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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No.13168/1141/2022

Suo-motu

In the matter of Harassment and Humiliation of Divyangjan because of undignified acts of the Security Personnel at Guwahati Airport

Affected Person: A wheelchair bound divyang and an elderly woman

Respondents:

(1) Additional Director General,
Airport Sector, Central Industrial Security Force,
CISF Headquarters, Block 13,
CGO Complex, Lodhi Road, New Delhi-110003
Email: adgaps@cisf.gov.in; Phone: 011-29582109

1234669

(2) The Chairman,
Airport Authority of India,
Rajiv Gandhi Bhawan, Safdarjung Airport,
New Delhi-110003
Email: chairman@aai.aero

1234670

(3) The Director General,
The Directorate General of Civil Aviation,
Technical Centre, Opposite: Safdarjung Airport,
Aurobindo Marg, New Delhi-110003
Email: dgoffice.dgca@nic.in

1234671

ave

(4) Director General,
Bureau of Civil Aviation Security,
"A" Wing, 1st-3rd Floors, Janpath Bhawan, Janpath,
New Delhi-110001; Email: dg.bcas@gov.in

1234672

1. Gist of case:

The news article had been published in the daily, 'Times of India' dated 25.03.2022 whereby it was reported that an 80 year old wheelchair bound divyang and elderly woman was made to strip her clothes at Guwahati Airport on Thursday, March 24, 2022 by CISF personnel on duty at the time of security check. Hear surgically embedded hip plate caused CISF personnel on duty to

(Contd.... Page-2)

suspect something was amiss. It was also reported that later in the evening, the CISF suspended a woman constable over the incident.

2. Submissions made by the Respondents:

2.1 CISF filed their reply dated 30.03.2022 and submitted that on 24.03.2022 at about 1201 Hrs. a pax namely, Mrs. Mhalo Kikkon (wheelchair passenger) along with her grand daughter Ms L. Kikon had approached for security check at ladies frisking booth. A dedicated team of trained lady CISF personnel was deployed for security check of the lady passengers. Passenger Mrs. Mhalo Kikon stood from wheelchair near DFMD and reached inside the frisking booth by walk. During security check by HHMD, on duty CISF staff L/CT/GD Mira Das noticed some alarm (presence of metal) near Hip area of the passenger. Accordingly, passenger was queried by CISF staff and requested for visual inspection to ascertain that no security prohibited items is present. As per Para 7.9 of BCAS Circular No.01/2022 regarding screening of persons with special needs – individual with disabilities and/or individual with reduce mobility, the passengers with mental implants will be subjected to be through pat down and the metal alarm should be resolved satisfactorily including the following:

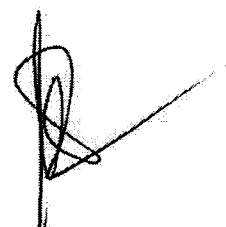
- (1) It should concentrate on the upper legs and torso;
- (2) Special attention should be given to the chest and abdomen areas of the body;
- (3) Particular focus should be on any skin surface abnormalities or wires or tubes existing the body that may be signs of any implanted device.

2.2 The security check was cleared within 88 seconds. The information that the passenger had metal implant was neither shared by passengers nor any airlines personnel. She was also not travelling with doctor's certificate. There was no observation regarding argument or misbehave by duty personnel. The allegation regarding strip search is absolutely counterfeit. The duty personnel had requested her according to procedure as mentioned in BCAS Circular 01/2022 to show that particular part of body for surety where metal was implanted and the pax herself had shown that part to duty personnel.

2.3 No reply was filed by the respondent No.2, Airport Authority of India.

2.4 Respondent No.3, DGCA filed their reply dated 06.04.2022 and submitted that they cannot lay down the security procedures to be followed at the airports by the security personnel as issues pertain to aviation security which fall under purview of Bureau of Civil Aviation Security (BCAS).

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2.5 Respondent No.3, BCAS filed their reply dated 20.04.2022 and submitted that they are civil aviation security regulator which is responsible, among others, to lay down aviation security standards. They have issued AvSec Circular No.01/2022 dated 03.02.2022 in order to improve travel screening process and to ensure that all persons regardless of their personal needs and situations are treated with dignity, respect and courtesy. The implementation of the security protocols at Airports is being done by the Aviation Security Group (CISF/State Police personnel deployed at the airports.

3. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **18.08.2022**. The following persons were present during the hearing:

- (1) Shri Subhash Sinha, DIG, AP, E&NE, HQ, CISF, Kolkata for Respondent No.1
- (2) Shri Aimol, Chief Security Officer, Guwahati Airport for Respondent No.2
- (3) Shri Rohit Thakur, Dy. Director, Directorate General of Civil Aviation, for Respondent No.3
- (4) Shri Ajay Yadav, Dy. Director, Bureau of Civil Aviation Security for Respondent No.4

4. Observations and Recommendations:

4.1 This Court took Suo moto cognizance of the facts which are subject matter of the present Complaint. The Complaint is relating to inhumane process adopted by CISF personnel while conducting security check of 80 years old wheelchair bound divyang woman. It was widely reported in various media platforms that the 80 years old wheelchair bound was forced to strip off her clothes and was forced to show her body part which contained metal implant.

4.2 Reply was filed by CISF. It is submitted that the security check of the Divyangjan in question was done in accordance with BCAS circular number 1/2022. Security check of the Divyangjan in question was cleared within 88 seconds. No prior information was given by the woman regarding her metal implant. Nor she was traveling along with doctor's certificate. Further, the official on duty asked her to show that particular part of body which had metal implant. Further, it is submitted that allegations regarding misbehave and forceful striping of cloths are false. BCAS has also filed its reply whereby it is submitted that it has issued circular number 1/2022 dated 03.02.2022 in order to improve screening process and to ensure that Divyangjan are treated with dignity and respect.

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4.3 During online hearing, Respondent No. 4, Bureau of Civil Aviation Security submitted that as per rules, 'pat down' method of searching a person is allowed however, stripping of clothes is not allowed.

