



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. 5425/1014/2015

Dated: 23 May, 2017

In the matter of:

Shri Shivendra Prakash Gupta, R1042
Flat No. H2013, Assotech Springfields,
Sector Zeta-1, Greater Noida,
Gautam Budh Nagar,
Uttar Pradesh – 201310.

... Complainant

Versus

Institute of Banking Personnel Selection,
Through the Director,
IBPS House, 90 Feet, D.P.Road, R1043
Near Thakur Polytechnic,
Off. Western Express Highway,
Kandivali (E), Mumbai-400101

... Respondent

Date of hearing: 01.03.2017 and 05.04.2017

Present:

01.03.2017

1. Shri Shivendra Prakash Gupta, Complainant alongwith Ms. Abha Roy, Advocate
2. Shri Rajat Arora, Advocate on behalf of the Respondent.

Present:

05.04.2017

1. Shri Shivendra Prakash Gupta, Complainant alongwith Ms. Abha Roy, Advocate
2. Shri Rajat Arora, Advocate on behalf of Respondent.

KC

ORDER

Shri Shivendra Prakash Gupta, complainant, father of Shri Sumit Kumar, a person with 70% visual impairment filed a complaint dated 21.10.2015 before the Court of Chief Commissioner for Persons with Disabilities intimating that his son appeared for the examination for the post of Clerks – IV conducted on 14.12.2014 by the Institute of Banking Personnel Selection (IBPS). His Roll No. was 1590802989 and he appeared at Meerut. According to him, his son scored well above the cut-off marks as evident from the mark sheet displayed by IBPS but he was not shortlisted for the interview as the cut-off was taken as 112 against 48 being the arithmetic total. He had taken up the matter with IBPS vide his RTI letters dated 02.02.2015 and 19.05.2015. He requested this Court for taking up the matter with IBPS for natural justice for a candidate with visual impairment.



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

- 2 -

2. The matter was taken up with IBPS vide this Court's letter dated 10.12.2015 advising them to submit the comments on the complaint along with the cut-off marks of vertical category, marks obtained by the last selected candidate in the vertical category and the mark obtained by the complainant, to this Court within 30 days from the date of receipt of the letter.
3. The respondent vide letter dated 16.12.2015 intimated that IBPS is a test conducting agency acting as per the mandate given by the participating organizations. The system of Common Recruitment Process for recruitment of Clerical Cadre posts in Participating Organizations is as specified by the participating organizations themselves and has the approval of the appropriate authorities. Further, in terms of the guidelines mentioned in the Advertisement, based upon the vacancies notified by the participating banks, the cut off score for provisional shortlisting for interview required for General VI category were determined as 112, being the marks obtained by the last selected candidate in the General VI category. The total marks secured by the complainant, a General VI candidate of CWE-Clerks-IV bearing Roll No.1590802989 is 98 marks. Hence, no prejudice has been caused to the rights of the complainant and the matter may be treated as closed.
4. The complainant vide his rejoinder dated 30.12.2015 submitted that the reply of the respondent is far from satisfactory and they have some hidden agenda which they do not want to disclose. Moreover, they have not declared the modus operandi of arriving at the total of 112 against the arithmetical total being 47 for the cut off.
5. On examining the rejoinder of the complainant, the following information was called for from the respondent vide this Court's dated 16.02.2016:-
- (i) Category-wise cut-off marks for all categories including persons with disabilities.
 - (ii) Basis/criteria thereby fixing the said cut-off.
 - (iii) Category-wise number of candidates called for interview.
6. The respondent vide letter dated 26.02.2016 furnished the desired information. The counsel on behalf of the complainant filed rejoinder to the reply of the respondent. The counsel on behalf the respondent also filed a reply dated 03.09.2016 to the rejoinder of the complainant. Accordingly, a hearing in the matter was fixed for 01.03.2017.



