



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.5527/1011/2015

Dated:- 13.06.2016

In the matter of:

Shri Manish Gautam,
Deputy Director (Legal),
Association for the Rights of Disabled Persons,
gautamanish2011@gmail.com

..... Complainant

Versus

Kalindi College,
Through the Principal,
East Patel Nagar,
New Delhi-110008

..... Respondent

Date of hearing : 02.05.2016

Present:-

1. Sh. Manish Gautam, Advocate, Complainant.
2. Shri Noorul Haq, Administrative Officer, on behalf of Respondent.

ORDER

The above named complainant, Deputy Director (Legal), Association for the Rights of Disabled Persons filed a e-mail complaint dated 27.11.2015 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 delay in the recruitment process for the post of Administrative Officer by Kalindi College.

2. The complainant has submitted that though Kalindi College, University of Delhi advertised and reserved the post of Administrative Officer, Group 'A' for persons with disabilities but despite lapse of 8 months, the College has not started the selection process for this post whereas selection process of rest of the advertised posts has been towards completed. He has requested the college to fill up the advertised posts in time bound manner as per DoP&T's O.M. No.36012/39/2014-Estt (Res) dated 25.05.2005 but College has not taken any interest in this regard.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 09.12.2015 directing the respondent to intimate action taken in the matter.

4. In response, respondent vide letter dated 23.12.2015 has submitted that College has advertised various non-teaching posts on substantive basis on 31.03.2015. The post of Administrative

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Officer alongwith some other non-teaching posts were given sanction to the college under the OBC expansion scheme from UGC. The validity to fill the said posts was 31.03.2015. College again requested the UGC to give the permission to fill the posts given under OBC Expansion. College received the approval of UGC on 03.09.2015. In the meantime college started the process of recruitment to fill up other vacant posts besides OBC expansion. Further, college has recently shortlisted/appointed one Senior Assistant under the visually handicapped category and one Library Attendant under HH category in the interviews held on 14.12.2015 and 18.12.2015.

5. A copy of reply of the respondent dated 23.12.2015 was forwarded to the complainant vide this Court's letter dated 05.01.2016 for his comments/rejoinder.

6. The complainant vide e-mail dated 08.01.2016 has inter-alia submitted that the College is not providing the expected date of written examination and interview for the selection process of reserved PwD Non-Teaching posts of Administrative Officer (Gr.A) and he has given advice to impose the penalty on College due to delayed in finishing the selection process to fill up the reserved post of PwD after passed out the deadline and give the direction to fill the post at priority basis in reasonable time.

7. Upon considering the respondent's letter dated 23.12.2015 and complainant's e-mail dated 08.01.2016, the case was scheduled for hearing on 08.03.2016 which was further rescheduled on 02.05.2016.

8. During the hearing on 02.05.2016, the complainant reiterating his written submissions, submitted that college was not providing the expected date of written examination and interview for the selection process of reserved PwD Non-Teaching posts of Administrative Officer (Gr A). He intentionally crossed the deadline (31.12.2015) of Hon'ble Supreme Court interim Order dated 28.04.2015 in contempt Petition No.499/2014 and 25.05.2015 to finish the selection process of PwD reserved seats till 31.12.2015. More than nine months have passed after the advertisement dated 31.03.2015 without starting the selection process even not taken written examination. This behavior was showing avoiding policy to fill up the Group 'A' reserved post of PwD.

9. The representative of the respondent submitted that certain posts under OBC Expansion scheme were provided by the UGC to the college besides posts under Non-Plan category. The PwD roster was approved by the University of Delhi vide its letter dated 19.03.2015. Thereafter, the combined advertisement for filling up of the posts was notified on 31.03.2015. The UGC, however, directed to fill the posts under OBC Expansion scheme upto 31.03.2015 only. In the UGC letter

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received by the college dated 03.09.2015, the time extension for filling up the post was provided upto 31.03.2017. Consequently, the college started the process of recruitment of post, including A.O. (under OH category). The examination for Administrative Office (under OH category) was scheduled on 22.02.2016 but due to Jat agitation, the same was postponed to 06.03.2016. After the written test on 06.03.2016, the interview was conducted on 28.04.2016, wherein the duly constituted Selection Committee found none of the candidate suitable.

10. After hearing both the parties and perusing the record on the file, this Court directed the respondent to provide the following within a week:-

- (i) Synopsis of 23 candidates who appeared in the written test and marks obtained by them alongwith the proceedings of the Selection Committee meeting in respect of 3 persons.
- (ii) Whether for the purpose of written examination and interview, any relaxed standards for the persons with disabilities were considered?
- (iii) What action has been taken by the respondent on the DoP&T's Circular dated 25.05.2015 and for Special Recruitment Drive of the persons with disabilities.

11. The respondent vide their letter No.KC/NTS-Rectt./2111 dated 03.05.2016 replied to query No. (i) above. Synopsis of 23 eligible candidates out of 31 candidates (8 being absent) who appeared in the written test held on 06.03.2016 has been supplied. In reply to (ii) above, the respondent has enclosed a complete list of marks obtained by the 23 candidates. The respondent has also sent the detail of marks obtained by the 3 candidates with disabilities finally shortlisted for interview. In reply to query no. (iii), the respondent has enclosed a copy of scheme of examination for Direct Recruitment to the post of Assistant Registrar/ACE/AO. The respondent has submitted that PwD roster has been followed as the College has already appointed one Senior Assistant under VH category and one Library Attendant under HH category on 14.12.2015 and 18.12.2015 respectively. One Caretaker under OH category has also been appointed in 2012.

12. After perusal of the respondent's reply, this Court observed that as per the roster followed by the respondent for Group 'A' posts, the respondent has so far filled 03 vacancies out of which none has been filled by a person with disability. Roster point no. 4 shows vacancy reserved for person with disability; (ii) The minimum qualifying marks prescribed are 45% for the unreserved posts,

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40% for the posts reserved for OBC category and 35% for the posts reserved for SC/ST/PH category in each section i.e., Section-A and Section-B of the test components. Out of the three candidates finally interviewed, Shri Kamal Kant Agarwal who topped the list secured 156 marks out of 300 (Paper 1 and Paper 2) and secured 48 marks out of 150 marks in the interview. Thus, in total, he secured 204 marks out of 450 marks. In other words, Shri Kamal Kant Agarwal secured more than 50% marks in the written test as against the minimum prescribed of 35% and also secured 32% marks in interview as against the prescribed 35% which is marginally lower than the prescribed standards. (iii) Para 22 of DoP&T's OM No. 36035/2004-Estt. (Res) dated 29.12.2005 provides that if sufficient number of persons with disabilities are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts. Thus, to the extent the number of vacancies reserved for persons with disabilities cannot be filled on the basis of general standards, candidates belonging to this category may be taken by relaxing the standards to make up the deficiency in the reserved quota subject to the fitness of these candidates for appointment to the post/posts in question. The DoP&T vide O.M. No. 36012/39/2014-Estt. (Res) dated 25.05.2015 had also issued instructions regarding special recruitment drive to fill up the vacancies for persons with disabilities and had fixed 01.02.2016 as the target date for issuing offer of appointments to the selected candidates.

13. In view of the above, the respondent is directed to consider candidature of Shri Kamal Kant Agarwal who topped the written test/interview list in the light of above instructions of DoP&T by relaxing the eligibility standards if otherwise found suitable. Ordered accordingly.

14. Compliance to be reported to this Court by the respondent within 60 days of receipt of this order.

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

N.O.O.

Copy to :- Record File.