



सत्यमेव जयते

R/F

**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. 4884/1014/2015

Dated:- 21.04.2016

In the matter of:

Shri Dhananjay S. Survase,  
Flat Room No. B-14, Shubham Complex,  
132/4, Gurudwara Road, Near Water Tank,  
Bijli Nagar, Chichwad, Pune-411033.

R205

Complainant

Versus

National Institute of Virology,  
(Through its Director),  
Indian Council of Medical Research,  
Department of Health Research,  
Ministry of Health and Family Welfare,  
20A, Dr. Babasaheb Ambedkar Road,  
Post Box No. 11, Pune – 411011 (Maharashtra)

R206

Respondent

Date of hearing : 06.04.2016

Present :

1. Sh. Dhananjay S. Survase, Complainant alongwith Shri Sachin M. Kokdre.
2. Dr. R. Lakshmi Narayan, Senior Administrative Officer on behalf of the Respondent.

**ORDER**

The above named complainant, a person with 63% locomotor disability filed a complaint dated 25.07.2015 before the Chief Commissioner for the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding rejecting his candidature for the post of Library & Information Assistant on the ground of qualification of B. Lib.

2. The complainant submitted that his candidature was rejected with the reason that he is not having qualification of B. Lib. On the intervention of the Commissioner for Persons with Disabilities, Government of Maharashtra, he was allowed to sit in the examination. He qualified the written examination and was called for interview scheduled for 19.06.2015. After giving successful interview, he was awaiting positive response in respect of his appointment but no disabled candidate has been selected.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 21.09.2015.

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4. The respondent vide letter No.1/4/2015/Comp./Admn./1-4664 dated 21.10.2015 filed its comments in the matter and, inter-alia, submitted that the complainant applied online to the said post vide Application No. 20152010334 wherein he did not mention his EQ of B. Lib. As he did not meet the educational qualification, the scrutiny committee did not recommend his application and he was not called for the written test. The complainant approached Commissionerate for Persons with Disabilities, Maharashtra State and the said Authority vide Order dated 01.05.2015 directed the respondent to allow the complainant to attend the written exam which was scheduled to be held on 02.05.2015 for the post of Library & Information Assistant. The complainant was issued call letter on 01.05.2015 He qualified the written test with 21.70 marks out of 70 and then was called for personal interview on 1.06.2015. The interview was conducted by a panel of 5 officers under the chairmanship of external expert and one of the member was persons with disability. He secured 6 marks out of 30 in the interview and total marks he scored are 27.70 out of 100. He also applied under RTI on these issues to which he was replied. His candidature against the vacancy earmarked for PH remained unfilled as candidates with overall total marks less than 35% were not considered as per the Minutes of the Core Committee Meeting held on 20.06.2015.

5. The complainant vide his letter dated 05.11.2016 has submitted his rejoinder, inter-alia, stating that respondent has overlooked the guidelines given in the OM dated 29.12.2005 of the DoPT for persons with disabilities and has caused injustice to the complainant. The respondent has not considered the additional experience and qualification possessed by the complainant, like, post graduation, M. Phil, UGC-NET and experience of 12 years and that they have given him 6 marks out of 30 in the interview. This attitude of the respondent shows that the respondent is not willing to give appointment to the complainant. He submitted that the complainant is entitled for the appointment to the post of Library & Information Assistant and order in this regard may kindly be passed.

6. After considering the version of both the parties, the case was listed for hearing on 06.04.2016.

7. During the hearing on 06.04.2016, the complainant reiterated his written submission and submitted that out of 02 unreserved posts, one post was earmarked for persons with disabilities. But the respondent has not filled the said post. The reason given by them for keeping the said post vacant is not tenable. If at all considered that none of the candidate was qualified in the written as well as oral examination, the respondent being recruitment authority, ought to have relaxed requisite

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standards for selection as per guidelines given in OM dated 29.12.2005 instead of keeping the said post vacant. The interview panel has given him only 06 marks out of 30, despite considering his prompt and correct answer, higher qualifications and experience. The complainant is entitled for appointment for the post of Library and Information Assistant in PH category as per advertisement as he is duly qualified.

8. The representative of the respondent submitted that there were two vacancies of Library & Information Assistant, out of which one vacancy was earmarked for Persons with disabilities. The complainant mentioned in his application about his Bachelor's degree as B.A. In his application he has not mentioned the B. Lib. Degree which was essential qualification as per the Recruitment Rules and advertisement for this post. Hence his application was not shortlisted by the Scrutiny Committee. Though he did not mention his EQ in his application, he was allowed to appear for the written exam as per directions of the Maharashtra State Commissioner for Persons with Disabilities. The written test was held on 02.05.2015. The question paper was for 100 marks and the complainant scored 30 marks out of 100. These marks were converted to percentile marks out of 70 and therefore, he has scored 21.70 marks out of 70 and 30 marks were earmarked for personal interview. On the basis of percentile system he qualified for personal interview. The complainant scored 6 marks out of 30 in personal interview. Hence his name was not recommended as candidates with overall total marks less than 35% were not considered as per the Minutes of the Core Committee Meeting held on 20.06.2015. The representative of the respondent also submitted that another PwD candidate Ms. Reshma, who is M. Lib. (Integrated Course) has obtained 46.4 marks and she is first in order of merit for PwD candidates. Till date order has not been given to any candidate. On being questioned, the respondent stated that the complainant had not mentioned B. Lib. Qualification which is the essential qualification for the post. Instead, he had already mentioned M. Lib. B. Lib. Certificate was produced by him at the time of interview.

9. On the basis of information on record, evidence adduced before this Court and the statements of both the parties, it is observed that one of the post of Library & Information Assistant is reserved for person with disability. The minimum qualification for the post is B. Lib. The complainant was allowed to appear in the written test and interview on intervention of the State Commissioner for Persons with Disabilities, Government of Maharashtra and obtained 21.70 marks out of 70 in the written examination. However, he was given only 6/30 marks in the personal interview. The cut of qualifying marks were kept at 35%. It is not the case of respondent that any relaxation was given or

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the performance of the person with disability was considered with relaxed standards for the purpose of making final selection. The reason for rejection at the initial stage has been stated as non possessing the minimum prescribed qualification i.e. B. Lib. It is noted that the complainant possesses M. Lib. which is a higher qualification in the same line and had also produced the B. Lib. Certificate at the time of interview.

10. The Court is of the view that against the vacancies reserved for persons with disabilities, if duly qualified candidates are available, they must be given a chance even by considering their performance in the written test/interview by relaxing the standards, whether or not prescribed in the extant relevant Recruitment Rules. The respondent should consider the appointment of Shri Dhananjay S. Survase, the complainant to the post of Library & Information Assistant. Ordered accordingly. Compliance report must be submitted to this Court within 60 days.

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

N.O.O.:

Copy to :- Record File.