



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. 5159/1014/2015

Dated:- 10.10.2017

In the matter of:

Shri Jayanta Kumar Khamari,
 At/P.O. – Kanaveta (Bonaigarh),
 District – Sundargarh,
 Odisha – 770051
 Email : jayantakhamari21@gmail.com

- R3944

.....Complainant

Versus

Ministry of Railways,
 (Through : The Director (Estt.),
 Rail Bhavan,
 New Delhi.

- R3945

.....Respondent No. 1

Department of personnel & Training,
 (through: The Additional Secretary (Services & Vigilance),
 North Block,
 New Delhi

- R3946

.....Respondent No. 2

Dates of hearing : 02.03.2017 and 15.02.2017

Present :

1. Shri Jayanta Kumar Khamari, Complainant along with Shri Subhash Chandra Vashishth, Legal Counsel.
2. Shri Parvez, Director Estt. (GR), Shri Kamal Kishor, Dy. Director Estt. (GR), Ms. Monika, A.S.O – on behalf of Respondent No. 1
3. Respondent No.2 – Absent.

ORDER

The above named complainant, a person with 40% locomotor disability, had filed a complaint dated 09.09.2015 before the Chief Commissioner for 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 his appointment in Indian Railway Services of Engineers (IRSE) (2004 batch) on the basis of filling up of backlog vacancies for persons with disabilities.

2. The complainant submitted that he is working in Indian Railway Service of Engineers (IRSE) of Indian Railways. He appeared in the Engineering Services Exam-2004 (conducted by UPSC) and qualified the exam, but could not make into the final merit list as there was no reservation for persons with disabilities in Engineering Services Exam. He enquired this with UPSC and the Railway Board, regarding his non – selection, through RTI. The UPSC replied that no post was reserved for candidates with physical disability for IRSE for the Engineering Services

....2/-

Exam-2004. He again appeared for the Engineering Service Exam-2006 and 2007 and on both the occasions, he qualified but could not get IRSE. In the year 2007, Military Engineering Services (MES). He approached this Court as well as Hon'ble Orissa High Court through WP-18559/2008 & RP:213/2009 and Hon'ble Supreme Court through SLP 15434-15435/2010 and he was finally allotted IRSE by Railway Board in the year 2011.

3. The matter was taken up with the Secretary, Ministry of Railways vide this Court's letter dated 21.09.2015, followed by reminder dated 16.10.2015.

4. The Deputy Director/E(GR), Railway Board, vide their letter no. 2015/E(GR)/I/27/3/(FTS:157361) dated 15.10.2015 submitted that the complainant had appeared in Engineering Services Examination (ESE) conducted by UPSC in the year 2007 against PH quota. He was recommended and allotted IDSE against PH quota. There were no vacancies earmarked for PH category in Railway Engineering Services as matter for exemption of the same from the purview of Persons with Disabilities Act was pending approval of Inter Departmental Committee (IDC). The IDC subsequently did not agree to grant exemption to Railway Technical Services from the purview of Persons with Disabilities Act. The Respondent further submitted that reservation to persons with disabilities is being provided in Railway Engineering Services w.e.f. exam year 2010 onwards. It was further submitted that the main grievance of Shri Jayanta Kumar Khamari is that he appeared in ESE 2004 Examination but could not qualify in final merit list as there was no reservation for persons with disabilities candidates in Railways in ESE-2004 against which he could be accommodated. The complainant is of the view that if vacancies had been reserved for persons with disabilities in Railways, he would have been allotted against the vacancy so reserved for PH candidates. Therefore, the complainant is requesting for seniority of ESE-2004 batch even though he had not been recommended for the same by UPSC. The Respondent submitted that the request of the complainant drawing parity with similar cases of Civil Services Examination is not tenable as he was not recommended by UPSC on the basis of the Engineering Services Examination 2004 on PH quota and also that there were no PH vacancy reserved in Railways for the Exam Year 2004. The complainant's claim that backlog vacancies were calculated by Railways and if the same had been available, he would have been declared successful in the examination, is thus a hypothetical one and not correct. The matter for providing reservation for persons with disabilities in Railway Technical Services and clearing of such backlog has been considered in detail and adjudicated upon by Hon'ble High Court of Delhi in WP(C) No. 23132/2005 in the matter of All India Confederation of the Blind vs Union of India (Ministry of Railways). In WP(C) No. 23132 of 2005 before the Hon'ble Delhi High Court vide orders (S. No.2) reserved on 16.01.2012 (pronounced on 7th March 2012) had directed that all backlog vacancies should be filled. Having not cleared EXE-04, the petitioner cannot claim to be recruited to IRSE on the basis of ESE-2004 and seek seniority on hypothetical premise that if vacancies were available,

he would have been recommended. Based on his understanding, the complainant had also filed an O.A. before the Hon'ble CAT/Cuttack Bench. The same was dismissed by Hon'ble CAT vide their detailed speaking order. Being dissatisfied on dismissal of his application by Hon'ble CAT/Cuttack Bench, he has now filed a WP No. 23467/2014 before Hon'ble High Court of Orissa, which is pending. The Respondent further submitted that the complainant was recommended against PH quota on the basis of ESE-2007 and he has reaped the benefits of being allotted to Railways against a backlog vacancy on direction of the Hon'ble High Court of Orissa though no vacancies in Railway Services were reserved.

5. The complainant vide his rejoinder dated 15.10.2015 has submitted that he appeared in the interview of Engineering Services Exam (UPSC) in the year 2004, 2006 and 2007, but he was debarred for IRSE because 'there was no reservation for person with disability candidates in IRSE post. His name came in the merit list in 2007 because MES started reservation obliging Person with Disabilities under the Act. The Railway Board applied for exemption, but the same was not granted by the competent authority. He further submitted that Ms. Purnima Jain has been given the appointment in Indian Railway Personal Services (IRPS-2008) considering the same backlog vacancies. The Railway Board is silent on this issue and it should clarify the issue. There were 12 IRSE vacancies available upto 2004 as informed by Railway Board and there were only four candidates at that time. The complainant submitted that instead of giving him offer of appointment considering backlog vacancies, the Respondent countered it by filing in CAT, Cuttack Bench to quash his appeal.

6. The matter was also taken up with the Joint Secretary (AT&A), DoP&T vide this Court letter dated 23.11.2015 and Deputy Director/E(GR), Ministry of Railways vide letter of this Court dated 23.11.2015 followed by letter dated 29.01.2016.

7. The Dy. Dir./Estt.(GR), Railway Board, Ministry of Railways, vide letter dated 02.02.2016 informed this Court that the complainant had also filed an OA before the Hon'ble CAT/Cuttack on the same issue. The Hon'ble CAT, however, did not give any relief to the complainant and dismissed the OA vide its Order dated 10.09.2014. The applicant has now filed WP No.23467/2015 before the Hon'ble High Court of Orissa and the matter is sub-judice. The Respondent has also enclosed a reservation roster maintained by their establishment since 01.01.1996 along with their above mentioned reply dated 02.02.2016.

8. The complainant, vide his rejoinder dated 30.04.2016 submitted that the Railway Board took 15 years to implement the Persons with Disabilities Act. He once again reiterated that Ms. Purnima Jain was considered and was appointed by the Indian Railways while he was debarred.

9. The Under Secretary, Ministry of Personnel, Public Grievances and Pensions, DoP&T vide letter dated 14.09.2016 has submitted that name of Ms. Purnima Jain, a Visually Impaired category candidate was not initially recommended by UPSC along with the recommended candidates of Civil Services Examination (CSE), 2008. Later on, she was allocated IRPS Group 'A' service against backlog vacancies for PH category candidates on the basis of CSE, 2008 in compliance of order dated 24.01.2011 passed by Hon'ble CAT, Principal Bench, New Delhi in O.A. No.3792/2010, in case titled Purnima Jain vs UOI in the year 2012.

10. Upon considering the replies of the complainant, Respondent no.1 and 2, a hearing was scheduled on 15.02.2017.

11. During the hearing on 15.02.2017, the complainant reiterated his written submissions and submitted that he is seeking parity with the case of Ms. Purnima Jain and this issue has not been taken up before the High Court. This issue came in his knowledge later on. The CAT dismissed his case on "delay and latches" and it was "not dismissed on merits". It is prayed before this Court to consider his case on basis of backlog vacancies. There were 12 backlog vacancies for persons with disabilities in the year 2004.

12. The representative of Respondent No. 1 submitted that parity cannot be drawn because the case of Ms. Purnima Jain is of Civil Services Examination, while there is no such instance in Engineering service Examination. Reservation in Railway Engineering Service for persons with disabilities has been given with effect from the year 2010 examination year and backlog vacancies was the matter of different Court case adjudicated upon by the Hon'ble High Court of Delhi and backlog vacancies cleared in 2011-2012 examination year at 50% backlog vacancies in each year, there were total 50 backlog vacancies.

13. After hearing the parties, the Court directed the concerned office to send a copy of reply received from Respondent No. 1. i.e. Ministry of Railways to the complainant for his comments and the Complainant was directed to file the copy of O.A. filed in the CAT and the Order passed by the CAT and copy of W.P. filed before the Hon'ble High Court of Orissa for the perusal of this Court.

14. The case was adjourned for 02.03.2017 at 1200 Hrs.


15. During the hearing on 02.03.2017, the Counsel appearing for the complainant submitted that the complainant is seeking parity with Ms. Poonam Jain who is appointed by the Railways in the year 2012 against the backlog vacancies of 2008 in Indian Railway Personnel Services. Since the complainant is also seeking a similar relief being in Indian Railway Personnel Services of

Engineers, as both are governed by the policy of DoP&T, as examinations are conducted by the same body, i.e. UPSC for both the cases.

The Respondent has taken a plea that they are implementing reservations for persons with disabilities since 2010, whereas the Disability Act came into being in 1996, whereas the DoP&T considered the implementation of backlog vacancies for Civil Services from the year 2006 and the grounds that there was no claimant before it nor there was any Court Order. Whereas the Respondent Railways is seeking to implement the reservation from the year 2010 for the backlog vacancies from the year 1996 to 2010 which was finally cleared in the year 2011-12. This is despite the fact that the present complainant was claimant in 2004 itself and there were 12 backlog vacancies in the year 2014 as per the Ministry of Railways submissions. Therefore, the complainant should have been considered in the backlog vacancies of 2004 itself. The complainant also submits that his petition before CAT, Cuttack Bench was rejected on "Technical delay and latches" and "not on merits". The petition pending before the Hon'ble High Court of Odisha talks about the matter where he has claimed his share in the backlog vacancies. Here before this Court of Chief Commissioner, the petitioner is claiming parity with one Purnima Jain, who was appointed by the Railways in IRPS in 2012 against the backlog vacancies of 2008 though she was not recommended by the U.P.S.C in the year 2008. The petitioner has been fighting for justice since 2004 and finally got his appointment in 2011 only after the intervention of Hon'ble Supreme Court on the basis of examination in 2007. It is pertinent to mention that neither in 2004 nor in 2007, Railways have accepted the appointment.

16. The Respondent No.1 vide their written submission dated 22.02.2017, furnished that the complainant is seeking parity with the case of Ms. Purnima Jain, allotted IRPS on the basis of Civil Services Examination (CSE)-2006. The case of Ms Purnima Jain is of CSE exam and reservation for persons with disabilities was applicable in the exam year for which she sought relief. However, the complainant, is a candidate of ESE and there was no reservation for persons with disabilities in Railway Engineering Services in the Exam 2004, for which he is seeking relief. Reservation for persons with disabilities in Railway Engineering Service was applicable for Exam year 2010. The backlog vacancies were calculated in reference to WP No. 23132/2005 filed before the Hon'ble High Court of Delhi and the backlog vacancies for Railway Engineering Services were cleared in the exam year 2011 and 2012 @ 50% backlog in each year. Both exams are separate entities and the claim for parity of the complainant, quoting case of Ms. Purnima Jain is not justified. The relief sought by the complainant from the Hon'ble High Court of Orissa and before the Court of Chief Commissioner for Persons with Disabilities is one and the same. The matter for same relief is pending before High Court of Orissa, the Hon'ble Court of Chief Commissioner for Persons with Disabilities may drop this complaint. The Respondent also enclosed copy of Order of Hon'ble CAT, Cuttack.

