



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.: 6738/1014/2016

Dated : 29.03.2017  
Dispatch No.....

**In the matter of :**

Shri Shashi Kant Ranjan,  
Near Block Campus, R190  
Vill : Khura,  
Barwadih Latehar,  
Jharkhand – 822 111

..... Complainant

**Versus**

Brahmaputra Cracker and Polymer Limited, R191  
(Through Managing Director),  
Lepatkata, Dibrugarh, Assam - 786006

..... Respondent

**Date of Hearing : 19.01.2017**

**Present :**

**19.01.2017**

1. Shri Shashi Kant Ranjan, Complainant and Shri Devendra Nath Tripathi,
2. Shri A.K. Rudra, Legal Counsel for Respondent and Shri Ram Shankar and Shri Asit Das, on behalf Respondent

**03.03.2017**

1. Shri Shashi Kant Ranjan, Complainant and Shri Devendra Nath Tripathi,
2. Shri Shri Asit Das, DGM, A.K. Rudra, Advocate, on behalf Respondent

*HC*

**ORDER**

The above named complainant, a person with 55% locomotor disability filed a complaint dated 19.07.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) act, 1995, hereinafter referred to as the Act regarding non-selection to the post of Senior Engineer (Mechanical) E-2 Grade in Brahmaputra Cracker and Polymer Ltd.

2. The complainant submitted that vide Advt. No. BCPL-PWD/18/2015 dated 01.12.2015 of GAIL (India) Ltd., he applied for the post of Senior Engineer (Mechanical), E-2 Grade in Brahmaputra Cracker and Polymer Ltd., an undertaking under GAIL (India) Ltd. This post was a single vacancy under special recruitment drive for Scheduled Caste category with person with one leg disability. He was shortlisted for the interview. He was informed over telephone that he has not been selected for the aforesaid post. He filed two grievance redressal applications in the PMO grievance redressal portal vide Regn. No.PMOPG/E/2016/0191774 dated 03.06.2016 and vide Regn. No. OCPC/E/2016/0009D3 dated 05.07.2016. In response to the former grievance, the PSU was asked to take appropriate action. The concerned PSU disposed off the grievance on 30<sup>th</sup> June, 2016. He has requested to look into the matter.

3. The matter was taken up- under Section 59 of the PwD Act, 1995 vide this Court's letter dated 09.09.2016.

4. The respondent vide letter dated 10.10.2016 has inter-alia submitted that the post of Senior Engineer (Mechanical) in E-2 Grade, only 06 candidates had applied through online system. However, only 05 candidates including the complainant were found eligible as per the job specifications specified for the post and accordingly they were called for interview scheduled on 27.04.2016. He further submitted that only complainant appeared in the said interview on 27.04.2016 and Selection Committee comprising of Chairman, Subject Specialist, Representative of HR, Representative from SC/ST Community and Minority Community and an expert in the field of Psychology had considered the complainant on relaxed criteria but did not find him suitable for the post.

5. The complainant vide rejoinder dated 18.10.2016 reiterated his earlier views and submitted that i.e. "A candidate is selected for a particular post on the basis of his/her qualification" for the use of the phrase his/her in the sentence. As per the complainant the doubt is attributed to since there was a single post to be filled, then it is logical corollary that the chosen candidate should belong to single gender and hence the usage of phrase his/her points towards some discrepancy in the appointment procedure. He further submitted that the post in question is still vacant and has been re-notified in June, 2016 for online submission of applications upto 25.07.2016. The selection of the candidate for the said post against the advertisement is under process and complainant will be given due consideration along with other candidates as per recruitment rules of the company.

6. The respondent vide counter-rejoinder dated 18.11.2016 has inter-alia submitted that complainant has not brought any additional facts other than those stated by in the complaint which have already been adequately responded vide letter dated 10.10.2016. He further submitted that complainant has again applied for the aforesaid post in June, 2016 and despite of its best sincere efforts and offering relaxation of age and minimum percentage of marks to the PwDs as per the Government directives on the subject, the Company could not recruit anybody on the positions reserved for PwD.

7. Upon considering the respondent's letters dated 10.10.2016 and 18.11.2016 and Complainant letter dated 18.10.2016, a hearing was scheduled on 19.01.2017.

8. During the hearing on 19.01.2017, the complainant submitted his written submissions vide letter dated 19.01.2017. The complainant reiterated his earlier contention that the phrase is ambiguous and he has only stated his interpretation of the contended phrase, which to his satisfaction still holds true. He submitted that the company since its inception in 2007 has not been able to find even a single disabled candidate which can match their recruitment standards ever after 24 recruitment exercises. The complainant submitted that he is having requisite experience as being demanded and hence his disability cannot be made a ground for his disqualification. The complainant has demanded from the company the minutes of meeting and final documents of evidence having documents reasons for his disqualification, which can only be proved if the relaxed criteria was adopted in the interview and also whether the boast of the company that their recruitment process is fair is tenable. The complainant requested this Court to refer to the Order passed in Case No. 5110/1031/2015 by this Court in the case of Shri Vicky Kumar, as both his case and the Order passed in Case No. 5110/1031/2015 are similar ones.