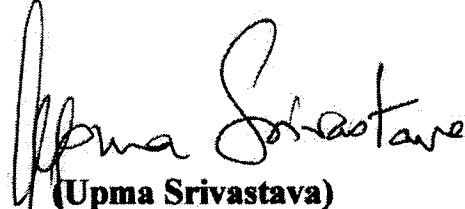
4.4 During online hearing, Respondent No. 1, i.e. Central Industrial Security Force (CISF) submitted that allegations relating to forceful stripping of clothes are false. However, the concerned personal asked the wheelchair bound woman to lift her clothes in order to verify if metal implants really existed. The whole search process was conducted in private cabin and it was not conducted in public space. Further, Respondent No. 1 admitted that empathetic approach was not adopted and minor penalty was imposed on the concerned personal. Respondent No. 1 also assured the Court that in future 'sensitization programme' will be conducted to ensure that employees adopt more empathetic approach while dealing with divyangjan.

4.5 This Court concludes that transgression of rules happened while the impugned search process was done. Respondent No. 1 has taken necessary action by imposing penalty and by deciding to conduct sensitization programme. This Court further recommends that both the Respondents No. 1 and 4 shall make further endeavors to ensure that any kind of security check involving divyangjan is conducted while ensuring that dignity of divyangjan is not violated. Furthermore, this Court recommends that in addition to higher levels of sympathy and empathy, latest technology gadgets must also be used by the security agencies to conduct security check of divyangjan so that no compromise is made with the dignity of divyangjan.

4.6 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

4. Accordingly the case is disposed off.

Dated: 05.09.2022


(Upma Srivastava)
Commissioner for Persons with Disabilities



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सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13253/1021/2022

Complainant: Shri Raj Kumar Guru
Sr. Instrumentation Manager
IOCL Digboi Refinery, Assam Oil Division
PO – Digboi, Dist – Tinsukia, Assam – 786171
Email: <guru2kmaa@gmail.com>
Mob: 07637012175

- 134636

Respondent: Indian Oil Corporation Ltd
Through the Executive Director (I/C) HR
Corporate Office, Jasip Broz Tito Marg
Sector 03, Sadiq Nagar, New Delhi – 110049
Email: <boresk@indianoil.in> <sbhagwat@indianoil.in>

- 134637

Complainant: 40% locomotor disability

GIST of the Complaint:

Complainant Shri Raj Kumar Guru vide complaint dated **12.05.2022** has submitted Indian Oil Corporation Ltd (IOCL) is following age old OM no 36035/3/2004-Estt.(Res) dated 29/12/2005 of DoPT for reservation in promotion of persons with disabilities, which considers promotion to PwD candidates to Group C (clerical) & Group D (worker grade) posts only on conditional basis (Clause-2 (ii)) whereas Section 34 of Rights of persons with disabilities Act 2016 stipulates 4% reservation in the cadre strength in each group i.e. IOCL to consider reservation in promotion in each group from JEA IV to Grade-I.

2. For confirmation of the above, RTI query was sent to IOCL corporate office on 26/01/2022 but IOCL management neither replied properly to the RTI nor implemented Section 34 of Rights of persons with disabilities Act 2016 in the ensuing promotion lists issued from the month of Feb-to Mar'22 even if the matter was bring to their knowledge through RTI.

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3. He further submitted that IOCL has no grievance redressal cell in each of its units/locations for the PwDs, whereas it has a dedicated separate women & SC/ST cell to look after the welfare, promotion or any grievance related issues of women and SC/ST people in each locations/Refineries.

4. He has requested - (1) to provide reservation in promotion as per Section 34 in the cadre strength in each group i.e. Grade A0 (Engineer) to Grade I (Executive Director) and JEA IV to JEA IX in IOCL from FY 2022-23. (2) to arrange welfare/grievance cell at each IOCL location which employ PwD persons so as to ensure their wellness and equal opportunity in each posts/position in the company.

5. The matter was taken up with the Respondent vide letter dated **25.05.2022** under Section 75 of the RPwD Act, 2016.

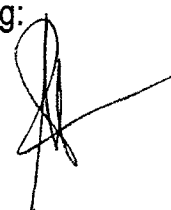
6. Executive Director (HRD), Indian Oil Corporation Ltd vide letter dated **14.06.2022** submitted that Indian Oil has been following all guidelines issued from time to time and revised guidelines for reservation in promotion to persons with benchmark disabilities have been issued by DoP&T vide OM dated 17.05.2022. The Statement of the complainant that reservation in promotion for PwBD should be extended up to Grade 'I' is not enable as, reservation in promotion for PwBD is upto lowest rung of Group 'A' and not within Group 'A'. He further submitted that in compliance with Section 23 of Rights of Persons with Disabilities Act, 2016, Liaison Officers and Grievance Redressal Officers have been appointed under Grievance Redressal Cell in all units/location for PwBD employees.

7. A copy of the above reply was forwarded to the complainant for submission of his comments/rejoinder on 22.06.2022 but till date no response has been received from him.

8. After considering the respondent's reply dated **14.06.2022** and the complainant's complaint, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **23.08.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **23.08.2022**. The following were present in the hearing:

- Shri Raj Kumar Guru - Complainant
- Sri Vibhas, DGM (HR) on behalf of respondent

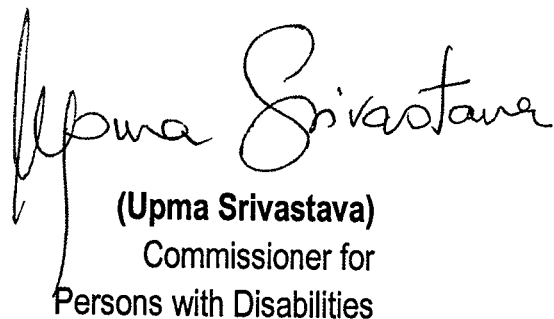


Observation/Recommendations:

9. The complaint is of general nature. Complainant submits that reservations in promotion for PwD employees are not extended by the respondent in its establishments. No specific instance of denial of promotion has been raised by the complainant. Respondent submits that it will provide reservation in promotion as per DoPT OM dated 17.05.2022.

10. During online hearing respondent assured this court that the latest DoPT OM dated 17.05.2022 relating to reservation in promotion shall be implemented in letter and spirit in the respondent establishment. Since, the complainant has not pointed out in specific instance of denial of reservation in promotion, therefore, this court concludes that no further intervention is required.

11. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 06.09.2022



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सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13272/1022/2022

Complainant

Shri Vijay Kumar Mishra
Assistant Manager
Region-Jhansi
Zone-Lucknow
Email: vijaykumarmishra3127@gmail.com

134638

Versus

Respondent

The General Manager
Central Bank of India
Chandramukhi Building
Nariman Point, Mumbai -400021
Maharashtra
Contact No: 022-66387777
Email: nhrd@centralbank.co.in

134639

GIST OF COMPLAINT

The complainant, a person with 45% Locomotor disability, has filed a complaint dated 25.05.2022. regarding transfer of services lateral / rotational transfer to another Zone Kolkata Region Bankura.

2. The complainant has submitted that he is serving to the post of the Assistant Manager in Junior Management Grade Scale-I (JMGS-I) at Orai Branch of Central Bank of India under Jhansi Region in Lucknow Zone since 16.08.2021. The complainant further submitted that General Manager (HRD) having its office at Central Office, "Chandermukhi" Narimanpoint, Mumbai vide its order contained in Central Office Circular no. 1209 dated 16.04.2022 had transferred his services to Bankura Region in Kolkata Zone in the lateral/rotational transfer on the guise of having completed 10 years in Lucknow Zone. The Complainant has requested to this Court to give direction to the respondent for retaining his services in Lucknow Zone with suitable orders to transfer him back to any branch/office at his home town Kanpur city enabling him to give his best services to the respondent bank with the assistance of his family.

3. The matter was taken up with the Respondent vide letter dated 03.06.2022 under Section 75 of the RPwD Act, 2016.

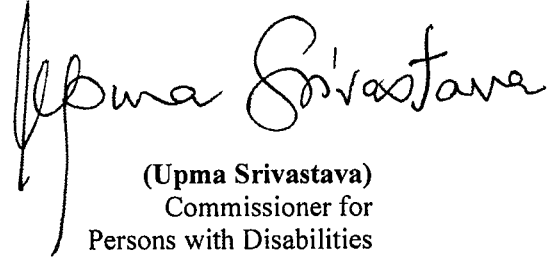
4. In response, Dy. General Manager HRD, Central Office, Central Bank of India, vide email dated 14.06.2022 has submitted that the complainant is a native of Raibareilly, UP and joined the bank in March 1990 at Kanpur Region. The complainant has been posted in Lucknow zone since 2008 and completed over 10 years in the zone. He has been transferred as per the circular dated 16.04.2022 on rotation, as per bank transfer norms. The respondent further submitted that with regards to the claim about his disability, it is observed that the complainant has obtained the disability certificate on 18.04.2022 i.e. subsequent to issue of his transfer orders. Further there is no record of his disability in his official online records.

5. The complainant vide his rejoinder filed vide email dated 05.07.2022 has submitted that he is not satisfied with the comments submitted by the respondent. The complainant once again requested to this Court to give direction to the bank for retaining his service in Lucknow Zone with suitable orders to transfer him back to any branch/office at his home town Kanpur city.

Observations /Recommendations:

6. It is noted that the complainants transfer order was issued on 16.04.2022 by the bank and the complainants disability certificate is of 18.04.2022 i.e., after the date of issuance of transfer order. Hence, this Court concludes that the complainant has not made any case of discrimination on the basis of disability in the present complaint. Intervention of this Court in present complaint is not warranted.

7. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 06.09.2022



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सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13271/1022/2022

Complainant

Shri Satish Kumar
Assistant Controller of Patents & Designs
DC-19, Utarayan Housing Society
Action Area I Newtown-700156
Email: satishkumar.ipo@nic.in

Versus

Respondent

1. The Controller General of Patents & Designs
Patents/Designs/Trademark
Geographical Indications (CGPDTM),
Boudhik Sampada Bhawan,
Antop Hill, S.M. Road, Mumbai-400037.
Email: delhi-patent@nic.in, Piyush.ipo@nic.in
Contact No: 011-25300208

2. The Secretary
Department of Promotion of Industry &
Internal Trade (DPIIT)
Ministry of Commerce and Industry, Govt. of India
Udyog Bhawan, New Delhi-110117
Email: secy-ipp@nic.in

GIST OF COMPLAINT

The complainant a person with 60% Locomotor disability has filed a complaint dated 25.05.2022 regarding withdrawal or cancellation of his transfer order from I.P.O Kolkata to I.P.O Mumbai.

2. The complainant is working with the Indian Patents Office, Kolkata, under Office of the Controller General of Patents, Designs and Trade Marks, Department of Promotion of Industries and Internal Trade (DPIIT), Ministry of Commerce and Industry, as an Assistant Controller of Patents and Designs. The complainant further submitted that his wife is also a person with disability having 45% locomotor disability. Both are dependent and assist each other for most of the daily routine work. Since, he has lost his parents; no one is there to assist them. His wife is also a Central Government servant and is working in the Office of Geological Survey of India. She is posted in Kolkata. The complainant further submitted that Indian Patent Office is headed by the Office of the Controller General Parents, Designs Trademarks and Geographic Indications which comes under the Department of Promotion of Industries and Internal Trade, Ministry of Commerce, and Industry, Govt. of India. The complainant is posted in Patents office, Kolkata since 10.11.2017, which is about four years from posting. Some officers and employees working under the Office of the Controller General of Patents, Designs, Trademarks and Geographic Indications have been posted at the same place of posting for more than 20 years and some officers have not been transferred even once after their joining in the above mentioned office. The complainant has been transferred from Patent Office Kolkata to Patent Office, Mumbai vide office order no. CGPDTM-11018(11)/1/2021-CGOFFICE/80 dated 20.05.2022. The complainant has requested to this Court to give direction to the respondent for withdrawal or cancellation of his transfer order from Indian Patents Office Kolkata to Mumbai.