17. The Court reserved the Order in the matter.


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



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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: 6992/1011/2016

Dated: 03.10.2017

In the matter of:-

Shri Manmohan Bajpae
 D-2158, Indira Nagar
 Lucknow – 226016

Complainant

Versus

Union Public Service Commission
 (Through the Secretary)
 Dholpur House, Shahjahan Road
 New Delhi

Respondent No. 01

Department of Personnel & Training
 Through the Secretary
 Ministry of Personnel, Public Grievances & Pension
 North Block, New Delhi – 110001

Respondent No. 02

Dates of Hearing: 01.03.2017 & 25.09.2017

Present on 25.09.2017

1. Shri Manmohan Bajpae – complainant
2. Shri R.K. Roy on behalf of Respondent No.01 and Shri D.Das, Under Secretary on behalf of Respondent No. 02

ORDER

During the hearing on 25.09.2017, the representative of Respondent No. 01 apprised to this Court that the matter on the same issue is already decided by the Hon'ble High Court of Allahabad.

2. Taking cognizance of the fact that the subject matter is already decided by the Hon'ble High Court, therefore, no further intervention of this court be deemed appropriate in the matter and therefore, the case is accordingly disposed off.

(Signature)

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



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.: 6829/1141/2016

Dated 10.10.2017

In the matter of:

Shri Anand Kumar Jha, *R4015*
 Q.No.-MB 1, Gogna Colony,
 D.V.C. Maithon,
 District-Dhanbad, Jharkhand-828207
 Email – anandjhaguddu@gmail.com

.... Complainant

Versus

The Director General, *R4016*
 Employees' State Insurance Corporation,
 Panchdeep Bhawan,
 Comrade Inderjeet Gupta (CIG) Marg,
 New Delhi - 110 002

.... Respondent

Dates of hearing: 12.05.2017 and 01.08.2017

Present:

None of the parties appeared.

ORDER

The complainant, a person with 80% locomotor disability, wheelchair user, filed a complaint dated 01.08.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding non-settlement of accidental claim by the Employees State Insurance Corporation, Lucknow.

2. The complainant submitted that he met with an accident on 10th March, 2005 while he was working for Tata Tele Services on Apex Services, Lucknow. He was not aware at that time that he was covered in ESIC [ESIC No.21-8102677]. When his employer, APEX Services intimated that he was a member of ESIC, he filed a claim before ESIC Lucknow (Kapoorthala Branch). He alleged that ESIC Lucknow was not replying to the communication made by him. He requested that ESIC, Lucknow and APEX Services be directed to get his ESIC claim settled.

3. As per the letter dated 10.11.2015 of APEX Services, the complainant was advised to inform APEX Services and appear before the Medical Officer, ESIC Dispensary, P.N. Road, Lucknow along with all the discharge certificates of all the

clinics and hospitals, complete medical reports and other related relevant documents which are necessary for his claim proceedings.

4. Under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the matter was taken up with the Director General, Employees' State Insurance Corporation, New Delhi (Respondent) to submit their comments. Since no reply was received from the respondent despite reminder dated 27.02.2017, a personal hearing was fixed in the matter on 12.05.2017.

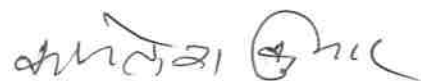
5. On 12.05.2017, the date of hearing, none of the parties appeared before the Court. However, the complainant through email dated 05.05.2017 had requested for exemption from personal hearing due to his disability. He further requested that his case be transferred to the Employees' State Insurance Corporation's Office, 2nd Floor of Bank of Baroda, Kumardhubi, Dhanbad (Jharkhand) which, according to him, is nearest to his residence and quite approachable to him.

6. This Court vide Record of Proceedings dated 13.07.2017 had directed the respondent to appear before the Court on the next date of hearing on 01.08.2017.

7. On 01.08.2017, the next date of hearing, again the respondent did not appear, nor did they intimate about their inability to attend the hearing, despite the fact that the Record of Proceedings dated 13.07.2017 was sent to them by Speed Post well before the time. The Court noted the utter disregard shown by the respondent and viewed it very seriously.

8. In view of the facts mentioned above, and considering the complainant's condition, who is suffering from quadriplegia with 80% disability, due to which he is on wheelchair and is restricted to travel, the respondent is advised to consider the request of complainant and transfer his case, within one month from the date of receipt of this Order, to the Employees' State Corporation's Office which is nearest to the residence of the complainant and to where he can put up his claim to be decided as per the Rules of ESIC (the respondent). A copy of this Order be also issued to the State Medical Commissioner (Uttar Pradesh), Employees' State Insurance Corporation, Panchdeep Bhawan, Sarvodaya Nagar, Kanpur-208005, Uttar Pradesh for their taking necessary cognizance of the matter and for taking necessary action.

9. The case is accordingly disposed off.



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



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: 5938/1022/2016

Dated : 20.10.2017
 Dispatch No.

In the matter of :

Shri Sohan Kumar,
 Village : Dumari,
 Post : Hiring,
 Distt : Chatra,
 Jharkhand – 825 403
 Email<sohan_kumar02@yahoo.com>

.....Complainant

Versus

Central Excise, Customs & Services Tax,
 (Through Chief Commissioner),
 Ranchi Zone,
 1st Floor, C.R. Building (Annexe),
 Birchand Patel Path,
 Patna – 800 001

.....Respondent

Date of Hearing : 02.08.2017

Present :

1. Shri Sohan Kumar, Complainant.
2. Shri Amit Kumar Halder, Asst. Commissioner, on behalf of Respondent

ORDER

The above named complainant, a person with 60% locomotor disability had filed complaints dated 10.02.2016 and 24.10.2016 under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding his Inter-Commissionerate transfer from Visakhapatnam Zone to Ranchi Zone.

2. The complainant submitted that he is presently working as Inspector in the Office of the Chief Commissioner, Central Excise, Visakhapatnam Zone where he is living alone for the past three years. He is facing difficulties especially during travelling, as he is a person with disability. He has to face many challenges in day to day life. He finds difficulty in getting into the bus while going to office as it is overcrowded during office hours. He fulfills all criteria as per CBEC's letter No.A.22015/23/2011-Ad.III.A dated 27.10.2011 for Inter-Commissionerate Transfer. His representation for Inter-Commissionerate is still pending in the Chief Commissioner's Office, Ranchi Zone, which is his native place.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide this Court's letter dated 24.11.2016.

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4. The Jt. Commissioner (CCO), Central Excise & Service Tax, Ranch Zone, Patna vide letter no. II(03)38-Conf./ICT/Misc.(SK)/CCO/RZP/16/315 dated 05.01.2017 had stated that Inter-Commissionerate Transfer (ICT) from one Cadre Controlling Authority (CCA) to another Cadre Controlling Authority was banned by Central Board of Excise & Customs vide letter no. A22015/3/2004.Ad.IIIA dated 19.02.2004 and was relaxed in phases by several instructions from time to time, for facilitating posting of spouse at the same station, employees appointed on compassionate ground and for physically handicapped employees. Subsequently said ban was lifted and ICT has been allowed for any willing Group 'B', 'C' & erstwhile Group 'D' employee vide Board's instruction no. A.22015/23/2011-Ad.IIIA dated 27.10.2011. However, the said transfer from one CCA to another CCA, is not absolute but was allowed on several terms & conditions as mentioned therein. First & foremost condition for allowing said ICT to any Group 'B', 'C' & erstwhile Group 'D' employee is subject to availability of vacancy. The complainant has been appointed under PH quota and he also belongs to OBC category. As there is only 18 vacancy in the grade of Inspector for the year 2016, hence there is no reserved vacancy for PH candidates for applying the quota of 3% of total vacancy. There was no vacancy either in OBC category or in persons with disability category during the period in Ranchi Zone and hence the request of the complainant could not be considered. The Respondent further submitted that regarding availability of 06 vacancies in the person with disability category, during the year 2014, there were 05 vacancies of PH category (02 in OH and 03 in HH) and in the year 2015, there was none vacancy of PH category. These vacancies have already been reported to DGHRD for recruitment through SSC and thus ICT cannot be considered against these 06 vacancies of PH category at this stage. The Respondent submitted that the complainant's transfer from one Cadre Controlling Authority to another is subject to availability of vacancy and governed by Board's instruction dated 27.10.2011. The Respondent further stated that the application of the complainant is under consideration and as and when sufficient vacancy arises in Inspector grade in OBC category/person with disability category, his candidature will be considered for ICT alongwith other similarly placed candidates on first in first out basis in the concerned category.

5. The complainant vide his rejoinder dated 06.02.2017 had referred to DoP&T's O.M. No. 36035/3/2013-Estt.(Res) dated 31.03.2014, DoP&T's O.M. No. AB-14017/16/2002-Estt.(RR) dated 13.03.2002 and O.M. No. A-B 14017/41/90-Estt.(RR) dated 10.05.1990 where it was directed to give certain facilities for persons with disabilities and also posting of a person with disability to the nearest place of his residence. The Respondent had stated in their reply dated 05.01.2017 that the availability of 06 vacancies in person with disability category was informed by them to DGHRD for recruitment through SSC, but as per the information provided by them under RTI, they have not reported any vacancies under persons with disabilities category to the DGHRD. Therefore, the complainant submitted that there were six clear cut

vacancies under person with disability category which were not reported to SSC. The complainant had requested this Court to consider his request for Inter-Commissionerate Transfer from Visakhapatnam Zone/Hyderabad Zone to Ranchi Zone by considering his case compassionately against the vacancies available. The complainant vide his letters dated 15.02.2017, 17.03.2017, 29.05.2017 and 06.02.2017 had submitted that recently Central Board of Excise & Customs (CBEC) had issued the revised guidelines on Inter-Commissionerate Transfer vide letter no. A 22015/117/2014-Ad. III A dated 02.01.2017 to Cochin Zone. Both Ranchi Zone and Cochin Zone falls under same jurisdiction of CBEC so that the revised guidelines are applicable to all zonal office of CBEC. In Para F of the above guidelines, it is clearly mentioned that consideration should be given for differently-able persons in Inter Zonal Transfer as per guidelines of DoP&T No. A-B 14017/41/90-Estt.(RR) dated 10.05.1990. He has already completed three years and nine months service in Visakhapatnam Zone. The Complainant vide his rejoinder dated 15.02.2017 submitted that recently the Central Board of Excise & Customs (CBEC) had issued the revised guidelines on Inter-Commissionerate Transfer vide Order No. A-22015/117/2014-Ad.III A dated 02.01.2017 and this revised guidelines is applicable to both the Ranch Zone and Cochin Zone as both falls under the same jurisdiction of CBEC. Para 'F' of the guidelines clearly mention that consideration should be given for Differently-Abled persons in Inter Zonal Transfer as per guidelines of DoP&T O.M. No.A-B 14017/41/90-Estt.(RR) Dated 10.05.1990. The complainant vide his rejoinder dated 17.03.2017 reiterated his earlier submission that he is eligible for transfer to his native place as per DoP&T O.M. dated 10.05.1990. The Complainant vide his rejoinder dated 29.05.2017 submitted that he has completed four years at Visakhapatnam Zone and considering the Inter-Zonal Transfer as per guidelines of DoP&T O.M. dated 10.05.1990, he may be given Ranchi Zone, Patna.

6. Upon considering respondent's replies dated 24.01.2017, 05.01.2017 and complainant's rejoinders dated 06.02.2017, 15.02.2017, 17.03.2017 and 29.05.2017, a hearing was scheduled on 02.08.2017 at 16:30 Hrs

7. During the hearing the complainant reiterated his submissions already made by him earlier in this Court and requested this Court to rely upon DoP&T O.M. NO. AB 14017/16/2002-Estt.(PR) dated 13.03.2002 regarding posting of PH candidates in the matter and availability of vacancies in the Ranchi Zone.

