



न्यायालय मुख्य आयुक्त निःशक्तजन  
Court of Chief Commissioner for Persons with Disabilities  
सामाजिक न्याय एवं अधिकारिता मंत्रालय  
Ministry of Social Justice & Empowerment  
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No.842/1011/2013

Dated:-07.05.2014

**In the matter of:**

Dr. Nitesh Kumar Tripathi,  
H. No. C-184,  
Begum Vihar Extension,  
Begumpur, Delhi-110086.

..... Complainant

Versus

Indian Institute of Technology, Kanpur,  
Through the Acting Registrar,  
(Recruitment Section),  
Room No. 224, 2<sup>nd</sup> Floor (Faculty Building),  
IIT, Kanpur – 208016.

..... Respondent

**Date of hearing : 16.04.2014**

**Present :**

1. Dr. Nitesh Kumar Tripathi, Complainant.
2. S/Shri R.R. Dohare, Assistant Registrar & Manoj Kumar, Assistant Registrar on behalf of the Respondent.

**O R D E R**

The above named complainant, a person with 65% locomotor disability filed a complaint dated 29.06.2012 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding reservation of vacancies for persons with disabilities.

2. The complainant submitted that IIT did not provide 3% reservation to persons with disabilities in their advertisement for the posts of Deputy Registrar and Medical Officers published in Employment News dated 16 – 22.06.2012.

3. As per Ministry of Social Justice and Empowerment's Notification No.16-70/2004-DD.III dated 18.01.2007, the post of Deputy Registrar involving administrative work or Public Relation is identified for OL, BL, OA, OAL, BLV and HI. In the medical field, the posts are identified for OL and OA category of disability.

.....2/-

4. Section 33 of Act provides as under:-

*“Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three percent for persons or class of persons with disability of which one percent each shall be reserved for persons suffering from –*

- (i) Blindness or low vision;*
- (ii) Hearing impairment;*
- (iii) Loco Motor disability or cerebral palsy, in the posts identified for each disability;*

*Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.”*

5. The matter was taken up with the respondent vide this Court’s letter dated 02.01.2013 followed by reminder dated 02.12.2013.

6. The respondent vide letter No. RA/PwD-2013/IITK-5627 dated 24.01.2013 intimated that in the advertisement published in Employment News dated 16-22.06.2012, it is very clearly written just below the details of vacancies that “the institute follows reservation norms as per GOI rules” and as such the institute is following the prescribed reservation in respect of persons with disabilities. The respondent has further submitted that the institute is an institute of national importance and special consideration is given to persons with disabilities applying for the positions advertised by the institute. There is no mention about OH, VH, HH and the candidates are very well considered and recruited if applying under PH category. Further, the institute is considering the requirement and nature of jobs of various positions and trying to accommodate all categories under PH category. Further, they have given the requisite information in respect of Group A, B,C & D posts.

7. A copy of the reply dated 24.01.2013 furnished by IIT, Kanpur was forwarded to the complainant vide this Court’s letter dated 28.02.2013 for his comments/rejoinder.

8. The complainant vide his letter dated 03.09.2013 submitted that IIT, Kanpur had not submitted the details of recruited persons with disabilities since 1996 till date. He requested to pass an order for conducting special recruitment drive.

9. Upon considering the reply dated 24.01.2013 of the respondent and the complainant’s rejoinder dated 03.09.2013, a hearing was scheduled on 16.04.2014.

10. During the hearing, the complainant submitted that the word “handicapped” should not be used as it is derogatory. He also demanded that the list of employees with disabilities should be made available to him. The complainant added that the respondent should implement the scheme of reservation in line with the Hon’ble Supreme Court’s judgment dated 08.10.2013 in the matter of Civil Appeal No.9096 of 2013 (arising out of SLP (Civil) No.7541 of 2009) titled as Union of India & Anr. Vs. National Federation of Blind & Ors.. The complainant expressed surprise that no person with visual impairment has so far been recruited by the IIT, Kanpur since 1996.

11. The representatives of the respondent reiterated their written submissions and clarified that they are ready to appoint persons with visual impairment provided they get suitable applicants who meet the requirements of the relevant posts. Responding to the complainant's statement that the use of word "handicapped" should not be encouraged, the respondent assured this Court that henceforth, the expression "person with disability" will be used. Referring to the complainant's statement with regard to maintenance of reservation roster, the representative of the respondent submitted that they deal only with the non-teaching posts to which the instant case relates. This explains why they can immediately confirm that such roster is being maintained atleast as far as non-teaching posts are concerned. They expressed the belief that such roster, perhaps, is also being maintained with respect to the teaching staff as they have come across some faculty members with disabilities in IIT, Kanpur.

12. The context prompts this Court to observe that in a *suo motu* Case No.2734 of 2003, this Court vide Order dated 25.09.2006 had directed IIT, Kanpur as under:-

- “(a) To prepare separate 100 point vacancy based reservation roster for teaching and non-teaching posts in all groups and calculate the reservation for persons with disabilities against the vacancies that were filled since 1996.
- (b) Submit action plan to fill backlog vacancies within 60 days of receipt of this order.
- (c) To indicate the point of the roster against which the vacancies fall in all future advertisements. In case none of the vacancies falls against the reserved points, the same should be mentioned in the advertisement. If the post is identified for persons with disabilities but none falls against any reserved point for them, the advertisement must mention that persons with disabilities can also apply for the post in accordance with provision of para 25 of DoP&T OM No.36035/3/2004-Estt (Res) dated 29.12.2005. The following should also be mentioned in all future advertisements.
  - (i) Sub-categories of disabilities – whether the vacancy is reserved for blind or low vision; deaf or partially deaf; or locomotor disabled or cerebral palsy.
  - (ii) Eligibility of persons having 40% or more disability.
  - (iii) Number of posts reserved for persons with disabilities in each category; and
  - (iv) Relaxation for age; application fee and eligibility criteria, if any.
- (d) No vacancy in any identified post shall be advertised by the respondent without providing reservation for persons with disabilities in accordance with the provisions of Section 33 of the Act and instructions of Department of Personnel and Training on the subject.”

13. In the light of the submissions of the respondent vide letter dated 24.01.2013 and the earlier submissions during the hearing, there is prima facie no reason for this Court to doubt that the respondent is not complying with the aforesaid order of this Court by ensuring benefit of reservation in favour of persons with disabilities under the relevant provisions of Persons with Disabilities Act and the directions of the Government. Thus, it would also be in the fitness of things for this Court to observe that in the meantime, the Department of Personnel & Training has already issued instructions vide O.M. No.36012/24/2009-Estt.(Res) dated 03.12.2013 for implementing the judgment of the Hon'ble Supreme Court dated 08.10.2013 in the matter of Civil Appeal No.9096 of 2013 (arising out of SLP

(Civil) No.7541 of 2009) titled as Union of India & Anr. Vs. National Federation of Blind & Ors., referred to by the complainant in his depositions.

14. In the light of the foregoing, the respondent is hereby advised to make genuine all out efforts also to recruit persons with blindness and persons with low vision and persons with hearing impairment in future recruitments. They are further advised to use appropriate terminology and give details of the reserved vacancies appropriately as required under Para 25 of the O.M. No. 36035/3/2004-Estt.(Res) dated 29.12.2005 of the Department of personnel & Training.

15. The case stands disposed off accordingly.

Sd/-

**( P.K. Pincha )**  
Chief Commissioner  
for Persons with Disabilities