5वीं मंजिल, एनआईएसडी भवन, प्लॉट नं०. जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष: 011-20892364, 20892275
5th Floor, NISD Building, Plot No.G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: 011-20892364, 20892275

E-mail: ccpd@nic.in ; Website: www.ccdisabilities.nic.in

(पया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)

(Please quote the above file/case number in future correspondence)

3. The matter was taken up with the Respondent vide letter dated 03.06.2022 under Section 75 of the RPWD Act, 2016.

4. In response, Assistant Controller of Patents and Designs, GPM Incharge, Patent Office Dwarka, New Delhi, filed a reply on behalf of the respondent vide letter no. dated 01.07.2022, and submitted that while the complainant was posted as Assistant Controller in Patent Examination Group at Patent Office, Kolkata, there was a complaint against the complainant for demanding bribe. The complainant, was therefore, relieved from the work of disposal of Patent applications vide office order dated 10.08.2020 and given the work related to disposal of Design cases relating to Alternations (Form-22 and 23), Extension/Restoration of Copyright (Form-3/4) and Assignments (Form-10, 11, 12, 13 and 14). Further, a two-member Committee was constituted vide order dated 30.09.2020 to evaluate the complaint filed by the complainant. Based on the report of the Committee dated 20.10.2020, the complainant was issued warning and advised to be cautious vide Memorandum dated 11.11.2020. The complainant was, however, not transferred at that time due to the prevalence of Covid-19 pandemic. Moreover, a letter from the Ministry (DPIIT) dated 03.09.2021 was also received in O/o CGPDTM regarding a complaint against the complainant for demanding bribes. The respondent further submitted that there is pendency of amended applications in Electrical Group and there is requirement of Controllers for disposal of the pending applications. The complainant who belongs to Electrical Groups has therefore, been posted back in the examination Group with change in place of posting i.e. at Patent office Mumbai. The transfer of the complainant has, therefore, been done on administrative grounds.

5. The respondent further submitted that DoPT OM dated 31.03.2014 says as far as possible the person with disability may be exempted from rotational transfer. It is, however, noted that the complainant has been transferred on administrative ground and this is not a routine rotational transfer. As per the office records, it has been noted that there have been instances in the past when officers with disability have been transferred on administrative grounds and they have accepted the transfer order. In view of the above, his request for cancellation of transfer order has not been considered.

6. The complainant has filed the rejoinder reply vide email dated on 06.07.2022 and submitted that he is not satisfied with the comments submitted by the respondent. The complainant has requested once again to CCPD Court to give direction to the respondent for cancelling his transfer order from Kolkata to Mumbai Patents office.

7. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 23.08.2022. The following were present:

- i) Shri Satish Kumar: Complainant
- ii) Shri Piyush Garg, Asst. Controller General of Patents: Respondent

Observations /Recommendations:

8. Complainant submits that he is employed in Indian Patents office, Kolkata on the post of Assistant Controller of Patents and Design (Group A). By order dated 20.05.2022 he was transferred from Kolkata to Mumbai. He further, submits that his wife is also Divyangian and is employee of Central Government and she is currently posted in Kolkata. He submits that the complainant as well as his wife are dependent upon each other. Complainant further submits that he was posted in Kolkata since November 2020. Some other employees who are working in respondent establishment are posted at the same place since, last 20 years. However, he has been transferred only after 4 years of service.

9. Respondent submits that the complainant was transferred to Mumbai because of administrative reasons and bribery allegations. Respondent submits that while the complainant was posted as Assistant Controller in patent examination group in Kolkata Office, allegations of bribery were levied against him. Thereafter, by the order dated 10.08.2020 work of disposal of patent applications was withdrawn from him. Thereafter, a committee was constituted to evaluate the complaints filed against the complainant. Based upon the findings of the committee the complainant was issued warning and he was advised to be cautious in future. Thereafter, letter was received on 03.09.2021 regarding the complaint against the complainant for demanding bribes.

10. Complainant in his rejoinder has stated that the committee made no adverse finding and disciplinary action was not initiated against him. Hence, complainant claims that existence of any complaint against him does not constitute any reasons for his transfer. Furthermore, complainant submits that letter from the Ministry was received on 03.09.2021, whereas work related to disposal of patent applications was withdrawn on 10.08.2020.

11. During online hearing complainant informed that he was appointed in 2012. From 2012 till 2017 he was posted in Delhi. Thereafter in 2017 he was transferred to Kolkata on his own request. During online hearing this Court enquired from the respondent reasons for transferring him from Kolkata to Mumbai by order dated 20.05.2022. Respondent reiterated its submissions made in written reply filed by the respondent. Respondent's answer was the same, i.e. bribery allegations. Before this Court the respondent relied upon bribery allegations, however, it is surprising that no disciplinary action was initiated against the complainant on these allegations. Respondent also constituted a committee which also did not initiate disciplinary action and made no adverse finding against the complainant. On this point this Court concludes that the respondent has failed to establish reasonable connection between allegations of bribery and complainant's transfer from Kolkata to Mumbai. Furthermore it is also worthwhile to note that even if any employee has committed financial irregularity or used his position for illegal monetary-enrichment then the right course of action is disciplinary inquiry and subsequent punishment rather than transfer of such employee. In the present case it is clear that mere apprehension of bribery was used as an excuse by the respondent to transfer the complainant from Kolkata to Mumbai.

12. During online hearing respondent also informed that the complainant approached Central Administrative Tribunal raising the same issue and the case is pending before the Hon'ble tribunal. Respondent alleged that the complainant is doing 'forum shopping' and hence the complainant must be dismissed.

13. Complainant submitted that initially he approached CAT, Kolkata raising the same issue. In that complaint respondent submitted before CAT Kolkata that the issue is pending before the Court of CCPD. CAT Kolkata by order dated 17.06.2022 disposed off the complaint till the issue is decided by 'appropriate authorities'. CAT Kolkata by the same order directed the respondent not to compel the complainant to join the place of new posting, i.e. Mumbai. Complainant alleges that in spite the order of CAT, the Complainant was relieved from Kolkata office in the evening of 17.06.2022 and was compelled to join in Mumbai office. Since the respondent did not implement the CAT order therefore, complainant was compelled to approach CAT Kolkata again on 12th Delhi raising the same issue which is pointing before this Court.