8. The Respondent during the hearing requested this Court to consider the case on the basis of their Department's Circular No. 22015/23/2011-Ad.IIIA dated 27.10.2011 (a copy of which is placed on record by the Respondent) as this circular is applicable for Inter-Commissionerate Transfer (ICT) only.

9. The Court directed the Respondent to transfer the complainant near to his native place in Ranchi Zone. The Court also advised the Respondent to adhere to the DoP&T guidelines as well as guidelines for Inter-Commissionerate Transfer (ICT).



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



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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.: 7523/1023/2017

Dated: 20.10.2017
 Dispatch No.....

In the matter of :

Shri Rahul Kumar Sinha,
 Email<rknsinha77@hotmail.com>

.....Complainant

Versus

IBM India Pvt. Ltd,
 (Through the Country Head & Chairman)
 Embassy Link,
 Embassy Cypress Point,
 Indiranagar,
 Koramangala Intermediate Ring Road,
 Bangalore – 560 071
 Email<sajwani@in.ibm.com>

.....Respondent

Date of Hearing : 15.09.2017, 18.07.2017, 05.07.2017, 06.06.2017 and 13.04.2017.

Present :

1. Shri Animesh Kumar and Shri Sumit Kumar, Advocates on behalf of Complainant
2. Ms. Raavi Birbal, Advocate on behalf of Respondent

ORDER

The above named complainant, a person with locomotor disability had filed a complaint dated 19.01.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against compelling him to resign from the services by IBM India Pvt. Ltd.

2. The Complainant submitted that he joined IBM India Pvt. Ltd, Mumbai in March 2008 as a Brand 6 employee and worked and deputed in various locations like Patna, Kolkata, Pune, Mumbai etc. During January 2012 he got a major slip disc during his service with IBM in Mumbai. He was hospitalised for treatment. He had to move to IBM, Noida as there was no roles given to him in IBM, Mumbai. His home town is Patna. The slip disc occurred again during February 2015 in IBM premises. Being a person with disability, he was not allowed to work from home and had to work 12 to 16 hours sitting daily in office. He is going through mental stress, depression and trauma because of non empathetic attitude of IBM senior management and HR and case management team. The complainant has requested this court's intervention and requested that he should be given a suitable work assignment in IBM where he can balance his work and health condition simultaneously. He is afraid that if his services are terminated how can he live with his dependents parents who are 81 and 75 years respectively without any earning.

3. The matter was taken up with the Respondent vide this Court's letter dated 31.01.2017.

4. The Case Management Lead-HR, IBM India Private Limited vide her letter dated 14.02.2017 had informed this Court that the Complainant has resigned from the services of IBM India Pvt. Ltd and was relieved from services with effect from 08.02.2017. The Respondent vide their letter dated 28.02.2017 submitted that the complainant has referred to 'Compensation Act' for compensatory relief and the employment matter raised by the complainant, is not within the jurisdiction of this Court. The Respondent further stated that they completely deny all allegations made by the complainant against IBM in his correspondence to this Court are false and baseless. They submitted that the complainant joined IBM as 'Infrastructure Tower Leader-Bihar Circle' on 03.03.2008. The complainant submitted his disability certificate only in November 2014 claiming this as a permanent certification. The Certificate that was produced does not appear to be one issued by the competent Medical Authority as prescribed under the Act and bears no date. The complainant was chronically availing leaves from 2012 to 2016 citing multiple reasons. The complainant reported certain health concerns over an SMS message on 13.01.2012 and availed sick leave. Paid sick leave was approved from 12.01.2012 to 20.04.2012 and he assumed work thereafter. The complainant availed leave for 38 days in 2013 out of which 30 days were from 17.10.2013 to 15.12.2013. The complainant further availed leave of absence (LOA) without pay claiming health grounds from 16.12.2013 to 02.11.2014. He returned from his LOA on 03.11.2014 after 10 months of continued absence. Efforts were made by the Managers, HRP and diversity team to look for a role in Mumbai but his services were required in Noida and hence he was transferred to IBM office in Noida effective 16.01.2015 with all the applicable relocation benefits per relocation policy. The complainant accepted the transfer and sought an exception to work out of Mumbai office till 27.01.2015 which was approved by his Manager. However, while he accepted the transfer to Noida, the complainant continued to look for a role within Mumbai by reaching out to business Leaders. After joining at Noida office, he was hospitalized on 03.02.2015 and was discharged from the hospital on 04.02.2015 within a day. He joined on 28.02.2015 and applied for three weeks of leave. The complainant till July 2015 kept on writing to various leaders requesting for transfer back to Mumbai. During this March 2015-July 2015, he had availed about 39 days of sick leave. In the third week of September 2015 during the approved medical leave, the complainant reported to IBM office voluntarily at B-19, Noida Office and claims to have fallen from the stair case. On 30.09.2015, some one who identified himself as complainant's elder brother sent e-mails to IBM informing them the complainant had a fall at the office stair case and requested for 3-4 weeks If leave and work from home after recovery as his condition has aggravated due to the fall. The complainant was sanctioned paid leaves from 28.09.2015 to 16.10.2015. They further stated that the complainant was already on paid sick leave from 14.09.2015 to 25.09.2015. The complainant joined office on 12.12.2016 without a proper medical certificate and any prior notice. He rejoined on 02.01.2017 within a couple of days of rejoining and against insisted on 15 days Privileged or Sick Leave to take care of his aged mother who was unwell, but leaves were not granted for documented reasons. The Respondent further stated that

the complainant was provided with the appropriate accommodation to support his health condition at work. His request to provide him with a bed was granted at both the locations, be it Mumbai or Noida. He was also provided with both way company transport to commute between his residence and workplace. The complainant submitted his resignation on 07.02.2017 citing urgency and requesting an immediate release. His resignation was accepted and he was released with effective from 08.02.2017. His notice period was waived of and was paid 90 days of pay to him. They further submitted that the complainant had availed as many as 820 days of leaves during his tenure in IBM.

5. The complainant vide his email dated 09.02.2017 submitted that he had sent an email on 07.02.2017 to IBM India Pvt. Ltd to clarify about the notice period in case of resignation, as he was not getting any assignment since last 39 days, which is not a basis of separation from IBM India Pvt. Ltd on 08.02.2017. The complainant vide his email dated 10.02.2017 AND 17.02.2017 to IBM submitted that his resignation was a forced one initiated by people manager as there was a protest by him and no consent was given to him either in writing or email by his establishment. He further submitted that a note written by him was under compelling circumstances as no work was being assigned to him and was not given permission to operate from his home and had to come to office everyday to sit idle for nine hours which was nothing but humiliation, mental harassment, trauma and discrimination to a person with disability. He had to undergo certain treatment for his dependent aged parents and not had cash for their medical treatment. He also did not have any other job or source of income to look after his family. He further submitted that he joined IBM for a long term career in 2008 and has become disabled in 2013 during his course and tenure of employment with IBM and it is the organisation's responsibility to take care of the employees with disabilities and take care of their living under 'Rights of Livelihood' of Article 21 of the Constitution of India. He requested his establishment to revoke his separation with IBM at the earliest as possible and allow him to continue his work with IB and help get him a role/work assignment suitable to his skills/experience which will end all escalations/dispute with the management and with IBM.

6. Upon considering respondent's reply dated 14.02.2017 and complainant's emails dated 09.02.2017, 10.02.17 and 17.02.2017, a hearing was scheduled on 13.04.2017.

7. During the hearing on 13.04.2017, the Learned Counsel for the respective parties requested for another date of hearing for submitting their argument. The case was rescheduled for hearing on 06.06.2017 at 12:00 Hrs.

8. During the hearing on 06.06.2017, the Learned Counsel for the Respondent requested this Court to grant another four week's time to file her argument. The case was listing for hearing on 05.07.2017 at 16:30 Hrs.

9. During the hearing on 05.07.2017, the Learned Counsel for the complainant submitted that the complainant was not allotted any work between 02.01.2017 (the date of his rejoining) and 07.02.2017 (the alleged date of resignation). On such alleged discrimination for allotment of work, the complainant preferred a complaint vide his letter dated 19.01.2017 before this Hon'ble Commission, in which this Hon'ble Commission issued notice on 31.01.2017 to the Respondent. During the hearing, the Complainant submitted that he has never resigned from his post but the company has taken forceful resignation and gave him three months advance salary which the company used to give in case of termination. Further, the Complainant submitted that during the pendency of the complaint, which was filed on the basis of alleged discrimination by the Respondent as the Complainant was having apprehension of getting terminated by IBM India Pvt. Ltd and , has taken forceful resignation from him. As per the Complainant, it was his termination by Respondent giving it the colour of resignation. Regarding jurisdiction aspect of this Hon'ble Commission, the complainant relies upon Section 21 and 22 of Rights of Persons with Disabilities Act, 2016, and submits that Section 2(v) defines and new enactment of year 2016 came into force while providing for the applicability of the Act equally to private establishments as well.

10. During the hearing, the Learned Counsel appearing for the management of IBM India Private Limited (Respondent) submitted that the management's contention is that first of all this Hon'ble authority does not have the jurisdiction to decide the present case. It was further submitted that the present complaint is not maintainable in the eyes of law and the complainant has deliberately misguided this Hon'ble Authority. Without prejudice to the same, it was submitted by the Respondent's Counsel that the complainant had voluntarily resigned from the services w.e.f. 07.02.2017 through his own email dated 07.02.2017 at 8.19 p.m. to the Respondent, citing urgency and seeking immediate release. His resignation was duly accepted by the management and the complainant was relieved from his duties on 08.02.2017. Since in the said resignation letter, the complainant had himself requested to get him released as soon as possible and had inter-alia also stated that his financial condition is not good, therefore, no deduction from his salary was made. Accordingly, the complainant has received full Gratuity amount, i.e., to the tune of Rs.1,35,881/- as well as full and final settlement of Rs. 10,628.06. It was additionally submitted by the respondent

that complainant had availed as many as 820 days of leaves during his service at IBM. However, no disciplinary action was taken by IBM even though sufficient records were not produced by him in support of leaves despite several requests to him in this regard were made by the management. In fact, the management had virtually even condoned off his unauthorized absence. The management further submits that multiple opportunities for his relocation / work for other projects were arranged and also offered but the complainant declined for reasons best known to him. The management also submits that the complainant enrolled his parents (as dependents) in the medical insurance for the year 2016 with an additional coverage of Rupees Five Lakhs each. Complainant's request for premium of Rs.1,33,791.08 to be deducted from his salary was also considered and accordingly he was also granted extension of time limit and thereafter for the year 2017 the complainant's insurance premium was waived off as a goodwill gesture. Further, the respondent on behalf of IBM management submits that the complainant was provided facilities of transport, rest room etc. as per company policy applicable to persons with disabilities. It is reiterated that there has been no instances of any kind of discrimination as against the complainant and IBM has extended all possible support during the tenure of employment of the complainant at IBM. The respondent alleges that the complainant has concealed all these facts and has not approached the Hon'ble forum with clean hands. He has made incorrect statements and suppressed material facts with a view to mislead this Hon'ble Authority. It is also the management's submission in the matter that the case is not maintainable before this Hon'ble forum and the complainant has filed the claim only to harass the management for ulterior motives. The management however relies upon their reply dated 01.07.2017, filed on 05.07.2017 with this Court. The management further would like to bring to the notice of this Hon'ble Court that the Disability Certificate of the complainant has been submitted as an afterthought and is not appropriate.

11. The next hearing is adjourned to 18.07.2017 at 16:30 Hrs with the advise to the Counsel of the Complainant to ensure the personal appearance of the Complainant during the next hearing.

12. During the hearing on 18.07.2017, the Learned Counsel for the Complainant submitted a written submission dated 18.07.2017 on behalf of the Complainant to this Court. A copy of the same was sent to the Respondent for submission of their comments.

