgment of Hon'ble High Court of Delhi vide which it directed Department of Personnel & Training that reservation for persons with disabilities be computed against sanctioned posts, Department of Personnel & Training launched a special recruitment drive to fill up the backlog of these vacancies for persons with disabilities vide their O.M. dated 27.11.2009. In the light of said O.M., the cases in this Court involving implementation of Section 33 of the Act including this case, were disposed off vide letter dated 07.04.2010. The respondents in various cases including in this case, were requested to intimate the names and addresses of the selected candidates with disabilities on completion of the special recruitment drive which was launched by DoP&T. It appears that the respondent thought that this case (No.1011/3368/2006) was continuing and the exchange of correspondence continued resulting in scheduling of hearing on 02.04.2014.

7. During the hearing, the respondent submitted a written statement dated 01.04.2014 which, interalia, reiterated the respondent's move to grant exemption from the provisions of Section 33 of the Act in relation to the post of Surveyor by the Ministry of Social Justice & Empowerment, Department of Disability Affairs. The respondent's administrative Ministry, namely, Ministry of Science & Technology is stated to have taken up the matter with the Ministry of Social Justice & Empowerment vide letter dated 18.09.2006 for which decision is still awaited. The respondent may get the decision on it from Ministry of Social Justice & Empowerment on priority. However, reservation of 3% vacancies for persons with disabilities must be ensured in accordance with the instructions of DoP&T vide their O.M. No. 36035/3/2004-Estt. (Res) dated 29.12.2005. Para 13 of the said O.M. provides that reserved vacancies for persons with disabilities should be computed against the vacancies that occur in all the posts irrespective of whether these are identified or not. Therefore, number of vacancies to be reserved for persons with disabilities would not change even if the exemption is granted. The SLP (Civil) No. 7541 of 2009 filed by Department of Personnel & Training in the Hon'ble Supreme Court against the judgment of Hon'ble High Court of Delhi, referred to in para 6 above, has since been disposed off by the Hon'ble Supreme Court, who have now directed that reservation for persons with

disabilities in Group 'A' and 'B' posts should also be computed against vacancies occurring in identified as well as un-identified posts vide judgment dated 08.10.2013. DoP&T have issued instructions in this regard which are available in their website.

8. As the case already stands disposed off, no directions are required. However, a copy of this Order be endorsed to Department of Disability Affairs, Ministry of Social Justice & Empowerment and Ministry of Science & Technology so that the question of exemption under Proviso to Section 33 of the Act as prayed for by the respondent is decided expeditiously. The respondent is also advised to immediately take up the matter with the concerned Ministries.

Sd/-

(P.K. Pincha)
Chief Commissioner for
Persons with Disabilities

Copy to:-

1. Deputy Secretary, Department of Disability Affairs, Ministry of Social Justice & Empowerment, Shastri Bhawan, New Delhi.
2. Secretary, Ministry of Science & Technology, Technology Bhavan, New Mehrauli Road, New Delhi-110016.