14. While this Court understands the relevance of principles of forum shopping and also principle of comity of Courts, this Court is duty bound to intervene in the case of discrimination with Divyangjan. The fact which cannot be ignored is that the respondent has not only failed to implement CAT Kolkata order

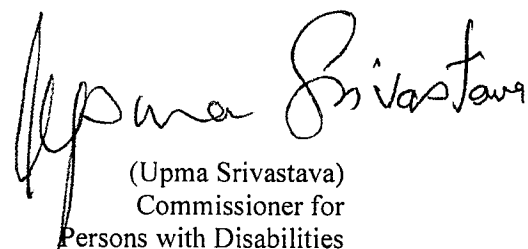


but also seems to be playing games with the Courts. When the case was pending before CAT Kolkata respondent took the plea before the tribunal that similar case is pending before Court of Chief Commissioner for Persons with Disabilities and during the hearing in the Court of Chief Commissioner for Persons with Disabilities, Respondent took the plea that similar case the pending before CAT Kolkata. These facts suggests that the respondent is causing harassment of the complainant by way of transfer and by making excuses before CAT Kolkata and Court of Chief Commissioner for Persons with Disabilities. In the usual course this Court does not interfere when issue raised in the complaint before this Court is pending before in a Central Administrative tribunal. However, in the present case it is evident that the respondent is using fact of pendency of case before various Courts as an excuse to cause harassment of the complainant, therefore, this Court is compelled to interfere in this present complaint in respect of the fact that the issue is still pending before CAT Kolkata.

15. After perusal of the submissions made by the parties, this Court concludes that transfer of the complainant by order dated 20.05.2022 amounts to routine transfer. Complainant was transferred to Kolkata in 2017 and was transferred out of Kolkata to Mumbai in 2022, whereas at the same time other non Divyangjan employees are posted at same location for even 20 years in some cases. Furthermore, respondent has completely failed to prove existence of game of offence of taking bribe and transferred the complainant from Kolkata to Mumbai on mere apprehensions. Hence respondent has completely failed to establish any administrative reason for transferring the complainant from Kolkata to Mumbai. This Court recommends that the respondent shall exempt the complainant from transfer and rescind the transfer order dated 20.05.2022 and hence the Complainant shall be posted in Kolkata only.

16. **Respondent shall also file the Compliance Report of this Recommendation Order within 3 months from the date of this Recommendation failing which, this Court shall presume that the Respondent has not implemented this Recommendation and the matter shall be reported to the Parliament.**

17. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 06.09.2022



Ext 108

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. 13243/1011/2022

Complainant:

Shri Manish Kumar,
S/o Shri Satish Chand Sharma,
R/o Village – Khairpur, Post – Surjawali,
Tahsil Shikarpur, Dist. – Bulandshahr, Pin 203001 (UP)
Email: shivohamshoham@gmail.com
Mobile: 8279990350

234673

Respondent:

Regional Director,
Staff Selection Commission (Central Region)
Kendriya Sadan, 34A, M.G. Road,
Prayagraj-211002
Email: rdcrrsc@gmail.com

234674

Affected Person: The complainant, a person with 60% Visual Impairment

1. Gist of Complaint:

The complainant filed a complaint dated 09.04.2022 regarding not allotting rank and post after document verification which got cleared on 09.09.2021 in SSC CGL 2019.

2. Submissions made by the Respondent:

No reply was received from the respondent despite final reminder dated 04.07.2022 and lapse of statutory time.

3. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 18.08.2022. The following persons were present during the hearing:

- (1) Shri Manish Kumar, the complainant in person
- (2) Shri B.K Srivastava, Dy. Director, General, SSC Central Region, for the Respondent

4. Observations & Recommendations:

4.1 Complainant submitted that he qualified all the stages of CGL 2019 exam. On 09.09.2021 he was called for verification of the documents. He claimed that he successfully qualified document verification. However, in result declared by the respondent 08.04.2022, he had not been allotted any rank and post. He further,


(Contd.... Page-2)

submitted that the respondent had informed him that he scored, 25% marks. He claimed that his actual score was 329 and the information given by Respondent was false.

4.2 The issue which needs deliberation of this Court is that why the complainant was called for document verifications if he could not secure cut off marks. During online hearing respondent informed this Court that he could not secure cut of marks. Further, the complainant was called for document verification because it is usual practice in respondent establishment to call more number of candidates for document verification because many candidates would fail during document verification. Complainant was one of the candidates who was called for document verification and was in waiting list even though he could not secure cut of marks. From the perusal of the complaint and submissions made by both the parties this Court concludes that respondent's reply is satisfactory and intervention of this Court is not warranted.

4.3 Accordingly, the case is disposed off.

Dated: 06.09.2022


(Upma Srivastava)
Commissioner
for Persons with Disabilities



Extra

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. 13244/1092/2022

Complainant:

Shri Niju Jose EJ,
Etturuthil House, Panchalam PO,
Kodhi -682012 (Kerala)
Email: nijuej@gmail.com

R34666

Respondent:

(1) Regional Director,
Regional Office Kerala, National Highways Authority of India,
6/1036-1, Ambly Arcade, S.N.N.R.A.-9,
Pettah PO, Thiruvananthapuram -695024 (Kerala)
Email: rokerala@nhai.org

R34667

(2) Chairman,
National Highways Authority of India,
G 5&6, Sector-10, Dwarka, New Delhi -110075
Email: chairman@nhai.org

R34668

Affected Person: The complainant, a person with 70% Locomotor Disability (Cerebral Palsy)

1. Gist of Complaint:

1.1 The complainant filed a complaint dated 11.04.2022 regarding denial of exempted FASTag for Divyangjan by Regional Office Kerala, National Highways Authority of India (NHAI, RO Kerala).

1.2 The complainant submitted that as per the guidelines S.O.P. issued by the Ministry of Road Transport and Highways mechanical vehicles specially designed and constructed for a person suffering from physical disability are eligible for exempted FASTag under code 34. Being a person with disability he had applied for an exempted FASTag with application Number: RO-KER-221984871953, but his application was returned stating - "For exemption under said Category, vehicle shall be invalid carriage or ownership type shall be divyangjan".

1.3 The complainant further submitted that his vehicle [Maruti Celerio ZXI AMT No.KL 07CF 5494] is retrofitted with hand controls, and the same is mentioned in the Registration Certificate (RC). He discussed the matter with RO, Kerala and came to know that the fastag will be applied only for vehicles tagged as an invalid carriage in RC. He also stated that the Motor Vehicle department has stopped using the name invalid vehicles. All disabled people may not require any retrofitted in vehicles for

(Contd.... Page-2)

their use. People with one leg affected can drive automatic cars. N.H.A.I. policy to issue exempted FASTag to the only designed vehicle should be questioned by this Court for general disabled people. NHAI guidelines and procedure for issuance for FASTag is not in line with the Rights of Persons with Disabilities Act, 2016 and is resulting in denial of FASTag to disabled community.