13. During the hearing the Learned Counsel for the Respondent submitted a copy of email dated 07.02.2017 of complainant's resignation from IBM India Pvt. Ltd along with complainant's Whatsapp message sent to IBM . The Learned Counsel also submitted a copy of leave records of the complainant pertaining to the years 2009 to 2017.

14. The Court advised the Learned Counsel for the Respondent to file Respondent's submission by first week of August 2017.

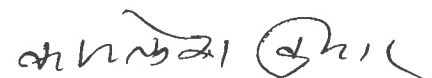
15. The hearing is adjourned to 05.09.2017 at 16:00 Hrs.

16. The hearing which was scheduled to be held on 05.09.2017 at 16:00 Hrs was re-scheduled to 15.09.2017 at 16:00 Hrs vide this Court's letter dated 06.09.2017.

17. During the hearing on 15.09.2017, the Respondent reiterated their written submission, already placed on record.

18. During the hearing the Learned Counsel for the Complainant reiterated his earlier written submissions submitted to this Court.

19. After hearing both the parties and perusal of records available and documents submitted by the complainant and respondent organization, the court is in the view that complainant has submitted his resignation with a request to earlier acceptance and respondent organization did the same. Further complainant could not produce any documents in support of his allegation that "he was forced to resign". Therefore, the Court did not find any violation. Accordingly, the case was disposed off without any advice and recommendation.



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



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.: 7096/1021/2016

Dated : 20.10.2017
 Dispatch No.....

In the matter of :

Shri Swarupananda Ghosh,
 S/o Late Bhudhar Chandra Ghosh,
 Village & Post : Kirtipur,
 P.S. : Madhyamgram,
 Kolkata - 700128

R4043

.....Complainant

Versus

Ministry of Corporate Affairs,
 (Through the Secretary)
 'A' Wing, Shastri Bhawan,
 Dr. Rajendra Prasad Road,
 New Delhi - 110001

R4044

.....Respondent

Date of Hearings : 17.07.2017, 16.08.2017 and 19.09.2017

Present :

1. Shri Swarupananda Ghosh, the complainant – Absent
2. Shri Pradeep Kumar Jha, Advocate on behalf of Respondent.

ORDER

The above named complainant, a person with locomotor disability had filed a complaint 21.10.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against denial of promotion to the post of Junior Technical Assistant with retrospective effect from 2012.

2. The complainant submitted that he is working as Technical Assistant under Ministry of Corporate Affairs and is posted in the Office of the Official Liquidator, Kolkata. He has been denied promotion w.e.f. 2012 as per his entitlement after completion of eight years of service in the post U.D.C. His establishment did not extend the benefit of reservation in promotion to the post of U.D.C. despite orders of the Commissioner of Persons with Disabilities, West Bengal vide dated 01.08. 2003 in Case No. C-82/22192. The complainant had filed a case in this court under case no. 3364/2006, which was heard before this court on 13.12.2006, 22.11.2007, 29.05.2008, 16.07.2008 and 27.08.2008 and the judgment was delivered on 05.09.2008. Despite conducting several DPCs for promotion to the post of UDC, the complainant's case was not considered by the respondent. There was only one employee with disability, i.e. Shri C.J.R. Shankar Rao senior to the complainant in the post of LDC against whom vigilance enquiry was pending. Shri Rao was not promoted as some enquiries were initiated against him by the department. Several non

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disabled employees who are junior to Shr. C.J. R. Shankar Rao were promoted. The complainant was promoted w.e.f. 07.06.2005 and he joined the said post. But the complainant submitted that he is entitled to the benefit of promotion to the post of UDC w.e.f. 2004. The complainant is eligible for his next promotion to the post of Junior Technical Assistant w.e.f. 2012 as he had completed 8 years of service in the post of U.D.C.

3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities Act, 1995 vide letter of this Court dated 03.01.2017.

4. The Deputy Director, Ministry of Corporate Affairs, Kolkata vide his letter no. RD/CLA/1/38/2007(VOL-III)/16120 dated 24.02.2017 had stated that the complainant was appointed as Lower Division Clerk w.e.f. 09.10.1996. As per the direction given in the Order dated 05.09.2008 in Case No. 10213364 passed by this Court, the complainant was given promotion to the post of Upper Division Clerk with retrospective effect from 07.06.2005 vide their Office Order No. 64 dated 04.12.2008. The representation submitted by the complainant on the eligibility list from the post of UDC to Junior Technical Assistant (JTA) was considered in the Ministry and was rejected by the Ministry vide O.M. No. A-32011/7/2014-AdII dated 09.06.2016. They further stated that JTA is a promotional post whereas UDC is the feeder grade, promotion from the post of UDC to JTA is admissible, but reservation in promotion for disabled persons is not admissible being a Group 'B' post. The complainant had become eligible for promotion to the post of JTA for the vacancy year 2014-15, i.e. 01.01.2014 and he was promoted as JTA vide Order No. A-32011/7/2014-AdII dated 09.08.2016. JTA being a Group B post, reservation in promotion for a person with disability is not applicable. The information regarding number of vacancies filled since 1996 (Direct Recruitment and Promotion) has been submitted to this Court in the Order dated 05.09.2008.

5. The complainant vide his rejoinder dated 09.03.2017 submitted that the Ministry of Corporate Affairs had proceeded in the matter in a erroneous way and that too against the declaration of law made by the Apex Court in the Judgment rendered in Writ Petition (Civil) No. 521 of 2008. In an identical matter like the present one, the decision already rendered by the Apex Court in Writ Petition (Civil) No. 521 of 2008 is binding upon the Union of India including Ministry of Corporate Affairs. The complainant further stated that his promotion to the next promotional post of J.T.A. with effect from 2012 had been denied and was not been made available till date, the declaration of law made by the Apex Court in the aforesaid judgment rendered in Writ Petition (Civil) No. 521 of 2008 is squarely applicable in his case. The complainant has prayed for his promotion to the post of J.T.A. w.e.f. 2012 in the context of the declaration of law made by Apex Court in the Writ Petition (Civil) No.521 of 2008 with all consequential service benefits w.e.f. 2012.

6. Upon considering the respondent's reply dated 24.02.2017 and complainant's rejoinder dated 09.03.2017, a hearing was scheduled on 17.07.2017 at 12:00 Hrs.

7. During the hearing on 17.07.2017, the complainant reiterated his earlier submission that he should have been promoted w.e.f. 2012 and given all the benefits.
8. The representatives of Respondent requested for a copy of the rejoinder dated 09.03.2017 submitted by the complainant. A copy of the same was provided to the Respondent during the hearing.
9. The Court advised the Respondent to give their submissions on the complainant's rejoinder dated 09.03.2017 to this Court within two weeks.
10. The case was adjourned to 16.08.2017 at 11.00 Hrs.
11. During the hearing on 16.08.2017, the Learned Counsel for Respondent requested this Court to grant the Respondent another two weeks time to file their submission.
12. The Court acceded to the request of the Learned Counsel for Respondent and allowed the Respondent to file their submission on or before 31.08.2017 positively.
13. The Under Secretary, Ministry of Corporate Affairs vide his reply dated 29.08.2017 submitted that the complainant was initially appointed by way of direct recruitment in the Central Government Service on 09.10.1996 in the post of Lower Division Clerk in the subordinate office of Registrar of Companies, West Bengal under the jurisdiction of Respondent No. 2 vide its Office Order No. G/118(Pt.II) dated 09.10.1996. He was promoted to the post of Upper Division Clerk (UDC) by Respondent No.2 vide Order No. 64 dated 04.12.2008 in the pay scale of Rs.4000-100-6000/- (pre-revised) with effect from 07.06.2005 in compliance of the Order dated 05.09.2008 passed by this Court in case No. 3364/2006. The complainant was promoted to the post of UDC w.e.f. 07.06.2005. The claim of the complainant that he was eligible for promotion to the post of UDC on 08.10.2004 on completion of 8(eight) years from 09.10.1996 is untenable in the light of the instructions in DoP&T O.M. No.22011/3/1998-Estt(D) dated 17.09.1998 that the crucial date for determining the eligibility of officers for promotion incase of financial year based vacancy year would fall on January 1 immediately preceding such vacancy year and in the case of calendar year based vacancy year, the first day of the vacancy year, i.e. January 1 itself would be taken as the crucial date irrespective of whether the ACRs are written financial year-wise or calendar year-wise. The complainant was not eligible for promotion to the post of UDC immediately on completion of 08 years on 08.10.2004. The complainant's complaint dated 21.03.2014 regarding benefits of promotion to the post of UDC with retrospective effect was duly considered and closed by this Court vide letter Case No. 1202/1021/2014 dated 30.01.2015 inter-alia stated that "there appears

no violation of any provision of the Persons with Disabilities Act, 1995 or Government instructions in the matter. No further intervention is required in the matter and is treated as closed. The complainant was promoted to the post of Junior Technical Assistant (JTA), Group –B by the Respondent No.1 vide Ministry's Office Order No. A-32011/7/2014-Ad.II dated 09.08.2016 in Pay Band-2, Rs.9,300-34800 plus Grade Pay of Rs.4200 (pre-revised 6th Central Pay Commission) with effect from the date of assumption of charge to JTA in his present office of Official Liquidator attached to High Court, Calcutta, the subordinate office under the Jurisdiction of Respondent No.2, in pursuance of the recommendation of Departmental Promotion Committee (DPC) meeting held on 08.07.2016 in the Office of Respondent No.1 (Ministry of Corporate Affairs). Accordingly, the complainant assumed charge on promotion as JTA on 09.08.2016 in his present office of Official Liquidator attached to High Court, Calcutta. They further submitted that prior to the date of DPC meeting held on 08.07.2016 for promotion from the post of UDCs to JTAs, all representations including representation of the Complainant were examined and considered in the Ministry and the same were disposed of vide Ministry's O.M. No.A-32011/7/2014-Ad.II dated 09.06.2016. The Respondent further stated that subsequent to the complaint dated 21.10.2016 regarding denial of promotion to the post of JTA to the complainant with retrospective effect 2012, was considered vide Ministry's O.M. No.A-42011/75/2014-Ad.II dated 09.02.2017 informing the Respondent No.2 that JTA is a Group 'B' post and the reservation in promotion for PH persons is not applicable, and also directing the Respondent No. 2 to submit factual position before this Court as regard to the complainant's promotion from LDC to UDC, as it is done at Regional Level, UDC being a Group –C post. The Respondent submitted that as regard to the claim of the complainant in respect of reservation roster of SCs/STs, persons with disabilities, the Respondent No.2 vide Office Order No. RD/CLA/1/38/2007(Vol.III) dated 24.02.2017 appointed a Liaison Officer of the Eastern Region to ensure the maintenance of the Roster.

