



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.422/1021/2013

Dated:- 04.06.2014

In the matter of:

Dr. B.P. Giri,
D-16, Sanchar Vihar Colony,
II Township,
Manakpur, Gonda,
Uttar Pradesh – 271 308

..... Complainant

Versus

ITI Limited,
(Thru the Chairman & Managing Director),
ITI Bhavan,
Dooravani Nagar,
Bangalore – 560 016.

..... Respondent

Date of hearing : 16.05.2014

Present :

1. Dr. .P. Giri, complainant.
2. S/Shri Rajiv Seth, DDM(RO) and Ajay Kapoor, AO-HR(EPO), on behalf of respondent.

O R D E R

The above named complainant, a person with 70% locomotor disability filed a complaint dated 04.09.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding his non-upgradation from Grade-V to Grade-VI.

2. The complainant submitted that he is employed as Manager in ITI, Manakpur in Uttar Pradesh. He has not been given upgradation from Manager (Grade V) to Chief Manager (Grade VI) despite putting in extraordinary contributions and better ACR rating and experience. As per Dr. Giri, Shri R.K. Agarwal (Director-Marketing and Finance & Chairman of PRC) and Shri Avinash Chandra (AGM-M/UNITED Head-Manakpur) are responsible for such discrimination and his harassment. He also submitted that no rules or regulations were followed by the management in upgradation from Grade-V to Grade-VI and the candidates were upgraded on the basis of their personal relations with the officials. While Junior most officers were given upgradation, he was denied the same. He further submitted that his service records are far better than the four officers namely Shri Vinod Kumar, M-730

.....2/-

(Finance), Shri Sanjiv Nath, M-396(Hr), Shri Rajesh Verma, M-054 (Civil) and Shri Piyush Raj, M-51603 (Technical) who were upgraded from Grade-V to Grade-VI at ITI Ltd., Manakpur. The complainant also submitted that he performed a number of activities and saved a lot of money in the interest of the organization, which are summarized in his application.

3. The matter was taken up under section 59 of the Act with the respondent, namely, the Chairman & Managing Director, ITI Limited, Bangalore vide letter dated 04.10.2013.

4. The Chief Manager-Human Resources, ITI Limited vide letter no. ITI/COHR(ER)/48 dated 12.11.2013, inter-alia, submitted that Dr. B.P. Giri was appointed as Assistant Engineer (Chemical Lab), Gr. 1 on 04.08.1986 under General category. At the time of appointment, the officer had declared himself without disability or having any ailment. He further submitted that the company has well defined Career Plan for the officers under which, the existing ten grades of executives are classified into seven clusters. Under the Career Plan, while movement of officers from one to another cluster is by Promotion through a process of selection, movement of officers within the cluster is by upgradation and the same is not linked to vacancies. Under the Company's Career Plan, movement of officers from the position of Manager Gr. V to Chief Manager, Gr. VI is by way of upgradation without any linkage to vacancies and not by promotion.

5. The complainant vide his rejoinder dated 27.11.2013 submitted that the respondent replied in a hotchpotch manner while the letter of this court needs reply on five distinct points. He joined in Gr.1 with five increments as a normal candidate (not as a disabled). He stated that disability certificate is issued to those individuals who have disability not less than forty percent. A person may become disable at any stage of life due to various reasons/factors. He further submitted that his grievance for upgradation as Chief Manager has not been addressed by Shri B.B. Dwivedi (CM-Hr) at all. He agreed that his company has well defined Career Plan for upgradation but same has not been followed/implemented in a transparent manner by the Committee Members. As a result, this problem has arisen and a high performer and highly qualified officer is being harassed and discriminated.

6. After considering respondent's letter dated 12.11.2013 and complainant's letters dated 21.10.2013, 27.11.2013 and 06.12.2013, a hearing was scheduled on 18.03.2014.

7. During the hearing on 18.03.2014, the respondent was advised to submit the Tabulation Sheet as well as the comparative marks/grades obtained by Dr. B.P.Giri as well as all the candidates who were considered for upgradation from Scale-V in August, 2013 regarding their qualifications, length of service, Annual Performance Report (APR), marks of assessment of the Screening Committee.

8. The respondent vide letter dated 'nil', received in this Court on 2.04.2014 submitted that the Tabulation Sheet-cum-comparative Statement having details of marks obtained by the participants, status of qualification, length of service, rating of Annual Performance Reports (APRs) and marks of

assessment of the screening committee in a sealed envelope for perusal of this Court. Another hearing was held on 16.05.2014.

9. During the hearing on 16.05.2014, the complainant reiterated his written submissions and also added that as per Hon'ble Supreme Court's Order in W.P. (C) No. 115/98, he is entitled to 5% additional marks on account of his being a person with disability. He also submitted that he has been discriminated by the Screening Committee as the said Committee gave him only 10 marks out of 20 marks in assessment despite his extraordinary contribution not only in his own Unit but also in other Units of ITI Limited. He also submitted that there is no justification in including him in the Technical Group in which 33.3% upgradations have been given while in Finance 100% and in Civil 50% upgradation has been given. He also alleged that officers getting 'Good' rating in ACRs have been upgraded in HR and Finance, on the contrary he was not upgraded despite his securing two 'Outstanding' and the rest 'Very Good' ratings.

10. The representative of the respondent produced the original Assessment Sheet for upgradation and the ACRs of all the officers involved including the complainant. They also submitted a written statement dated 15.05.2014 which basically states that the Department followed the prescribed procedure for upgradation and there was no variation from the same. They also submitted that the ITI Ltd. is loss making company and has been referred to Bureau of Industrial and Financial Reconstruction (BIFR) since 1994. Upgradations are not made as a matter of routine but on various considerations from time to time. It is, however, ensured that the prescribed procedure is followed each time. The respondent further submitted that the complainant has been placed in Technical Group which comprises the functional areas relating to Production, Planning, Projects, Maintenance (including Transport), Industrial Engineering, EDP as indicated at para 7(3)(i) of Career Plan for Officers – 1998 dated 10.01.2000 .

11. In the light of the written and oral submissions of the parties and after perusal of the original documents produced during the hearing on 16.05.2014, there does not appear to be any violation of the procedure prescribed in the Career Plan for Officers - 1998. It would be in fitness of things for this Court to clarify that the Supreme Court' Order referred to by the complainant in W.P.(C) No.115/1998 relates to relaxation of 5% marks in NET of UGC to persons with disabilities irrespective of their vertical social category at par with Scheduled Castes/Scheduled Tribes. Hence, the said Order does not have any bearing on the instant complaint. It is also observed that even if the Screening Committee had assigned the complainant 20 marks out of 20, he is still far short of the marks secured by the selected candidate Mr. Piyush Raj. It would be quite in context for this Court to observe that ordinarily, it would be against propriety to question the assessment made by the Screening/Selection Committee. However, despite this, owing to the complainant's request, this Court called for the original Assessment Sheet and the ACRs of the concerned officers including those of the complainant in an attempt to satisfy itself that there was no discrimination against the complainant.

12. In view of above, this Court is unable to pass any direction.
13. The matter stands disposed off with the above observations.

Sd/-

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