2. Submissions made by the Respondent:

2.1 NHAI RO Kerala filed their reply dated 22.06.2022 and inter-alia submitted that as per the RC details submitted by the applicant, the vehicle belonging to the applicant was not an Invalid Carriage/Adapted Vehicle (i.e. Mechanical vehicles specially designed and constructed for use of a person suffering from physical disability). Initially, the complainant submitted the application on web portal and was rejected as the vehicle was neither an Invalid carriage/adapted vehicle nor ownership type was 'Divyangjan'. The complainant had not submitted any valid documents for verification of the ownership type of the vehicle as required as per Clause 3.5(c) of the MoRTH SoP dated 09.12.2019, as the only document submitted by the applicant was a copy of Disability Certificate, which is not considered as a valid proof of exemption as per Rule 11 of National Highways Fee (Determination of Rates and Collection) Rules, 2008.

2.2 Further, RO Kerala does not have access to the Website (<http://vahan.parivahan.gov.in>) and hence cannot verify the ownership type of the applicant's vehicle in the said portal. In the web portal for issuance of Exempted Fast Tag, there is no provision for RO Kerala to upload any additional document, as only provision available for RO is to approve, reject or Change RO (i.e. for transferring request to another RO). RO Kerala had strictly processed the said application in the web portal and rejected as the same was not meeting the requirement as per MoRTH SoP.

3. Submissions made in Rejoinder:

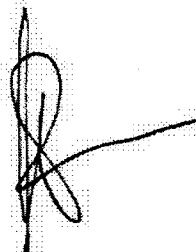
3.1 The complainant filed his rejoinder dated 28.06.2022 and reiterated his complaint. However, he added that he had attached the government-issued documents as specified below along with the application:-

- a. Registration certificate issued by the government of Kerala
- b. Unique disability card issued by the government of India

3.2 The registration certificate issued by the Government of Kerala clearly specified that his vehicle is fitted with hand control for the disabled. This fact was discussed with the officer several times and denial of this fact in point 8 of the counter affidavit filed by Babu Lal Meena, Regional Officer, NHAI, Kerala, is to create hardship for the divyang community.

3.3 The complainant further submitted that the vehicle ownership is in his name – Niju Jose E J and it is evident that a Divyang owns the vehicle from the Unique disability card issued by the Government of India which was attached with the

(Contd.... Page-3)



application. Thus, it is clear from the documents issued by the appropriate Government that the vehicle is owned by a Divyang, and the vehicle is altered with hand controls.

3.4 NHAI is creating hardship to disabled community by rejecting the application and demanding additional documents when they could have clearly conclude that the vehicle is retrofitted and is owned by disabled using government issued documents.

3.5 Further, NHAI inaccessibility to Parivahan website and other technical difficulties faced by the officers as specified in points 11 and 12 in counter affidavit is internal issues and should not create hardship to an Divyang person.

4. Observations & Recommendations:

4.1 Complainant submitted that Divyangjan whose vehicle is registered as ownership type divyanjan, are exempted from toll tax. NHAI has a separate online portal for applying for exempted category. Complainant claims that when he uploaded his registration certificate and applied for the exempted category Fast tag, his application got rejected. Complainant claimed that the reason given for rejecting his application is that NHAI does not have facility to verify the RC ownership. Due to lack of co-ordination between NHAI and Ministry of Road Transport & Highways.

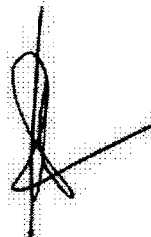
4.2 Respondent No.1, National Highways Authority of India submits that as per Rule 11 of National Highway Fee (Determination of Rates and Collection) Rules, 2008, some vehicles are exempted from payment of toll fee. For this purpose exempted category Fast tags are issued in favour of those vehicles which are specially designed and constructed for use of Divyangjan.

4.3 Respondent No.1 further submitted that Complainant's application was rejected because his vehicle was neither an adapted vehicle (Specially designed for use of Divyangjan) nor the ownership type was Divyangjan.

4.4 Another category for which exempted category Fast tags are issued is when the vehicle is specially designed or constructed for the use of Divyangjan.

4.5 Complainant informed that his grievance has now been settled. The Respondent had issued exempted category Fast Tag to him. However, the issue which still persists is related to trouble which divyangjan have to face in order to obtain exempted category Fast Tag. Since this Fast Tag is issued only when either of the two conditions is fulfilled. First condition is that the vehicle must be adapted vehicle and second is that the registration of the vehicle must be under 'disability ownership'. In those cases where registration of the vehicle is done under 'disability ownership', this status is not mentioned in Registration Certificate. Hence, when such owner applies for exempted category Fast Tag, the concerned office does not have any mechanism to check the ownership type of the vehicle because the status neither finds mention on the Registration Certificate, nor the concerned office has access to concerned portal of Ministry of Road Transport & Highways. Because of this drawback of the system, divyang applicants have to run from pillar to post to prove the ownership type of his vehicle.

(Contd.... Page-4)




4.6 Considering these facts and for making the system more accessible for divyangjan, this Court recommends that Ministry of Roads, Transport & Highways shall give access of concerned online portal to National Highways Authority of India so that ownership type of divyangjan's vehicle may be verified online for the purpose of issuing exempted category Fast Tags and divyangjan need not be compelled to run from one office to another to prove the ownership type of his vehicle. A copy of this Order be endorsed to the Ministry of Road Transport & Highways for necessary action.

4.7 Respondents as well as Ministry of Road Transport & Highways are directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

4.8 Accordingly, the case is disposed off.

Dated: 06.09.2022


(Upma Srivastava)
Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13310/1023/2022

Complainant: Smt. Rakhi
H.No. 2619/9, Rajender Nagar
Near Kaushalya Hospital, Gohana Road
Rohtak – 124001, Haryana
Email: <rakhi51292@gmail.com>

Respondent: The Chief General Manager (HR)
State Bank of India, Corporate Centre
State Bank Bhawan, 16th Floor, Madam Cama Road
Mumbai – 400021
Email: <agmphr.lhoche@sbi.co.in> <aseem.bhushan@sbi.co.in>

Affected person: Shri Gaurav 40% visual impairment

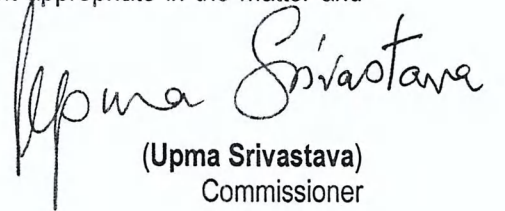
Subject: Complaint of Smt. Rakhi, w/o Shri Gaurav who is a person with 40% visual impairment regarding harassment by officers.