14. The next hearing was fixed on 19.09.2017 at 16:00 Hrs.

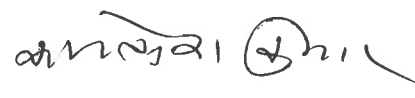
15. The Complainant expressed his inability to attend the hearing on 19.09.2017 vide his letter dated 16.09.2017. However, the complainant vide his written submission dated 16.09.2017 submitted that a severe injustice has been caused to the petitioner with regard to the entitlement of the promotion in the post of JTA with effect from 2012 in compliance of the order as contained in Memorandum dated 04.07.1997 issued by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training. He submitted that he is entitled to get promotion to the post of JTA with effect from 2012 instead of 09.08.2016. He further referred that in terms of the Office Memorandum dated 27.02.1996 bearing no. 36035/14/95-Estt (Res.), Ministry of Public

Grievances and Pension, Deptt. Of Personnel and Training as stated in paragraph 3.8 to the effect that reservation for SC/ST/OBCs may be called vertical reservation and the reservation for physically handicapped persons are horizontal reservation. Horizontal reservations cut across vertical reservation (in what is called interlocking reservation) and the persons selected against the physically handicapped quota have been placed in the appropriate category. If he belongs to SC category, he will be placed in that quota and will utilize an SC Roster point and similarly if he belongs to General category, he will be placed in that category and will utilize a general category Roster point. Similarly, if he belongs to OBC or SC category, he will utilize an OBC or SC Roster point. It is for the Head of the Department to decide the category of persons who are to be adjusted and the identified vacant posts against which they are to be adjusted. It is, therefore, requested that the Heads of Departments should make special efforts to ensure that the vacancies reserved for the physically handicapped are worked out correctly and complete utilization of the reservation meant for the physically handicapped is affected. The complainant submitted that the judgment of the Apex Court in the matter of Writ Petition (Civil) No.521 of 2008 has not been modified, altered or varied and in absence thereof, no contrary submission can be made by the respondents against his entitlement of promotion in the post of JTA with effect from 2012. He also stated that Departmental order of promotion in his case is to be made with retrospective effect from 2012 and his entitlement of promotion is based on Governmental orders as stated above which had provided for maintaining Roster in appropriate manner for the interest of the physically handicapped persons including the persons belonging to the OBC category. He submitted that his application deserved to be adjudicated on its own merit for allowing his prayer for promotion in the post of Junior Technical Assistant with effect from 2012 instead of 09.08.2016.

16. During the hearing on 19.09.2017, the Learned Counsel for the Respondent reiterated his earlier submission that there is no reservation in promotion in Group 'A' and Group 'B' posts.

17. After hearing both the Complainant and the Respondent, the Court came to the conclusion that there is no violation of any provisions of the Rights of Persons with Disabilities, Act, 2016. However, the Respondent is advised to be sensitive towards the rights of employees with disabilities and ensure that persons with disabilities should not be deprived of their legitimate rights.

18. The case is disposed off without any advice, recommendation and direction to the Respondent.


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



सत्यमेव जयते

Ex 109

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.: 6716/1031/2016

Dated 20.10.2017

In the matter of:

Shri Mohit Sehrawat,
 village + Post – Badmalik,
 District-Sonipat, Haryana – 131029

R 4139

.... Complainant

Versus

Ramjas College,
 Through: The Principal,
 University of Delhi,
 University Enclave, Delhi-110007

R 4180

.... Respondent

Date of hearing: 12.05.2017

Present:

None of the parties appeared.

ORDER

The above named complainant, a student with 100% visual impairment, filed a complaint dated 30.07.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding admission to 1st year (Pol. Science) with hostel facility in Ramjas College (respondent).

2. The complainant, student of 1st year Political Science, Venkateshwar College, University of Delhi, stated that he applied for the hostel facility but, due to lack of seats, he could not get the hostel facility in that college. He got the information that some seats in same course are available in Ramjas College with hostel facility. But the Ramjas College refused his migration on the ground that he did not apply for the merit list of Ramjas College in the Delhi University's website. He requested this Court to get him admission in Ramjas College with hostel facility.

3. This Court, under Section 59 of the Act, took up the matter with the respondent, vide letter dated 19.09.2016 advising the respondent to look into the matter and consider the request of the complainant as per norms and ensure that the legitimate rights of a student with disability are not infringed. The respondent was also advised that action taken in the matter be intimated to the complainant under intimation to this Court. A reminder dated 21.11.2016 was also issued to the respondent to submit the action taken report, with a copy to the complainant to submit the present status of the case within 10 days.

4. Since no response was received from the parties, the case was listed for personal hearing on 12.05.2017.

5. During the hearing on 12.05.2017, none of the parties appeared before this Court.

6. In view of the above, since none of the parties appeared before this Court nor any intimation were received from them, the case is dismissed in default in terms of Rule 38(4) of the Rights of Persons with Disabilities Rules, 2017.



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



सत्यमेव जयते

Exba

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.: 2912/1033/2014

Dated 20.10.2017

In the matter of:

Shri Sanjeev Kumar Chaudhari, *RM*
 Email – sanjeevkumar.nita@gmail.com

.... Complainant

Versus

National Handicapped Finance and Development
 Corporation,
 (Through: Chairman & Managing Director)
 PHD Chamber of Commerce and Industry,
 PHD House, 4/2 Siri Institutional Area,
 August Kranti Marg, New Delhi-110 016

RM

.... Respondent

Date of hearing: 28.04.2017

Present:

1. Shri Shankar Sharma, Asst. Manager (Proj.), NHFDC, for respondent
2. None appeared for the complainant

ORDER

The above named complainant, a person with 50% locomotor disability filed a complaint under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding not receiving eligible scholarship from NHFDC, the respondent.

2. The complainant submitted he was pursuing B.Tech from NIT Agartala in Electronics and Communication Engineering. He availed scholarship and received Rs.66,000/- for academic session 2015-16. He alleged that he is eligible for Rs.77650/- (23200+2350+31000). He approached the respondent, but no satisfactory response was received. He also submitted that he had earlier filed similar complaint before this Court for the academic session 2013-14 and after intervention of this Court, the problem was resolved.

3. Under Section 59 of the Act, this Court, vide letter dated 05.07.2016, took up the matter with the respondent and advised him submit their comments.
4. The respondent vide their letter dated 18.07.2016 submitted that the scholarship, amounting to Rs.66,000/- (35,000/- + Rs.31,000/- as Books & Maintenance allowance) was sanctioned and released to the complainant. As per the scheme, non-refundable fees were to be reimbursed to the student on production of proof of deposit of fees receipt. As per directions of IPAI, Auditors/Scholarship Screening Committee (Trust Fund), from Academic Year 2015-16 onwards under non-refundable fee component, only Tuition fee, Examination Fee and Admission fee are considered, therefore, Rs.31000/- is provided for books & maintenance allowance to students with disabilities, and other components of fees like library fee, hostel fee, Mess fee, caution money, Alumni fee etc. were not considered. As such, Rs.35,000/- (Rs.17500/- for each semester 7th & 8th) was considered/sanctioned by Scholarship Screening Committee (Trust Fund) to the complainant.
5. This Court, vide reply dated 16.09.2016, forwarded the respondent's reply dated 18.07.2016 to the complainant for submission of his rejoinder/comments.
6. The complainant, vide email dated 30.09.2016, submitted that he had received full scholarship for the last three academic sessions i.e. 2012-13, 2013-14 and 2014-15, and requested this Court to consider his case keeping in view of his disability.
7. Considering upon the reply dated 18.07.2016 received from the respondent and rejoinder dated 30.09.2016, the case was listed for hearing on 28.04.2017.
8. On the date of hearing, the complainant did not appear.
9. The representative of the respondent submitted their written submission. From the contents it appeared that the complainant had applied renewal of scholarship for pursuing 4th year B. Tech. course from NIT Agartala under Trust Fund Scholarship Scheme during academic year 2015-16 under registration No.TF/12/00994. The scholarship of Rs.66,000/- was sanctioned to the complainant. Apart from the above, scholarship amounting to Rs.83,700/-, Rs.74,200/- and Rs.72,200/- was sanctioned for 1st, 2nd and 3rd year B.Tech.

Course in academic year 2012-13, 2013-14 and 2014-15 respectively under the Trust Fund Scheme. In academic year 2012-13, 2013-14, 2014-15 and 2015-16, Rs.52,700/- Rs.43,200/-, Rs.46,650/- and Rs.35,000/- were released to the complainant towards course fee as he has enclosed fee receipts for same with his application form. In academic year 2015-16 onwards, other components of fee, library fee, hostel fee, mess fee, caution money, alumni fee, etc. were not considered under the scheme, as Rs.31,000/- was provided as maintenance and book allowance to the students under the scheme. The restriction on fee reimbursement was made with intention to stop doubling of scholarship component under non-refundable fee and Books & Maintenance allowance. The modification in scheme guidelines and its implementation does not mandatorily uniform in all Government Departments. As per the guidelines of Scholarship Scheme (Trust Fund), "A scholarship holder under this Scheme will not avail any other scholarship/stipend for pursuing the course".

10. In view of the above, there appeared no violation as the respondent had provided the scholarship to complainant as per the Guidelines of Scholarship Scheme (Trust Fund), and therefore, no direction can be given to the respondent.

11. The case is accordingly disposed of.



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



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: 7776/1024/2017

Dated : 24.10.2017

Dispatch No.

In the matter of :

Ms. Susmita Saha
 45, Dhakuria East Road,
 Kolkata – 700 078

R4102

.....Complainant

Versus

Bank of Baroda,
 (Through Managing Director & CEO),
 Baroda Corporate Centre,
 C-26, G-Block,
 Bandra Kurla Complex,
 Mumbai – 400 051

R4103

..... Respondent

Dates of Hearings : 22.08.2017 and 25.09.2017

Present :

1. Shri Anuj P. Agarwala, Counsel for the complainant and Shri S. N. Saha, father of the complainant
2. Shri C.M. Tripathi, AGM (HRM) and Shri Pradeep Bhardwaj, Sr. Manager (Legal), On behalf of Respondent.

ORDER

The above named complainant, a person with 50% locomotor disability had filed a complaint dated 07.03.2017 under Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act, against not giving employment to her by Bank of Baroda.

2. The complainant submitted that she had passed the online examination of recruitment test of Bank of Baroda and training/course Post Graduate Diploma in banking and finance conducted by the collaboration of Bank of Baroda and Baroda Manipal School of Banking. She was selected as Probationary Officer after recruitment of online test of Bank of Baroda on 14.08.2014 and group discussion and interview was held on 09.09.2014 as a female handicapped scheduled caste category from All India Test among 6 lakh candidates. She had mentioned a table showing subject and time of passing / completion. Out of 20 subjects papers, she had completed all the items/papers within 12 months and 15 months except 2 papers. The Bank of Baroda and BMSB allowed her to appear in the examination and complete the same. She further submitted that the

....2/-

course period is 24 months and it is permissible if a candidate passes/completes within 24 months. The Bank of Baroda Manipal School of Banking reduced the course period according to their vested interest. She requested to change the examination date on January 2016 instead of end of 2015 due to her illness between 15.12.2015 and 25.12.2015, but the examination authorities did not agree to this. She was being harassed by the Baroda Manipal School of Banking who ragged her mentally and physically to catch a male candidate and complete the course quickly. She is unemployed. Her father is a Cancer patient and her mother is Heart and Diabetics patient. The complainant has requested to arrange to give her job in Bank of Baroda.

3. The matter was taken up with the respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide this Court's letter dated 01.06.2015.

4. The Head-HR-Administration, Bank of Baroda, Mumbai vide his letter no. BCC:HRM:109/7098 dated 10/13.07.2017 informed this Court that that they have already informed the complainant vide their letter no. BCC:HRM:109/6030-A dated 17.06.2017 and BCC:HRM:109/6089 dated 16.06.2017 regarding ineligibility of Ms. Sushmita Saha to be selected as Probationary Officer under the Scheme for Recruitment of Officers through Baroda Manipal School of Banking (BMSB).

5. The complainant vide her letter dated 28.06.2017 submitted that she had passed and got selected as Probationary Officer JMGS 1 Scale on line recruitment test of Bank of Baroda on 14.08.2014. The Group Discussion and interview was held on 09.09.2014. She was selected under 50% Ph quota but the post under the disability quota has not been filled up by the Bank. On the insistence of the Bank of Baroda, she was forced to take educational loan of Rs.4,22,642/- from them as the Bank assured her that once she signs the papers, she will get the job after the training course of Post Graduate Diploma in Banking and Finance in Baroda Manipal School of Banking. Here the Bank of India is doing business in collaboration with the Baroda Manipal School of Banking because the loan which the Bank of Baroda gave her had to be paid to Baroda Manipal School of Banking. Therefore, she is feeling that Bank of Baroda is doing business at the cost of PH

person's suffering. The Bank of Baroda and Baroda Manipal School of Banking do not give any facility to the PH persons in respect of extra time line/ time period for completing the P.G. Diploma in Banking and Finance training. She completed the P.G. Diploma in Banking and Finance of Baroda Manipal School of Banking according to their terms and conditions. The complainant further submitted that as per All India Council of Technical Education (ACTE) the duration of all P.G. Diploma of all Courses is 24 months whereas Bank of Baroda has made this course for 15 months. As she is unemployed, she is not in a condition to repay the loan amount to the Bank. The Bank is demanding an extra amount of Rs.1,52,500/- from her. She was seriously ill from 15.02.2015 to 25.12.2015 and informed the authorities about her illness and requested them to change the examination dated from January 2016 instead of 2015. The faculty of Baroda Manipal School of Banking harassed her and ragged her mentally and physically and also advised her to complete the course quickly by cheating with the help of a male candidate. The faculty changed and the new faculty did not provide her proper study materials in multi choice question and detailed test questions. She submitted that the Baroda Manipal School of Bank changed the examination dates intentionally and took the examination for 100 marks but reduced the marks to 50. She was asked by the Bank of Baroda to return her loan amount immediately with a commercial rate of interest.

