



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.6528/1021/2016

Dated:-17.02.2017

In the matter of:

Smt. Seema Vilas Patil,
B-201, "Shyamal",
S. No. 64/2b/1/1,
Near VIIT College,
Opposite Nirman Puram,
Kondhwa Budruk,
Pune-411048

..... Complainant

Versus

Office of the Additional Director,
(Through the Additional Director),
Central Government Health Scheme,
Swasthya Sadan, 2nd Floor,
Mukundnagar,
Pune-4311037

.... Respondent

Date of hearing : 01.02.2017

Present :

1. Mrs. S. V. Patil, Complainant,
2. Dr. Uday Kelkar, Sr.CMO-SAC, on behalf of Respondent.

ORDER

The above named complainant, a person with more than 40% locomotor disability filed complaints dated 17.06.2016, 14.07.2016 and 04.08.2016 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 as the 'Act' regarding not promoting her to the post of U.D.C. under PH quota.

2. The complainant has submitted that she is working as L.D.C. in CGHS, Pune since 01.03.1989. Her next promotion to the post of U.D.C. is due on PH quota. She further submitted that several posts were filled up in the past based on seniority but not a single PH employee has been promoted all these years. The matter was taken up with the respondent vide this Court's letter dated 22.08.2016.

3. The Additional Director, CGHS, Pune vide letter no .CGHS/PNE/Estt.2(20)/89/8075 dated 22.09.2016 submitted that so far no promotional post was filled up with persons with disabilities under

....2/-

CGHS, Pune. They have seriously considered filling up the posts as per quota and various instructions are being received by them for implementing the orders of Hon'ble Supreme Court. Based on these instructions, their office is now preparing Roster for giving the required 3% quota to identified posts. The complainant completed 5 years of service as LDC, the minimum prescribed time required for promotion to the post of LDC. Three posts were filled up in the cadre of UDC. The Respondent submitted that they have not received any representation from the complainant at that time and the Department was also not conversant at that time regarding implementation of PwD Act in promotion in the establishment. Once they received a representation from the complainant, guidance was sought by them from the Directorate of CGHS, New Delhi for proper implementation of the quota. A list showing the current status of the direct recruitment and promotion since 1996 is attached along with their reply. They further submitted that there are 3 posts of UDC vacant under CGHS, Pune. 8 posts were so far filled up since 1996 in Group C cadre. They have stated that the complainant will be considered by the duly constituted DPC for filling up the posts of UDC in due course. The action taken after DPC will be communicated to this Court in due course. The DPC will be constituted by them after receiving clarification on PwD from CGHS Directorate.

4. The complainant vide her rejoinder dated 13.10.2016 submitted that the Reservation Roster submitted by the respondent in its reply dated 22.09.2016 is not upto the mark and is inconsistent. The Respondent has not prepared a 100 point Reservation Roster as it did not include the details of the recruitments and roster points meant for Group D employees. She submitted that there was only one LDC in PwD category who has been retired on superannuation on 31.07.2015. She submitted that it is the duty of the establishment concerned to ensure that the benefit of reservation is extended to the deserving categories of employees. She further submitted that respondent's statement that she will be considered for the post of LDC by the duly constituted DPC in due course is an attempt aimed at promoting her along with other LDCs and thus denying her legitimate right for promotion from 01.05.2016. She submitted that her establishment is violating the instructions of DoP&T O.M. dated 02.12.2005. She has requested this Court to direct the respondent to prepare a Reservation Roster in a manner in which it ought to have been made in compliance of the Order of the Court as well as the instructions of DoP&T to take steps to safeguard the rights and facilities made available to PwDs and prevent deprivation of rights of PwDs. To direct the Additional Director to promote her as UDC w.e.f. 01.05.2016.

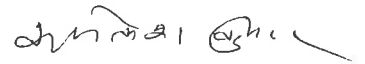
5. Upon considering respondent's reply dated 22.09.2016 and complainant's rejoinder dated 13.10.2016, a hearing was scheduled on dated 01.02.2017.

6. During the hearing on 01.02.2017, the complainant reiterated her written submissions and prayed before this Court that necessary directions may be issued to the respondent in order to ensure that she may get her legitimate promotion from the date on which a post of UDC fell vacant in CGHS, Pune.

7. The representative of the respondent submitted letter dated 31.01.2017, which was taken on record and submitted that Smt. Seema Vilas Patil has been promoted as UDC at CGHS, Pune subsequent to Departmental Promotion Committee held on 27.01.2017. and an order was issued for promotion of the complainant on 30.01.2017. He further submitted that Departmental Promotion Committee meetings are held routinely as and when required. In this case DPC could not be held earlier in spite of best efforts.

8. After hearing the parties and perusal of the record available on the file, the Court is of the view that since the complaint of the Complainant has since been redressed by the Respondent and complainant has been promoted to the post of UDC with effect from 30.01.2017. However, the Respondent is advised to follow the instructions of DoP&T's Memo. No.336035/2004-Estt (Res) dated 29.12.2005 while granting seniority etc. in her case being a person with disability.

9. The case is disposed off.



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