Please refer to this Court's letter of even number daed 28.06.2022 and respondent's reply dated 15.07.2022 on the above mentioned subject.

2. After going through the rival submissions, it is observed that the subject matter is sub-judice before the Hon'ble High Court of Punjab & Haryana. The Hon'ble High Court of Punjab and Haryana vide its order dated 28.03.2022 had stayed the impugned order of the Court of Commissioner for Persons with Disabilities, Govt. of Haryana. The next date of hearing is 01.11.2022.

3. In the meanwhile, complainant vide letter dated 09.09.2022 has requested to withdraw the complaint as the Bank has allowed her husband to join his duties and hence she doesn't want to proceed further.

4. In view of above, no further intervention of this court is felt appropriate in the matter and the case is closed.


(Upma Srivastava)
Commissioner

Dated: 13.09.2022



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13150/1023/2022

Complainant: Shri Sanjiv Kumar

Sr. Hindi Translator, Qtr. III/7

NCERT, Campus, New Delhi – 110044

E-mail: <sanjivprmr@gmail.com>

234757

Respondent: The Secretary

National Council of Educational Research and Training

Sr. Aurobindo Marg, New Delhi – 110016

E-mail: <director.ncert@nic.in>

234758

Complainant: 75% visual impairment

GIST of the Complaint:

Complainant Shri Sanjiv Kumar, Sr. Hindi Translator, NCERT vide his complaint dated **25.02.2022** submitted that (1) he was appointed in the Council on 19.05.2011 and till date his service has not been confirmed. (2) due to too much congestion of furniture and his visual disability, he keeps hitting the furniture which is painful. (3) the matter of making pay scale of the Official Language Cadre in the Council at par with that of the Central Secretariat Official Language Cadre is pending since the year 2014. (4) Accounts Wing of the Council unnecessary had raised an objection on his LTC claim for the block year 2016-17 (extended 2018) and 2018-19 (Extended 2020) (5) In the year 2017, he had applied for the post of Section Officer through NCERT Limited Departmental Examination but till date he has not received any information.

2. The matter was taken up with the Respondent vide letter dated **16.03.2022** under Section 75 of the RPwD Act, 2016 but despite reminder dated **18.04.2022**, no response has been received from the respondent. Therefore, hearing scheduled on **07.06.2022**.

3. Online hearing was conducted on **07.06.2022** in which both the parties were heard. During online hearing, Respondent was asked certain questions relating to issues of

Confirmation of service, Office accessibility, pay scale and appointment of Grievance Redressal Officer. Respondent's reply on all the issues was same, i.e. the committee has been formed and it will look into these issues. Respondent also sought time to inform the Court about the decision of the committee.

4. This Court grants 3 weeks from date of the Order, to the Respondent to file its Reply, including the decisions taken by the Committee. After considering the reply dated 22.07.2022 filed by respondent, hearing fixed on 30.08.2022.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **30.08.2022**. The following were present:

- Shri Sanjiv Kumar on behalf of complainant
- Ms. Abha Munjni, Dy Secretary on behalf of respondent

Observation/Recommendations:

5. Complainant submits that he is employed in Respondent establishment on the post of Senior Hindi Translator since 2011. He submits that the office accommodation provided to him is temporary. His office furniture and other belongings are kept at some place other than his place of sitting hence in order to access his belongings he gets hit by furniture. He submits that he was appointed in the council on 19.05.2011 and till date he has not been confirmed. Matter of making the Pay Scale of the Official Language Cell in the Council at par with officers of Central Secretariat is pending since 2014.

6. In Hindi cell several posts are lying vacant including the posts of Junior Hindi Translator. No appointments are made by the Respondent. Unnecessary objections are made by the Respondent on the LTC claim for block year 2018-19.

7. Respondent submits that office of Hindi cell has been shifted only once. On the issue of confirmation of service, Respondent submits that the service of the Complainant have been confirmed long ago. He has also been granted MACP w.e.f. 19.05.2021. On the issue of Pay Scale, it is submitted that direction of Ministry of Education is awaited. Junior Translator post is vacant because the previous employee holding this post went on deputation. LTC claim of the Complainant was rejected because the benefits claimed by



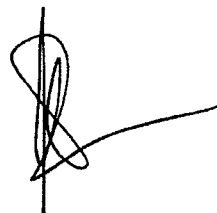
the Complainant became effective from 12.10.2020, whereas bills submitted by the Respondent are dated 20.09.2020.

8. Hearing was conducted on 07.06.2022. ROP was issued and certain questions were asked. Respondent informed this court that issue relating to conformation has now been resolved, the complainant has been confirmed by order dated 26.06.2022. Complainant expressed his satisfaction on this point. However, respondent informed that issue of pay fixation will be resolved in the near future. On this issue meeting with the concerned officers of the Ministry was scheduled to be held on 05.08.2022, however, due to unforeseen circumstances it got postponed which will be held in near future.

9. On the issue of accessibility of office, respondent informed that a room was allotted to the complainant on the ground floor. However, the complainant expressed his displeasure with the room and thereafter another room of complainant's choice was allotted on the ground floor. The room of the complainant's choice required some renovation. Required renovation work is being done by the CPwD which has ensured that in next 4 – 5 days the work will get completed. On the issue of appointment of Grievance Redressal Officer, the respondent informed that there is grievance redressal cell, however respondent could not inform the court the name and designation of grievance redressal officer.

10. On the issue of confirmation of service and 'pay fixation' intervention of this court is not warranted. On the issue of accessibility of office this court expressed its satisfaction with the steps taken by the respondent however, it is recommended that the respondent gets the repair work done as soon as possible, so that a conducive environment can be given to the complainant in which he can work and achieve optimum results.

