



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.5530/1011/2015

Dated:- 24.10.2016

In the matter of:

Shri Manish Gautam,
Deputy Director (Legal), 0423
Association for the Rights of Disabled Persons,
BK2/94, Shalimar Bagh, Delhi-110088
Email - <gautamanish2011@gmail.com>

..... Complainant

Versus

Aligarh Muslim University,
Through the Registrar, 0424
Aligarh-202002(U.P.)

..... Respondent

Date of hearing : 12.08.2016

Present:-

1. Sh. Manish Gautam, Dy. Director (Legal), A.R.D.P., Complainant. alongwith Sh. Hemant Kumar, General Secretary, ARDP.
2. Respondent absent.

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 violation of PwD reservation in advertisement No. 5/2015 dated 18.11.2015 by Aligarh Muslim Central University in teaching posts.

2. The complainant has submitted that the respondent has reserved the posts of Professor and Associate Professor for persons with hearing impairment whereas the said posts are not identified suitable for persons with hearing impairment.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 04.12.2015.

4. In response, Registrar, Aligarh Muslim University, U.P. vide letter dated 08.02.2016 has submitted that the advertisement for the post of Professor/Associate Professor/Assistant Professor has been made as per rules of the Government of India, Department of Empowerment of Persons with Disabilities. He further submitted that out of 11 posts advertised for HH categories, applications for 06 posts of teaching category have already been received. However, in view of the complaint of Shri Gautam, the post of Assistant Professor in English, which was advertised under HH (and due to

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

the fact that no application form have been received against the same) being shifted to OH category. As far as the relaxation in the qualifications and experience are concerned, the same will be applicable to all concerned as per the rule of the Government of India in this regard.

5. The complainant vide his rejoinder dated 10.05.2016 reiterated his earlier view and has submitted that University is wrongly identified eight (8 i.e. 4 for Professor, 03 for Associate Professor and 01 for Assistant Professor) teaching posts for HH instead of either for OH or VH because teaching post is not identified for HH as per the identified list dated 29.07.2013. However, Note 02 of the Notification dated 29.07.2013 states that the list of posts being notified is not exhaustive list and Ministries/Departments/PSUs/Autonomous bodies etc. may further supplement the list. Note 1 of the said notification states that persons with disabilities require some aids and appliances to overcome their disabilities.

6. Upon considering the letters dated 08.02.2016 and 01.03.2016 of respondent and complainant's e-mails dated 10.05.2016, a hearing was scheduled on 12.08.2016.

7. During the hearing on 12.08.2016, the complainant reiterated his written submissions and submitted that the University has identified the post for HH in Assistant Professor, Associate Professor and Professor, which is completely in violation of Ministry of Social Justice & Empowerment's Notification No. 16-15/2010-DD.III dated 29.07.2013. At serial No. 293 to 339 and 750 to 787, all these are teaching posts, which have not been identified for HH category. The Hon'ble Supreme Court in its interim Order dated 28.04.2015 in Contempt Petition No.499/2014 in Civil Appeal No.9096/2013 in the matter of National Federation of Blind has inter-alia, directed that the period for filling up of vacancies for persons with disabilities needs to be suitably compressed. Keeping in view the directions of the Hon'ble Supreme Court, the competent authority has approved launching of Special Recruitment Drive for filling up of unfilled vacancies of persons with disabilities by 31.12.2005. According to O.M. No.36035/3/2004-Estt. (Res) dated 29.12.2005, if the post is not identified for any special category like HH then 3% reservation must be divided in remaining 2 categories i.e. OH and VH as per PwD Roster Point No. 1, 34 and 67 like OH, VH in one cycle.

8. As per Ministry of Social Justice & Empowerment's Notification dated 29.07.2013, the post of Lecturer, Reader, Professor (Arts) is identified suitable for OL, OA, BL, OAL and not for HH category. Department of Personnel & Training vide O.M. dated 08.01.2014 has also informed all Ministries/Departments, Railway Board, Supreme Court etc. to utilize the list of identified posts specified in Annexure C of the Ministry of Social Justice & Empowerment's Notification No.16-15/2010-DD.III dated 29.07.2013. It is further stated that the list of jobs/posts notified by the Ministry of Social justice and Empowerment is illustrative and the concerned Ministries/Departments can further supplement the list of suit their job requirements.

9. After hearing the parties and perusal of record, this Court observed that though the posts of Assistant Professor/Associate Professor/Professor are not identified suitable for HH category but the

respondent has identified 08 vacancies for persons with hearing impairment, which is in violation of Government instructions. The case is disposed off with the following directions:-

- (i) To issue corrigendum for cancelling the 08 vacancies of Professor, Associate Professor and Assistant Professor reserved for HH category.
- (ii) Maintain the Reservation Roster since 01.01.1996 and submit a Certificate of the Liaison Officer the roster has been maintained as per DOP&T's instructions.
- (iii) Furnish the details of vacancies filled since 01.01.1996. Compute the backlog and take effort to fill the backlog vacancies if occurred.



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