6. Upon considering Respondent's replies dated 10/13.07.2017 and complainant's rejoinder dated 28.06.2017, a hearing was scheduled in the matter on 22.08.2017 at 12:00 Hrs.

7. During the hearing on 22.08.2017, the representatives of the complainant reiterated their earlier submissions dated 21/03/2017 and subsequent reminder dated 28/06/2017 and prayed that Bank of Baroda be directed to consider the case of the complainant on compassionate and humanitarian grounds in the light of Rights of Persons with Disabilities Act, 2016 and consider her for the job of Probationary Officer in Bank of Baroda.

8. Representative of the Respondent apprised the Court that the individual has to pass the course in the prescribed time to get appointment in the Bank. He also reiterated their submissions given in their letter dated 10/13.07.2017 wherein they have mentioned that they have already

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informed the complainant vide their letter no. BCC:HRM:109/6030-A dated 17.06.2017 and BCC:HRM:109/6089 dated 20/06/2017 regarding her ineligibility to be selected as Probationary Officer under the Scheme for Recruitment of officers through Baroda Manipal School of Banking (BMSB) due to non-completion of the course in prescribed time.

9. After hearing both the parties, the Court directed the Respondent to submit the following information/documents within one week before the next hearing to this Court:-

- (i) Copy of the full advertisement for the post of Probationary Officer in Bank of Baroda (JMGS Scale).
- (ii) Bank Policy and Guidelines in respect of Probationary Officer under the Scheme for Recruitment of officers through Baroda Manipal School of Banking (BMSB) and provision of persons with disabilities therein.
- (iii) Copy of Memorandum of Understanding (MOU) between Bank of Baroda and Baroda Manipal School of Banking (BMSB).

10. The case was scheduled for hearing on 25.09.2017 at 15:00 Hrs.

11. The Dy. Zonal Head, Bank of Baroda vide his letter no. ZO:NZ:HRM:172/2658 dated 12.09.2017 enclosed the following documents.

1. Bank's Advertisement of 2014-15.
2. MOU between Bank of Baroda and Manipal.
3. Bank's policy of conducting the recruitment for Probationary Officers in Bank of Baroda through Baroda Manipal School of Banking.

12. During the hearing on 25.09.2017, the complainant vide her written submission submitted that at the time of pre-admission, the advertisement, loan agreement and prospectus did not mention about the 15 month requirement as a pre-requisite to obtain the job. Students are lured to take admission and large monetary loan on the basis of misrepresentation of material facts and conditions. At the time of giving admission letter, students was at a very low bargaining power compared to the Bank. She had no option but to sign the letter. Relaxation, if any, was only granted at the time of admission. Right after admission, the bank expects a person with disability

to compete with general category. The same is contrary to provisions of the Rights of Persons with Disabilities Act, 2016. The Bank is mandated to provide relaxation and assistance to such persons after admission also. The said 15 month requirement was never asserted by the Bank, even when intimating that the student had not cleared the exam. No warning or intimation was provided regarding clause 19 (15 month requirement). Bank itself waived the condition. If a student was intimated at that point, she would have the option to leave the course and not pay more tuition fees every semester. The said 15 month requirement was waived by the Bank vide email dated 09.08.2016. The student was given final opportunity to complete the course. She did pass the exams and completed the course. Now Bank cannot rely upon clause 19. The Course is specifically tailored for Bank of Baroda. It is conducted to grant jobs into Bank of Baroda. On successful completion, there is no other alternative. The degree is useless without a job in Bank of Baroda, as the course is specific to Bank of Baroda. She further submitted that if it is not that the student is seeking a job having failed to complete the course. The student is academically meritorious. She has passed all exams despite her disabilities. She has passed entrance tests, RBI Exam, NISM Exam. She has passed all the papers of the Course and has completed the Course and she is qualified to obtain the job. The complainant vide her written submission dated 25.09.2017 submitted that she applied on 08.07.2017 after seeing the advertisement of Karma Sansthan Newspaper with a qualification B.Sc with 67% aggregating marks so it is proved she has not only having a minimum level of academic qualification but also has adequate merit. In the advertisement in the newspapers, it was not mentioned in how many months to complete the PGDBF Course of BMSB. IT was also not mentioned The notification of the Baroda Manipal School of Banking and Bank of Baroda also did not mention about this. The complainant submitted that she passed the group discussion and interview securing 83 marks which is nearer to General Candidate's cut off marks of 89, Scheduled Caste Candidate's cut off marks of 72 and Physically Handicapped candidate's cut off marks of 69. This proves that the Bank of Baroda and BMSB did not give any disability facility at the time of admission of the PGDBF Course of BMSB and it also proved that she not only secured minimum level of academic qualification but also has adequate merit. She submitted that if the Respondent Bank had a plan not to give her service, then why they allowed her to continue and why they took money from her in the case of 2nd and 3rd Semester. Why they wasted her hard earned money, labour and time? Who will compensate her

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for all this? If she don't get employment in Bank of Baroda, there is no use of passing the course as only the Bank of Baroda recognize the Diploma course she was pursuing. She was not allowed the excess time in the examination, did not allow any escort, did not provide proper study material, BMSB conducted examination haphazardly keeping a gap of 2-3 months, Her request to take the examination in January 2016 as she was ill from 15.12.2015 to 25.12.2015, was turned down by the Respondent Bank and it took the examination during December 2015. She submitted that she has passed all the subject of Diploma Course (PGDBF) and completed internship projects and II other examination. She had paid a fee of Rs.4,22,614/- to BMSB after taking loan from the Bank of Baroda and to repay the loan she has no other means of source of income. The Bank of Baroda has forcibly and intentionally kept all her original certificates in their custody. For this reason she could not apply elsewhere for the last 3 years and her age has crossed over 33 years.

13. The Respondent reiterated their earlier submissions submitted during the hearing on 22.08.2017 and the documents of Respondent placed on record.

14. On hearing the arguments from both the parties and after going through the documents placed on record, this Court found that there was a violation of the rules providing relaxation/relief/provisions available to persons with disabilities as enlisted in the Rights of Persons with Disabilities Act, 2016 regarding conducting of the course and holding of examination for the course specifically in relation to persons with disabilities as no specific relaxation criteria for persons with disabilities was adhered to in case of the complainant. Moreover, since the complainant has specifically completed the course, irrespective of completing it within the marginally longer time than was stipulated by the University for completion of the course for mainstreamed candidates and taking cognizance of the fact that the financial burden which the complainant has already borne on account of completing the said course in the form of loan from the Respondent Bank. This Court reached the conclusion that since there is clear violation of the Rules and statutory provisions in vogue including that of Rights of Persons with Disabilities, Act, 2016, the Court recommends the Respondent Bank to provide an immediate placement of the complainant in their Bank and confirm the compliance to this Court within 60 days from the date of receipt of this Order.

15. The case is accordingly disposed off.



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



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: 6494/1023/2016

Dated : 30.10.2017
 Dispatch No.

In the matter of :

Shri Ketan Patel,
 Dy. Director of Training,
 Regional Directorate of Apprenticeship Training (Western Region),
 Ministry of Skill Development & Entrepreneurship,
 Directorate General of Training,
 ATI Campus, V.N. Purav Marg,
 Chunabhatti, Sion (East),
 Mumbai - 400 022
 Email <patelktan@yahoo.co.in>

.....Complainant

Versus

Ministry of Skill Development & Entrepreneurship,
 (Through Secretary),
 Shivaji Stadium Annexe Building, 2nd Floor,
 Shaheed Bhagat Singh Marg,
 Connaught Place,
 New Delhi - 110001
 Email <ssbeepi@gmail.com>

..... Respondent

Date of hearing : 10.10.2017 and 05.09.2017

Present :

1. Shri Ketan Patel and Ms. Shalini Rana
2. Shri Sathya Shankar B.P., Director Apprenticeship Training, Shri S. Harinath Babu, Director and Shri C.M. Diggewadi, Training Officer, Present on behalf of Respondent

ORDER

The above named complainant, a person with 72% locomotor disability had filed a complaint dated 29.05.2016 under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding harassment at workplace by Shri S. Harinath Babu, Head of Department.

2. The complainant submitted that he is working as Deputy Director of Training at Regional Directorate of Apprenticeship Training (RDAT) in Mumbai. He submitted that one Shri S. Harinath Babu, who is Jt. Director of Training and HoD had been harassing him mentally and verbally on regular basis. He had been harassed number of times by Shri Babu. Now due to the painful incidents on regular basis, he is not able to sleep properly and developed a fear in attending office as Shri Babu always find ways to torture him without any justifying reasons. He had worked under four other HoDs/Regional Directors, but such type of situation never occurred.

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3. The matter was taken up with the respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide this Court's letter dated 22.07.2016.
4. The Director, Ministry of Skill Development & Entrepreneurship, Directorate General of Training vide his letter no. DGT-Z-11017/4/2016-Admn.II dated 17.02.2017 stated that a report on the complaint received from the complainant was called for from the Director of Institute vide Directorate General letter of even no. dated 01.06.2016. As the report appeared to be partisan and did not inspire confidence, it was decided to get a preliminary enquiry on the complaint conducted through an Officer at Headquarters. Accordingly, Shri S.C. Tamta, Under Secretary (Vigilance) conducted an enquiry in the matter during his personal visit to the Institute during 20.10.2016 to 22.10.2016.
5. The complainant vide his emails dated 01.09.2016, 06.10.2016, 13.06.2017 had requested this Court to take up the matter with the Respondent for their comments on his complaint dated 30.05.2016.
6. And whereas, after considering respondent's reply dated 17.02.2017 and complainant's emails dated 01.09.2016, 06.10.2016, 13.06.2017, a hearing was fixed in the matter on 05.09.2017 at 16:30 Hrs.
7. During the hearing, the Complainant, vide his email dated 04.09.2017, requested this Court to exempt him from appearing personally during the hearing. As the Complainant was absent, the representative of Respondent requested this Court to give them a fresh date for hearing in the matter.
8. Since the request of the complainant regarding exemption from his appearance cannot be acceded at this very stage, in the interest of justice, the Court acceded to the request of the representative of the Respondent and accordingly the matter is now re-scheduled for hearing on 10.10.2017 at 16:30 Hrs. The Court directed both the parties to ensure their presence as per the requisition communicated through the notice of hearing, on the abovementioned date and time of hearing.
9. During the hearing on 10.10.2017, the complainant submitted that he was always degraded in front of all the staffs without any reason. The HoD is eliminating him from his role and responsibilities without any reason. The HoD is not allowing him to perform the duties assigned to him. He was assigned the charge of SDI section but the HoD had asked his staff/officer not to cooperate with him and not to send him any files or transfer any enquiry received on phone. The