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

— 3 —

7. During the hearing, the complainant reiterated his written submissions on behalf of his son and submitted that the maximum score is calculated incorrectly which comes to 48 and not 112. Therein, the complainant has scored 98. In accordance with the various judgments of the Hon'ble Supreme Court and the High Courts, it is established that the rights of the visually impaired should have been protected from. The Ld. Advocate of the complainant cited the judgment in the case of Rajeh Motibhai Desai Versus State of Gujarat reported in 2016 LAB.I.C. 698 and submitted that the fundamental rights of the complainant have been infringed. The very decision of the IBPS for not calling the complainant even for interview is arbitrary and unjust and is based on conjectures and surmises. It is respectfully prayed that the complainant should be provided an equal opportunity to be called for the interview.

8. The representative of the respondent submitted that though the cut-off marks for the General Category (visually impaired persons) were 48 marks and the son of the complainant had secured 98 marks. However, still he was not called for the interview as the last candidate in the General-Visual Impaired Category had 112 marks and thus there has been no prejudice which has been caused to the complainant. It was further urged that there were 18 vacancies in visually impaired category in the State of Delhi and all the candidates selected were having higher marks than the son of the complainant. In view of the matter, no arbitrariness in the action of the respondent.

KIC

9. The Court directed the respondent to file the copy of the Advertisement/Policy/Guidelines framed by the IBPS for the examination for the post of Clerk-IV as well as the cut-off marks and criteria for calling the candidates for interview. The case was adjourned for next date of hearing on 05.04.2017.

10. During the hearing on 05.04.2017, the Advocate on behalf of the respondent submitted the required documents which were taken on record. He submitted that as per page 7 of the advertisement each candidate will be required to obtain a minimum score in each test and also a minimum total score to be considered to be shortlisted for interview. Depending on number of the State/UT wise vacancies available, cut-offs will be decided and candidates will be shortlisted for interview. Prior to the completion of the interview process, scores obtained in the online examination will not be shared with the candidates shortlisted for interview. He further intimated that the total marks allotted for interview are 100. The minimum qualifying marks in interview will not be less than 40% (35% for SC/ST/OBC/PWD/EXSM candidates). The weightage (ratio) of



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

- 4 -

CWE (exam) and interview will be 80:20 respectively. The combined final score of candidates shall be arrived at on the basis of scores obtained by the candidate in CWE Clerks-IV and Interview. Interview score of the candidates failing to secure minimum qualifying marks or otherwise barred from the interview or further process shall not be disclosed. A candidate should qualify both in the CWE and Interview and be sufficiently high in the merit to be shorted for subsequent provisional allotment process.

11. The Advocate of the respondent further intimated that as per page 16 of the advertisement, the number of vacancies considered for allotment in the VI category on all India basis are 441 and for New Delhi State 18 only. As per page 17, 42 candidates were called for interview in VI category in order of roll number and cut-off marks are 100. Serial No. 31 was absent. The combined marks of 53.20 is the minimum marks scored by the candidate at the top of the table. At page 18 is the list of 18 candidates who were provisionally allotted in VI category in the order of roll number in round-I. At page 18 is the list of two candidates provisionally allotted in VI category in the order of roll number in round-II. As per the details of CWE Scores, the total score was 200. The cut-off score for provisional short-listing for interview required for GEN-VI was 112. The complainant's son scored 98 marks which were less than the cut-off marks and as such he was not selected. There has been no discrimination for the complainant's son.

12. The Advocate on behalf of the complainant was not agreed with the reply of the Advocate of the respondent and started arguing the matter. The CCPD interrupted and asked the Advocate to confine her statement to the present matter instead of citing other matter.

13. After hearing the parties and perusal of the records available, the Court observed that since the complainant's son scored 98 marks against the cut-off marks for GEN-VI 112 and was not selected, therefore, there does not seem any violation of PwD Act, 1995, Rule or Government instructions.

14. The case is accordingly disposed off.

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