



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.84/1013/11-12

Dated:-08.07.2016

In the matter of:

Ms. Jhumjhum Chatterjee, ^{D125}
D-52/6, Laxmi Kund,
Varanasi-221010.

..... Complainant

Versus

South Central Railway,
Through the Senior Divisional Personnel Officer, ^{D126}
Mughalsarai Division,
Mughalsarai (Uttar Pradesh)

..... Respondent

Date of hearing : 29.04.2014, 24.06.2014, 08.06.2016

Present :

29.04.2014

1. Ms. Jhumjhum Chatterjee, Complainant.
2. None on behalf of Respondent.

24.06.2014

1. Shri Sourav Chatterjee, brother of Ms. Jhumjhum Chatterjee, Complainant.
2. None on behalf of Respondent.

08.06.2016

1. Ms. Jhumjhum Chatterjee, Complainant.
2. S/Shri Rohit Kumar and Munandra Kumar, Advocates, on behalf of Respondent.

ORDER

The above named complainant, a person with 100% hearing impairment filed complaints dated 29.10.2011 and 09.01.2012 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding recruitment to the post of Group 'D' under PH quota.

2. The complainant submitted that she appeared in the written examination held on 04.02.2007 for the post of Group 'D' in East Central Railway and secured first position. However, her name did not appear in the final list of successful candidates though the Railways filled 06 vacancies against 07 notified vacancies.

3. The matter was taken up with the Divisional Railway Manager (P), East Central Railway, Danapur, Bihar vide this Court's letter dated 02.08.2012 followed by reminder dated 30.11.2012.

.....2/-



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-2-

4. Senior Divisional Personnel Officer, East Central Railway, Danapur vide letter No. E/Rectt/PH/Misc./12 dated 18.12.2012 informed this Court that this case does not pertain to their Division and the same has been sent to General Manager (Personnel), East Central Railway, Hajipur for further needful action. Since this Court did not receive any response from the General Manager (Personnel), East Central Railway, Hazipur, Bihar, reminders dated 24.01.2013 and 30.07.2013 to submit action taken report by 16.08.2013.

5. Chairman, Railway Recruitment Cell, Patna vide letter No.ECR/HRD/RRC/Physically Handicapped Quota dated 16.09.2013 with reference to this Court's letter dated 30.07.2013 sent copies of the results of Dhanbad, Danapur, Sonpur, Samastipur and Mughalsarai Divisions dated 21.05.2007, 21.03.2007, 29.03.2007, 16.05.2007 and 31.03.2007 respectively and intimated that as per the results, the name of the complainant does not appear in the list of successful candidates.

6. A copy of the reply dated 16.09.2013 received from Railway Recruitment Cell, Patna was forwarded to the complainant vide letter dated 29.10.2013 for submitting her comments/rejoinder.

7. The complainant vide her rejoinder dated 19.11.2013 has sent copies of the Employment Notice, Xerox copy of letter to appear in the written examination on 04.02.2007 at Laxmi Public School, Kailashpur, Mughalsarai as well as Xerox copy of letter to appear in the Screening Test at DRM Office, Mughalsarai on 23.03.2007 to prove her claim. She has further stated that from the contents of the letter of Chairman, RRC, Patna, it is crystal clear that the opposite party, instead of justifying the lacuna/shortfall/shortcomings in her documents, simply submitted a Xerox copy of the final result that the name of the complainant does not figure in the list of successful candidates. She has further stated that injustice has been done to her and she has been deprived of her opportunity on getting a job.

8. Upon considering the reply dated 18.08.2013 and 16.09.2013 of the respondent and the complainant's letter dated 19.11.2013, the case was fixed for hearing on 29.04.2014.

9. Vide Record of Proceedings dated 02.05.2014, this Court observed that in view of the fact that only 6 persons with hearing impairment were selected against 7 vacancies reserved for them in Mughalsarai Division and that there is a provision for relaxation of standard of suitability in respect of persons with disability, if sufficient number of persons with disabilities are not available on the basis of general standards to fill up the vacancies reserved for them, the respondent is advised to consider the complainant for appointment against the unfilled reserved vacancy for persons with hearing

.....3/-



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-3-

impairment within 45 days from the date of receipt of these Record of Proceedings. If the respondent has any reservation to do so, the reasons thereof be submitted by 16.06.2014 and appear before this Court on 24.06.2014 at 3.00 P.M. with all the relevant records.

