



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.: 5970/1023/2016

Dated: 22.09.2017
Dispatch No.....

In the matter of :

Shri J. Rajesh,
No.35, Second Cross,
Mugambikai Nagar,
Reddiarpalayam,
Puducherry - 605 010
Email <rajej88@yahoo.co.in>

..... Complainant

Versus

Employees' State Insurance Corporation,
(Through the Director General)
Panchdeep Bhawan,
Comrade Inderjeet Gupta (CIG) Marg,
New Delhi - 110 002

..... Respondent

Date of Hearing : 16.06.2017

Present :

1. Complainant. - Absent
2. Respondent - Absent

ORDER

The above named complainant, a person with 77% locomotor disability had filed a complaint under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, against not transferring him to his native place in Gandhinagar and harassment by officials at his workplace.

2. The Complainant submitted that he is an ex-serviceman with disabilities and is presently working in Employees State Insurance Corporation, Puducherry region. Due to repeated harassment in the hands of his regional administration after being reinstated, the complainant wants to redress his grievance through the ESIC Headquarters and the Court of the Chief Commissioner for Persons with Disabilities. The letter which he wrote to this office to redress his grievance was returned back to him after 45 days stating that they don't have any role to play. The circulars for implementation of Persons with Disabilities Act were suppressed by the management of ESIC. The complainant vide his e-mail dated 21.03.2016 has submitted that the O.A. filed

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before the Hon'ble CAT, Madras Bench is confined to the relief over the biased and dishonest Disciplinary Proceedings alone and the intervention of this court is not prayed for that very relief. He further submitted that the prayer in his complaint was regarding his request to transfer to the nearest place of residence, i.e. Gandhinagar. He submitted that the Regional Director had ordered posting of one Shri Hendri Mahimai Dass, Assistant, initially on temporary basis to Gandhinagar but later posted him on permanent basis, while the complainant's request for transfer to his native place was not considered by his establishment. Apart from transfer, the followings are the other grievances of the complainant:-

- i) Victimisation and harassment at his workplace
- ii) issue directions to the Ministries to abide by the CCPD's directions in letter and spirit.
- iii) to institute a mechanism of providing a unique complaint number under the PG Portal and also by the grievance redressal officers of the public authority on receipt of complaints pertaining to persons with disabilities and also to give ATR to the complainant in a fixed timeframe as desired by CCPD.
- iv) to sensitize the organisation to provide barrier-free-environment at all the offices of the regions at the earliest.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities Act, 1995 vide our letter dated 29.08.2016, followed by reminder dated 27.12.2016.

4. The Regional Director, ESIC, Puducherry, vide his letter no. 55-C/20/1/2016/CCPD dated 25.10.2016 has stated that the complainant was appointed as UDC under the Ex-servicemen quota on 09.08.2012. During the probation for a period of two years, he committed series of misconducts and was suspended with effect from 20.12.2013 and had to be charge sheeted through the issue of three separate charge memorandums. Inquiry proceedings were conducted by an independent Inquiry Authority and through inquiry reports, 7 number of charges were proved. The complainant physically intimidating his immediate superior officer namely Shri C. Balachandran, his Branch Manager which is the highlight of his misconduct. The Disciplinary Authority suspended the complainant on 20.12.2013 due to various misconducts committed by him. He was then dismissed from service. The complainant so far filed seven cases including Miscellaneous appeal and review application in CAT, Madras Bench. The complainant appealed against his dismissal departmentally before the Appellate Authority, Hqrd Office, ESIC, New Delhi. The Appellate Authority considering the complainant's age, his status of Ex-servicemen and his assurance of good conduct in future, his dismissal order was toned down to reduction of his pay to minimum in the pay scale of UDC and withholding of promotion for the next five years. On the Orders of the Appellate authority, the complainant was reinstated in the services w.e.f. 08.09.2015 and was ordered place of posting at ESIC, Mudaliarpet. After his

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reinstatement on 08.09.2015, the complainant was issued with various memorandums, a charge sheet and a penalty order on account of various misconducts in the nature of issue of notices to officers as RTI applicant for not following officials decorum. The complainant resigned from the services of his establishment w.e.f. 04.05.2016 when various disciplinary actions of serious nature were pending / contemplated against him. The complainant distributed notices with allegations within the premises of ESIC on 30.05.2016 with an ulterior motive to disrupt the retirement function of Shri D. Yogananda Rao, Deputy Director. The complainant's request for converting Indian style toilet into western style toilet was immediately accepted considering his disability and converted into the western style toilet. The Regional Administration had to take administrative actions for the repeated misconducts committed by the complainant and the said misconducts are the only reasons for such actions and the complainant is only to be blamed for all the events. The complainant had filed three petitions before the CAT, Madras Bench, which are numbered as OA No. 310/00006/2015, 310/00007/2015 & 310/00008/2015. The complainant even after his reinstatement did not show any improvement in his conduct and his continued commitment of misconduct invoked further disciplinary proceedings and as a result he was ordered further punishments also. The complainant tendered resignation on his own on 02.04.2016 and let the organisation on his own on 04.05.2016. He had repeatedly prayed for his relief and after careful consideration, he was relieved on 04.05.2016 and since then he is not in service of the organisation as on date.

5. The complainant vide his rejoinder dated 27.02.2017 submitted that on 16.03.2016, he was offered to transfer to another region of ESIC and was transferred to the Branch Office (Gandhi Nagar). He had to shift his residence and also shifted the School of her daughter. By his transfer, he was exposed to many difficulties. As regards resignation, he submitted that a person with disability had to resign only due to stress caused by the rampant corruption in the organisation. There is absolute failure of complaint-redressal machinery and inhuman approach towards weaker sections.

6. Upon considering the respondent's replies dated 26.09.2016, 25.10.2016 and complainant's rejoinder dated 27.02.2017, a personal hearing was scheduled on 16.06.2017 at 11:00 Hrs.

7. During the hearing, neither the Complainant nor the Respondent was present

8. Since the matter is pending before the Hon'ble CAT, Madras Bench, this Court took the view not to intervene in the matter, for its being already subjudice before a Court of Law.

9. The case is accordingly disposed off.



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