HoD also forced other officers to inform all related establishments to not to write his name on any letter as 'Kind Attention'. The HoD forced him to take charge of Training Officer which is two steps junior level post than him, which is just to degrade him. This type of charge was never given to any senior most officers like him in any RDAT offices of India. The main thing is that around seven Training Officers are already working there at that time in this office. Hence the charge given was to demoralize him in the office. The HoD intentionally give the SDI charge to keep all the files, furniture and equipment which is not even in his custody and the entire items are being used by other staff only. The HoD wants him to work as a storekeeper of SDI section's items without allowing to work. He was assigned the charge of SDI eventhough both the post (JDT & ADT) under the scheme was already fill up and he was not allowed to work. The complainant submitted that he is intentionally given the charge of CPWD work to face hardship for him. In CPWD, the work involved frequent visiting and contacting the officers to get the work done on time. Being a person with disability, he is not able to frequently move up and down and here and there. The HoD is causing unnecessary pressure on him by assigning heavy workload when other officials are assigned with much lighter work. The complainant submitted that as he is the senior most officer after the HoD, he has to look after the office work in absence of HoD an office order was never issued for the same when HoD was on leave nor he was informed while HoD is on tour. It is difficult to perform official duties as the HoD orally instructed him 'not to sign on any letter, not to send any email with complainant's name. HoD always threatened him to spoil his Annual Performance Appraisal Report (APAR). HoD issued order for work related to 'Apprenticeship Protsahan Yojana' (APY) on 17.03.2015 and asked him to complete it by 20.03.2015. During this period HoD himself was not available in the office. He orally informed him to find out Block & Pin Cod numbers of more than 1200 it is covered under western region's States in just two days whereas the same work was asked by DGT, New Delhi, a month ago for which he took one month to find out only 14 it is data. The complainant submitted that on 09.04.2016 (Saturday), the HoD sent him SMS on his phone and instructed to collect all full details of atleast 250 nos of registered industrial associations and Chamber of Commerce etc in all Western Region States by Monday. He worked hard and got the information on Monday itself but later came to know that it was not required urgently. HoD orally instructed him on 05.02.2016 at 10 a.k. to attend meeting with the

Hon'ble Principal Secretary, SDED, Maharashtra without informing any agenda and he was asked to report in the meeting at 11 a.m. whereas HoD knew it a day before but chose not to attend and depute him and told him lie that he is busy with labour commissioner which he was not. The HoD is checking his computer in his absence without any justified reason. HoD is keeping the files with him and delays the matter thus blaming him and his subordinates. The complainant further submitted that HoD repeatedly asks for some information again and again which was already provided to him in hard copies and soft copies too. He submitted that the HoD is not allowing him to park his bicycle in the office premises. The complainant submitted that the HoD is checking his computer in his absence. When he works on the computer in the evening HoD intentionally shuts down the computer. An additional amount of Rs.10,000/- was intentionally deducted from his salary towards Income Tax. He was not given any advance for LTC. He was pressurized to change the APR in favour of junior employees. The HoD often says at his face that he is a foolish person.

10. During the hearing, the representatives on behalf of respondent submitted vide letter dated 22.09.2016 a copy of preliminary enquiry report. They have submitted that a preliminary enquiry was conducted at Regional Director Chamber on 18.08.2016 by S. Harinath Babu, HOD/Inquiry Officer in presence of Shri C.M. Diggewadi, Admn. Officer. Shri S. Harinath Babu, Director Incharge expressed that it is not fair by a Group A Gazetted Officer recruited through UPSC as a Dy. Director to write such type of letters without discussing the problems with the reporting officer if any, in the Directorate rather than indulging such type of attitude. He should have come and discussed and tried to solve the issues being next official in the Directorate. As regards degrading the complainant in front of office staff, Shri Harinath Babu, informed that whenever the complainant was called for discussion, it is alone and sometimes if any common information is to be informed then only Gazetted Officers are called. Hence the question of degrading him in front of staff don't arise and also the work of biometric attendance was never given to him and he cannot start in the absence of HoD when he is on tour and it a policy matter that after the Director I/c is convinced about its working than a suitable office order has to be issued to be implemented. Further it is totally a false allegation about not informing while on leave as the HoD always applied and avails leave after duly informing him and ensuring his presence in the office and information on tour. The complainant is well aware of the purpose and reasons for which the data is being

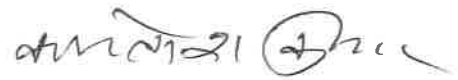
required which is normally asked before going for the meeting and should any special permission HoD has to take from him to go on official tour. As regard complainant's statement that HOD has given duties of training officers to HOO and thus degrading his position, the Respondent submitted that the charge of establishment and SDI section was given as temporary measure and it was only to take charge of files and no physical (machinery) charge involved, the order was issued only after due consent and his willingness, also as there was transition of officers due to transfer and retirement and the SDI charge handling over officer had expressed his willingness to hand over to the complainant. Later both the charge was relieved within a short span of time and regarding CPWD work there is no harassment as there is hardly any mobility involved and very rarely the complainant has to visit CPWD office in the campus which is less than 100 mtrs. If this is harassment, why he had never expressed at any time his difficulty to go on long tours which is more stressing and cumbersome, also there is no hard and fast rule that the charge should not be given to a Dy. Director and Shri S. Harinath Babu, Director I/c added that in a Training Institute the Section Charge (Tool & Equipment) are with the Dy. Directors. As regards complainant's grievance that he was given to complete the APY work within 4 days, the Director Incharge expressed that these works are not created by the Directorate nor by him, it is a direction from DGT Head Quarters and SMS was sent after the meeting in DGT Head Quarters chaired by Joint Secretary keeping in view of the urgency that DGT Head Quarters had set he was asked to work on the subject and also APY work was given to Training Officer as DGT wanted to be upload data on portal of 191 apprentices for financial implications. He was supposed to lead the team with the officers and outsourcing staff which he had deliberately failed and indulged in negative attitude to defame the administration and in spite of the order about APY work, he had not done any work. Shri H.B. Mail Training Officer came in the hour of need and shouldered the entire responsibility and finished the work and saved the Directorate. The complainant had expressed that HOD orally instructed him to attend meeting with the Hon'ble Principal Secretary on 05.02.2016 without informing the agenda. The Respondent informed that when there is no agenda how to provide the same to the complainant. However, he was informed about the subject and it was a usual representation from RDAT in State Directorate meeting and also as HOD had already attended similar meeting a few weeks back, in order to get exposure awareness and upgrade himself the complainant was deputed. Regarding checking of computer by the HOD in absence of the

complainant, the HOD Incharge said that he was falsely alleging as the complainant's cabin keys are with him only all the 24 hours and his computer is secured by a password. Hence, there is no chance that HoD can enter and view the same nor to shut down the complainant's computer. The complainant's submission that HoD never discusses the matters discussed at DGT which he attends. In this regards, the Respondent submitted that updated information is always required for meetings and any matter pertaining to meeting the objectives of Directorate are always shared and assigned to Staff/Officers based on their individual competency. Regarding complainant's submission that he is not allowed to keep the bicycle in the premises of RDAT, the Respondent stated that an order was necessitated and had to be issued in this regard as Staff/Officers were parking vehicles even cars in the portico by which the entrance was blocked and giving a ugly look of the Directorate eventhough there was ample space by the sides of entrance. Further to help him to enter the Directorate even a ramp was constructed in 2015-16. The complainant is alleging on behalf of the group & other disgruntled persons to gain sympathy. The complainant has submitted that HoD himself keeps the files and delays the work and blames others. In this connection, the Director I/c said it is not so in order to escape from responsibility and delay in work the complainant has alleged because the Director, I/C had to write to highlight the delay in the movement of file and further its known and observed fact when HoD is on tour/leave, the complainant were signing in those dates the letters of certain staff/officers with whom the groupism, you are maintaining and forwarding the same to DGT, Head Quarters and other places. Further, he was pressurizing the office to put up his bills immediately when all other bills are pending for long time. Therefore, the office was informed to put up bills on first come first served basis. In the conclusion, Shri S. Harinath Babu, Directorate I/C informed the complainant the points for his clarification. The complainant did not have any reply. However, the body language of the complainant was sly enough to indicate something different. The Respondent further stated that from the preliminary inquiry it is understood that the complainant want to have another parallel administration by indulging in groupism. Hence to defame, bring pressure and to divert the attention of the present administration, he was used his reservation status to write to higher authorities. Many of the points that he has represented is regarding day to day working and few generalized points on behalf of the disgruntled group he is practicing, even though the main work allotted to him is only verifying contracts and others are occasional work. The complainant has represented that there is too

much of work load and he do not have mobility due to his disability status which he has used it as tool to represent as grievance (but he has no objection to go on tours). It is recommended by the Respondent that complainant may be transferred to a Training Institute where mobility is limited so that he can take classes etc seated with the establishments and State Directorate in the field.

11. After hearing both the complainant and Respondent, the Court observed that there is no violation of any provisions of either the Persons with Disabilities, Act, 1995 or the Rights of Persons with Disabilities, Act, 2016. However, the Respondent is advised to be more sensitized towards people with disabilities.

12. The case is accordingly disposed off.



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



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: 6816/1024/2016

Dated : 30.10.2017
 Dispatch No.

In the matter of :

Shri Sarup Singh,
 H. No. 2130, Street No. 5, R4179
 Phase No.3,
 Shaheed Kamail Singh Nagar,
 Pakhowal Road,
 Ludhiana – 141 013
 Email<singhsarup1955@gmail.com>

.....Complainant

Versus

Central Bank of India,
 (Through Chairman & Managing Director)
 Chander Mukhi,
 Nariman Point,
 Mumbai- 400 021

.....Respondent

Date of Hearing : 17.10.2017

Present :

- 1) Shri Swarup Singh, complainant along with Shri H.S. Bangar.
- 2) Shri Rajiv Kumar, AGM, Central Bank of India, on behalf of Respondent.

ORDER

The above named complainant, a person with 40% locomotor disability had filed a complaint dated 19.08.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding harassment by the Bank officials.

2. The complainant submitted that he had availed Housing Loan amounting to Rs.10 lakhs in 2014 from the Central Bank of India against which his property valued Rs.70 lakhs appx was mortgaged. He retired from the Bank on 31.08.2015. The Bank debited his account for Rs.19 lakhs without informing him and without his consent. Further his account is still being debited without his consent. He made representation to his Bank on 04.10.2015. The Bank vide its letter dated 24.05.2016 informed the complainant that MIDR for Rs.19 lakhs has been made to secure the said Housing Loan. The complainant submitted that this way the bank has taken two securities, (1) Property mortgaged worth Rs.70 lakhs and MIDR for Rs.19 Lakhs against the loan of Rs.10 lakhs, which he says is illegal and illogical.

....2/-

3. The matter was taken up with the Chairman & Managing Director, Central Bank of India under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 09.09.2015.

4. The General Manager-HRD, Central Bank of India vide letter no. CO/HRD/SAD/SR/2016-17/1862 dated 25.01.2017 submitted that the complainant's account was debited as per the norms of Housing Loan sanctioned to him. At the time of retirement, MIDR (Term Deposit where interest is payable on monthly basis) of such amount to be prepared from which the term loan instalment can be recovered and kept under Bank's lien. In case of need of money by applicant, first Bank's loan should be recovered/adjusted from MDR. While availing the Housing Loan, the complainant had given an undertaking that if his Pension is not sanctioned, the MIDR (FD with monthly interest) can be made out of the amount of his terminal benefits as security for Housing Loan as he was not satisfying the Take-Home pay norms. Accordingly, when his terminal benefits were credited in the account, MIDR was prepared by debiting his a/c as per the loan sanction terms and monthly interest of the MIDR was being credited into the Housing Loan a/c instalments of term loan. Later on his pension was sanctioned and after modification in the loan terms, MIDR was released to the complainant.