10. Vide Record of Proceedings dated 01.07.2014, this Court directed to afford one last opportunity to the respondent to either appoint the complainant under intimation to all concerned or alternatively to give reasons with corroborative documents as to why such appointment cannot be given by 24.07.2014, failing which, this Court will be free to give ex-parte directions including direction for appointment in respect of the matter. Besides, keeping in mind the fact that the Senior Divisional Personnel Officer, East Central Railway, the Respondent has neither appeared nor responded to the notices of hearing, this Court deems it appropriate to implead the Railway Board through its Secretary as Respondent No.2 with the advice to give immediate and appropriate directions to the Respondent No.1 for complying with the above direction of this Court within the given time frame. East Central Railway filed their written objections/submissions dated 22.08.2014 through their counsel and submitted that the complaint of the complainant being devoid of merit be dismissed with costs.

11. The complaint vide letter dated 24.07.2014 informed that inspite of directions given by this Court vide Para 3 of the Record of Proceedings dated 01.07.2014, referred above, she has not received any appointment letter from East Central Railway.

12. Considering the replies dated 22.08.2014, 12.06.2015 and 28.08.2015 of the respondent and complainant's letters dated 24.07.2014, 19.09.2014, 10.12.2015, 03.03.2016 and 20.03.2016, a hearing was scheduled on 08.06.2016.

13. During the hearing on 08.06.2016, the brother of the complainant reiterated the written submissions of the complainant and submitted that after submission of the form, the Admit Card was received and on the basis of which she qualified the examination and her name was on the top of list amongst the 7 candidates. All relevant documents of her were verified and were order and the screening test meant specifically to verify the documents. After that out of 7 candidates, 6 were appointed and she was ignored. Due to this, she is also going through mental disharmony. After not getting any reply from the respondent about her non-selection, she approached this Court. It is humbly prayed that justice may be done with her.

14. The Counsel appearing on behalf of the respondent submitted that as per corrigendum dated 14.10.2006 for recruitment against physically handicapped person quota dated 14.10.2006, the

.....4/-



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closing date was 13.11.2006 and the application of the complainant was received on 20.12.2006. The scrutiny of the documents is done after passing of the examination and not before that. The complainant did not apply in the prescribed proforma and did not mention her disability as hearing impairment. During the hearing, the application form filled by her was shown to her. She disputed that the date filled in as 20.12.2006 is not in her handwriting. The representative of the respondent submitted that to identify the handwriting is not his job. It can be identified by a handwriting expert. He further submitted that after issuing of the Admit Card, the shortcoming which were left or remained due to the carelessness of any employee, the action has been initiated against the concerned employee. The examination process was in two stages, first Written Test and the second was verification of documents. The verification was to be done at the second stage. In the second stage, at the time of verification of the documents of the complainant, it was not in the prescribed format, was incomplete and her percentage of disability was not mentioned. Due to this reason, her candidature was not considered for selection.

15. After hearing both the parties and considering the papers available in record, it is seen that Admit Card was issued to the complainant for appearing in the written examination on 04.02.2007 and for documents verification on 23.03.2007. It is also seen that the complainant's name was on the top in the list of 7 candidates with hearing impairment. The respondent has raised the objection that the Application Form submitted by the complainant was neither in the prescribed format nor received in time. As per respondent, the last date of receipt of application form was 13.11.2006 whereas the complainant had submitted her application on 20.12.2006 i.e. after the last date for applying to the post. On the other hand, the representative of the complainant submitted that the date was not mentioned by the complainant as it is in different handwriting.

16. Since 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. Para 12 of the DoP&T O.M. 36035/3/2004-Estt.(Res) dated 29.12.2005 provides that at the time of initial appointment and promotion against a vacancy reserved for persons with disability, the appointment authority shall ensure that the candidate is eligible to get the benefit of reservation.

17. In view of the above, the respondent is directed to consider candidature of Ms. Jhumjhum Chatterjee for Group 'D' post in the light of above instructions of DoP&T. Ordered accordingly.

18. Compliance to be reported to this Court by the respondent within 30 days of receipt of this order.


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