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9. The Legal Counsel on behalf of the Respondent submitted that the non selection of the complainant against the Advertisement no. BCPL-PWD/18/2015 in which 13 vacancies were notified against the Special Recruitment Drive for persons with disabilities against the above advertisement. Five candidates were shortlisted including the complainant for the interview which was heard on 27.04.2016. Out of the shortlisted candidates, the complainant was the only one who turned up. He was interviewed by the Selection Committee consisting of the Chairman, Subject Specialist, Representative from HR, Representative from SC & ST Community, Minority Committee and Expert in Psychology. The Selection Committee did not find the complainant suitable for the job. The complainant lodged his grievance in various forums including a letter to the Ministry of Chemicals and Fertilizers dated 03.06.2016. In response, the Director of Ministry of Chemicals and Fertilizers vide letter dated 30.06.2016 responded as under :-

10. "The above grievance was forwarded to Brahmaputra Cracker and Polymer Limited (BCPL) for comments. Now the BCPL has informed that the candidate is selected for a particular post on the basis of his/her qualifications, experience and performance in the interview. He appeared in the interview process for the post for Senior Engineer (Mechanical) on 27.04.2016. However, the Selection Committee did not find your candidature for the said post'.

11. "BCPL has further stated that in case any vacancy arises in future, the vacant post will be advertised in the local and national newspapers as well as hosted in BCPL website and any interested person may apply if he/she meets the job specifications and qualifications against the advertisements. The BCPL has also assured that the recruitment process is fair and based on merit of the candidate. The complainant in his complaint dated 19.07.2016 addressed to the Chief Commissioner for Persons with Disabilities raised this issue and merely relied on the communication given by the Ministry of Chemicals and Fertilizers in response to his application dated 03.06.2016 and twisted the contents as under.:-

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- i) Candidate has been selected
- ii) The aggrieved is not up to the mark as per the Selection Committee.
- iii) Their selection is on merit basis and fair
- iv) An exhortation to apply for vacancies to be published in future.

12. The complainant admitted that the list of three points are well accepted except the first one which raises doubts making the appeal for appropriate action seems like mere procedural follow up rather than substantive disposal. It further states that in the second line of 2<sup>nd</sup> para of the letter from the Ministry, it is mentioned that the candidate is selected for a particular posts on the basis of his / her qualification, the usage of the phrases his/her is what they doubt is attributed to. Since there was a single post to be filled, then it is logical corollary with the chosen candidate should belong to single gender and hence the usage of phrase his/her point towards some discrepancy in the appointment procedure against the above complaint. A detailed reply has been submitted. All these documents are on record in our submission. The Selection Committee has viewed the complainant unfit for the post advertised for. There are various judgments of the Supreme Court which says very clearly that the Court does not have any mechanism or expertise to decide whether the decision of the Selection Committee is fair/transparent unless there is illegality of patent material, irregularity in the Constitution of the Committee or its procedure violating his selection etc. In view of the above submission, the Legal Counsel for the Respondent concluded that as the Selection Committee did not find the complainant suitable and ,therefore, the complainant was not selected for the post of Senior Engineer (Mechanical) in the Company

13. After hearing of both parties, the respondent is advised to intimate this Court on what criteria has been adopted for selecting the candidates by their establishment and also advised them to send a copy of the minutes of the Selection Committee along with the Reservation Roster. The case was rescheduled for hearing on 03.03.2017.

14. During the hearing on 03.03.2017, the complainant reiterated his written submissions and submitted that the point of contention is the selection criteria which the respondent company adopted while conducting the interview. They have provided the Court with some documents which seem lacking in evidentiary value, which shows the break up of marks given by the Selection Committee. They awarded 9 marks out of 50. But they have nowhere provided written evidence of what is the formal company policy regarding relaxed criteria to be adopted towards candidates belonging to SC/ST and having disabilities. Hence the request of documents demanded from them remain unjustified. Since they have not provided any written evidence of relaxed criteria, this suggests that they do not have one. And if they do not have one then the relaxed criteria is nothing but a flimsy ground which totally depends on their discretion. Also this Court is only concerned with person with disability but still I would like to raise a point that it is a case of double societal disqualification which can rob anyone's cognitive ability to a great extent. Hence I would like to request this Court that the number given in the interview should be seen in this light only. Having said that, I would like to request render justice to me.

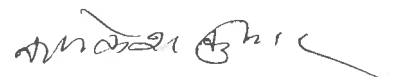
15. The representative of the respondent submitted a copy of reply dated 03.03.2017, which was placed on record and submitted that the criteria adopted for selection of candidate in interview is that the shortlisted candidates based on their academic qualification and experience meeting the criteria advertised for the post and called for interview are evaluated in the interview on the following parameters:-

- Personality.
- Verbal/Communication Skill.
- Conceptual Ability.
- Knowledge of the Subject.

The candidates are evaluated on the scale of 10 marks in each of the above 1 to 3 parameters and on the scale of 20 marks in last parameter. Thus normally a candidate should obtain at least 25 marks out of the total 50 marks for being considered for selection. This criteria is relaxed in respect of the candidates belonging to the reserved category as per response received keeping in view the functional requirement. In the instant case based on the complainant's performance, he secured total 9 marks out of 50 marks in the interview held on 27.04.2016. Accordingly selection committee did not find him suitable for the post. The record of the minutes of the meeting of the selection committee for the position of Senior Engineer (Mech.) and Reservation Roster as advised by the Court have been submitted. In view of above, it is prayed that the Hon'ble court may be pleased to drop the complaint proceedings against the respondent.

16. After hearing both the parties and perusal of the record available, the Court observed that their does not seem any violation of provision of Persons with Disabilities Act, 1995, Rule or Government instruction, no relief can be granted to the complainant.

17. The case is disposed off accordingly.



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