5. The Complainant vide his rejoinder dated 07.06.2017 submitted that he availed the Housing Loan for Rs.10 Lakhs in 2014 from Central Bank of India and gave an undertaking that 'in case his Pension Option request is not considered in his favour, FDR of Bank's contribution towards PF may be made and the interest of which will be credited in his Housing Loan Account'. In spite of this undertaking, Bank issued MIDR for Rs.19.00 Lakh by ignoring his undertaking and kept two securities (i.e. Housing valuing Rs. 70 Lakhs apprx. & MIDR for Rs.19 Lakhs) to secure Housing Loan for Rs.10 lakhs only. He further submitted that the Bank considered his Pension case in his favour on 15.10.2015 at Central Office, Mumbai. As per new status, Bank was required to reverse all the entries and to start the deduction of Housing Loan installment from his Pension account. The Bank reversed only its own contribution towards PF. MIDR for Rs.19 lakhs is still lying with the Bank as on today. His property and MIDR, both are kept as security by the Bank till date. He is being harassed mentally by the Bank officials. The act of Bank of officials disturbed his whole planning after retirement.

6. Upon considering Respondent's reply dated 25.01.2017 and complainant's rejoinder dated 07.06.2017, a hearing was scheduled in the matter on 17.10.2017 at 12:00 Hrs.

7. During the hearing, the complainant reiterated that he had availed Housing Loan amounting to Rs.10 lakhs in 2014 from the Central Bank of India against which his property valued Rs.70 lacs apprx was mortgaged. The Bank debited his account for Rs.19 lakhs without informing him and without his consent. The money from his account is still being debited without his

consent. The complainant submitted that the bank has taken two securities, (1) Property mortgaged worth Rs.70 lakhs and MIDR for Rs.19 Lakhs against the loan of Rs.10 lakhs, which he says is illegal and illogical. He mentioned that he is being harassed mentally by the Bank officials. The act of Bank of officials had disturbed his whole planning after retirement. He further submitted that as per discussions held, he is not satisfied / convinced with the arguments made by the Bank's representative as he is being harassed since long by the Bank. He maintained that he was told by the Court that levying penalty/compensation is not within the jurisdiction of this Court, but looking in the interest and future of his family, he submitted that ;

1. The Bank may be directed to pay compound interest on Rs.19 Lakhs FDR from the date of issue till the date of payment.
2. No penalty may be charged on Rs. 19 lakhs, if any.
3. The TDS so deducted by the Bank may be borne by the Bank
4. TDS should be borne by the Bank on Rs.19 Lakhs as there was no request made to issue the monthly receipt for Rs.19 Lakhs

8. The representative on behalf of the Bank vide his written submission dated 17.10.2017 submitted that the complainant had applied for Housing Loan of Rs.10 lakh under Direct Housing Finance Scheme on 19.07.2014. At that time, his left over service was about 12 months (Date of retirement was 31.08.2015) and he was PF optee, but contesting for Pension option. In order to sanction Housing Loan, the complainant gave an undertaking vide letter dated 20.08.2014 that in case his pension request is not considered, FDR out of Bank's contribution towards PF may be made and the interest of which may be credited into his Housing Loan account, towards recovery of the EMI of loan. Accordingly Housing Loan of Rs.10 lakh was sanctioned on 12.09.2014 by Regional Office, Ludhiana and it was stipulated in the sanction as under :-

“ At the time of retirement, MIDR of such amount to be prepared from which the term loan instalment can be recovered and kept under Bank's lien. In case of need of money by applicant, first Bank loan should be recovered/adjusted from MIDR “.

The complainant retired on 31.08.2015 and his terminal benefits were credited into his OD account no. 3031956526 on 01.09.2015 & 03.09.2015. As per the terms of sanction of Housing loan, the Bank's Ferozepur Road Branch, Ludhiana debited Rs.19 lakhs to the account of the complainant and issued MIDR for Rs.19 lakh on 03.09.2015. The amount of interest of this MIDR was started to be credited into SB account no. 1343494956 of the complainant with standing instructions to transfer the amount to the complainant's Housing Loan account. As such, amount of Rs.13,419/- was being debited to the complainant's SB account for crediting into Housing Loan account every month. Later on, the complainant's option for Pension was considered favourably by their Central Office and the complainant requested for release of the MIDR. The Regional Office, Ludhiana advised the concerned Branch to submit the proposal for modification in terms of

sanction so that release of MIDR may be permitted. Accordingly branch had submitted modification proposal, which was approved by the Regional Office, Ludhiana on 28.11.2016 and approval was conveyed to the Branch on the same day. The Branch had written letter dated 28.11.2016 to the complainant with a request to visit the Branch and collect the MIDR at any time convenient to him. However, the complainant replied vide letter dated 14.12.2016 that his complaint was not relating to release of MIDR, but on the issue as to how the Branch had issued MIDR for Rs.19 lakh on its own without his consent. The complainant had given consent to issue FDR for Bank's contribution towards PF only. In response, therefore, Regional Office, Ludhiana, once again, vide letter dated 19.12.2016 invited his attention towards terms and conditions of sanction of Housing Loan and requested him to collect the MIDR from the Branch. Further, Branch had unmarked hold/lien from the said MIDR. However, the complainant had not contacted the Branch so far to collect the MIDR. The representative of Respondent further submitted that it is evident that at the time of sanction of Housing Loan, the complainant was on the verge of superannuation and also he was not a Pension Optee. In order to ensure recovery of EMI of Housing Loan, Regional Office, Ludhiana, it has stipulated in the sanction of Housing Loan to keep MIDR for such amount, which is sufficient to serve the EMI. The complainant had also given an undertaking for preparing FDR and there was no act or intention of harassment to complainant on the part of any employee or officials of the Central Bank of India and there is no substance in the allegations and the entire action of Respondent is bona-fide. In fact, the complainant is not collecting his MIDR for alleging Bank and its officials for the reason best known to him.

9. After hearing both the parties and after perusal of the documents/replies kept in the file, the Court directed the Respondent Bank to pay Rs.19 lakhs with interest to the Complainant within a week of receipt of this Order. The Court further advised the complainant to inform the receipt of this money to this Court

10. The case is disposed off.



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



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.: 5351/1101/2016

Dated 30.10.2017

In the matter of:

Shri Sunny Kumar
Qtr. No.C/2, BSNL, Staff Quarter,
Pij Road, Nadiad-387002 (Gujarat)
Email – sunnybit.lj@gmail.com

.... Complainant

Versus

Bharat Sanchar Nigam Ltd.,
(Through : The Chairman),
Sanchar Bhawan,
Harish Chandra Mathur Lane,
New Delhi – 110001

.... Respondent

Date of hearing: 14.02.2017

Present:

1. Shri Sunny Kumar, JTO (MEM), Nadiad, the complainant
2. Shri K.K. Parekh, AGM (Admn), Door Sanchar Bhawan, Nadiad, for the respondent

ORDER

The complainant, a person with 65% locomotor disability, filed a complaint dated 15.10.2015, under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, regarding inaccessible BSNL, GMTD Office, Nadiad, Gujarat Telecom Circle and its Staff Quarters for persons with disabilities.

2. The complainant submitted that he was working as Junior Telecom Officer in BSNL, and posted at GMTD Office Nadiad, Gujarat Telecom Circle. He alleged that the ground floor of C-Block, BSNL Staff Quarter, Pij Road, Nadiad, where he resided, was very unhygienic and the colony roads were in complete disastrous condition making him barrier for walking with the help of two baisakhis. The main entrance and staircase of BSNL GMTD Office was creating biggest problem for him and other disabled persons. There was no provision for suitable ramps in entering the office for persons with disabilities. He wrote to the concerned authority many times but situation remained the same and due to which, the management got against him and kept on harassing him in other ways.

3. The complainant further alleged that the Management of BSNL did not permit him, through proper channel, to appear in the exam of Controller General Patent Design & Trade Marks 2015 and put hurdle for the same giving other reasons. The official of Vigilance Section told him roughly that he would not be allowed for any type of permission at any cost. The management deliberately deducted Rs.12,035/- from his salary for the period 01.08.2015 to 31.08.2015. When asked, through RTI, the reason of deduction, the management replied that 'it was clerical mistake'.
4. In view of the above, under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection or Rights and Full Participation) Act, 1995, vide this Court's letter dated 28.10.2016, the matter was taken up with the respondent to submit their comments. When no reply was received, a reminder dated 14.01.2016 was issued to the respondent to submit their comments.
5. In the meanwhile, the complainant vide representation dated 05.05.2016 intimated to this Court that the Nadiad BSNL Management successfully constructed and built a suitable ramp for persons with disabilities in the month of February, 2016. But the Staff Quarter Pij Road, Nadiad was still inaccessible for persons with disabilities. The residential premises were very unhygienic prevailing for many months, the ground floor was affected by sewerage system, as the sewerage system back up and sewage water would easily enter home through drains and toilets. The complainant, vide his letter dated 02.07.2016, further intimated that the BSNL Management deducted Rs.10,796/- from the pay period 01.05.2016 to 31.05.2016 and also reduced the basic pay.
6. This Court, vide letter dated 27.07.2016, forwarded the complainant's representations dated 05.05.2016 and 02.07.2016 to the respondent and reminded them to expedite submission of their comments.
7. The respondent submitted their reply dated 22.08.2017 and confirmed about the construction of ramp. The respondent further intimated that white wash, painting, replacement of window glasses, water taps etc. were done in the staff quarters. As regards, the problems of overflow of drainage and rough roads inside the Staff Quarter Campus, the Civil Wing were requested to complete the work at the earliest. Deduction of Rs.12,035/- from the salary of August-2015 and Rs.9668/- (not Rs.10,796/- as mentioned by complainant) from the salary of May-2016, were made inadvertently by mistake. The amounts were refunded to the complainant in the salary of September-2015 and June-2016 respectively. The concerned staff instructed not to repeat such mistake in future.
8. This Court vide letter dated 05.10.2016, forwarded the aforesaid reply dated 22.08.2017 of the respondent to the complainant for submission of his rejoinder / comments.

9. The complainant submitted his rejoinder/comments dated 08.11.2016 vide email dated 09.11.2016 and intimated that the surface of ramps was very slippery and creating problems, while walking with his crutches on the ramp he fell down and suffered severe pain. There was no Braille Symbols and auditory signals in elevators of building of GMTD Naidad. He reiterated the poor condition of the roads, the unhygienic condition of washrooms & toilets and the harassment done to him by the management.

10. Upon considering the aforesaid reply received from the respondent and rejoinder from the complainant, the case was listed for personal hearing on 14.02.2017.

11. During the hearing on 14.02.2017, the representative of the respondent submitted a copy of their written submission dated 10.02.2017 mentioning therein regarding completion of work i.e. the roads constructed inside the Staff Quarters Campus, construction of ramps at the entrance of Telecom Exchange Building and Staff Quarters, Pij Road, Nadiad, replacement of broken windows, water taps and various other electrical repair and maintenance work. It was also intimated that GMTD Nadiad was monitoring all problems of Staff Quarters and administrative and technical building and efforts were being made to solve the problems.

12. The complainant consented to the progress made by the respondent towards making the office premises accessible for the persons with disabilities. He requested this Court that the pending work relating to construction of roads at the BSNL Staff Quarters and other maintenance work be got completed at the earliest.

13. Since the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 has been repealed and "The Rights of Persons with Disabilities Act, 2016" has been implemented w.e.f. 19.04.2017, Sections 3, 40, 45 and 46 of the Rights of Persons with Disabilities Act, 2016 provides as under:

"3. (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities."

"40. The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information

and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.”

“45. (1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification of such rules:

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

(2) The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritisation, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.”

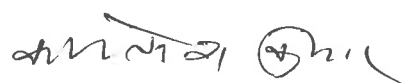
“46. The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules:

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.”

14. Further, Section 20(2) of the Rights of Persons with Disabilities Act, 2016 provides that “Every Government establishment shall provide reasonable accommodation and appropriate barrier free environment to employees with disability.”

15. After hearing both the parties and records available, the respondent is advised to abide by the provisions of the Rights of Persons with Disabilities Act, 2016 and the instructions issued by the Government time to time, ensuring that the legitimate rights of complainant in the instant case as well as all employees with disabilities in the respondent’s organisation, are not discriminated and persons with disabilities are availing all the facilities provided by the Government.

16. The case is accordingly disposed of.



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