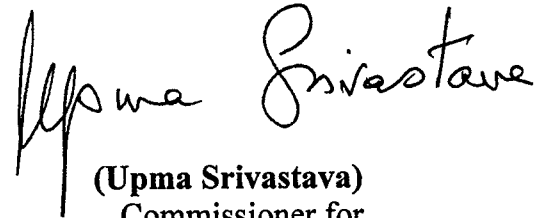
11. On the issue of appointment of Grievance Redressal Officer, this court attracts the attention of the respondent towards Section 23 of the RPwD Act. This provision requires that every government establishment has to compulsory appoint Grievance Redressal Officer in its establishment. Formation of Grievance Redressal Cell can be appreciated,



however it is not equivalent to Grievance Redressal Officer and formation of any such cell does not amount to discharge of duty under section 23 of RPwD Act. Hence, this court recommends that the respondent shall appoint Grievance Redressal Officer who shall be officer of Group A post and of significant seniority.

12. Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

13. Case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 15.09.2022



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13259/1022/2022

Complainant:

Raghunath Madhav Shinde
Mukam Post-Bazarwadi Manmaad
Taluka Nandgaon, District Nashik,
Maharashtra -423104
Mobile No: 07414923218, 09359327025
Email: Raghunath.shinde99@gmail.com

— R34750

Vs

Respondent:

The Manager
Bank of Baroda, Regional Office,
Sanchar Point, Dant Mandir Road,
Nashik Raod, Nasik-422101
Email: hrm.nashik@bankofbaroda.com; rm.nashik@bankofbaroda.com

— R34751

GIST OF COMPLAINT

शिकायतकर्ता जोकि दोनों पैरों से अस्थि बाधित हैं का अपनी शिकायत दिनांक 19.05.2022 में कहना है कि वह बैंक ऑफ बडौदा की नांदगांव शाखा, नाशिक, जिला महाराष्ट्र में क्लर्क के पद पर नियुक्त है। शिकायतकर्ता चूँकि दोनों पैरों से दिव्यांगजन हैं इस कारण उनका चलना हाथों पर घुटनों द्वारा होता है। बैंक ऑफ बडौदा की नांदगांव शाखा दूसरी मंजिल पर होने के कारण उन्हें रास्ते पर हाथों पर चलकर बैंक तक पहुंचना पड़ता है और फिर हाथों पर ही चलकर सीढ़ियां चढ़कर बैंक के अंदर पहुंचना पड़ता है। उन्हें बैंक पहुंचने के लिए रास्ते के कीचड़, धूल पर चल कर जाना पड़ता है और फिर सीढ़ियां चढ़कर बैंक में अपने कर्तव्य पर जाना पड़ता है। इस असुविधा के कारण उनके हाथों, घुटनों और उनकी रीढ़ की हड्डी में बहुत दर्द होता है। बारिश के समय कीचड़ से गुजरना पड़ता है जिससे उन्हें बहुत कठिनाईयों होती हैं।

2. उपरोक्त के अतिरिक्त शिकायतकर्ता का कहना है कि उनकी नांदगांव शाखा उनके गांव से लगभग 40 किलोमीटर दूर है एवं इस वजह से उन्हें नांदगांव में अकेला रहना पड़ता है। शिकायतकर्ता के साथ उनके घर का कोई सदस्य नहीं रहता इसलिए उन्हें बहुत सारी कठिनाईयों का सामना पड़ता है। शिकायतकर्ता ने इस असुविधा के कारण अपने बैंक के क्षेत्रीय कार्यालय नाशिक से विनम्रता पूर्वक निवेदन किया कि उन्हें बैंक की टाकली लासलगाव शाखा या फिर पाटोदा शाखा में करने का अनुरोध किया क्योंकि यह दोनों शाखाएं निचले स्तर पर हैं, उनके गांव के नजदीक हैं एवं वह आसानी से अपने कर्तव्य पर जा सकते हैं। वह अपने स्थानान्तरण हेतु आवेदन पिछले 03 वर्षों से कर रहे हैं लेकिन उन्होंने उनकी प्रार्थना को अस्वीकार कर दिया। अतः शिकायतकर्ता ने इस कोर्ट से विनम्र निवेदन किया है कि उनका स्थानान्तरण नांदगांव शाखा

उपम. शिवाजी

से टाकली (लासल्गाव) शाखा या उनके घर के नजदीक जो पाटोदा शाखा है एवं निचली मंजिल पर स्थित है कराने की कृपा की जाए।

3. The matter was taken up with the Respondent vide letter dated 31.05.2022 under Section 75 of the RPwD Act, 2016.

4. In response, Dy. Regional Head, Regional office, Bank of Baroda, vide letter dated 28.06.2022, has submitted that the complainant has joined the bank's service on 01.11.2013 as Business Associate in Clerical Cadre. Considering his Physical disability, he was posted at their Manmad branch nearest to his residence i.e. 6 KMs from his residence and worked at Manmad branch till 20.09.2017 i.e. approximately 4 years. While working at Manmad branch, some suspicious transactions have taken place in various inoperative pension accounts. Since, the complainant was one of the suspects in the fraud case, immediately upon detection of fraud, he was transferred to present branch i.e. Nandgaon and subsequently he was also imposed the punishment of "**Reduction in 2 stages for a period of 01 year with cumulative effects**". The contention of the complainant that his request for transfer is ignored by the Bank Management is not true as we understand the difficulties being faced by the complainant and have also taken cognizance of his request.

5. The respondent further submitted that the complainant has requested for transfer to Takali (Lasalgaon) and Patoda branches. At Takali branch two clerical staff are already posted of which one is lady clerk. As regards to posting at Patoda branch, 01 clerk and 01 head cashier are already posted at Patoda branch and none of them have requested to be transferred. However, despite of all constraints, they shall find some avenues to accede to his request at the earliest.

6. The complainant has submitted the rejoinder reply vide email dated 23.08.2022 and stated that he is not satisfied with the comments submitted by the respondent.

7. **Hearing:** The case heard via Video Conferencing by Commissioner for Persons with Disabilities on 30.08.2022. The following were present:

- | | | |
|-----|--|----------------------|
| i) | Shri Raghunath Madhav Shinde | : Complainant |
| ii) | Shri Vikas Kumar, Regional Head, Nashik Region
& Shri Mohit Labhe, Manager (HR) | : Respondent |

Observations /Recommendations:

8. Complainant submits that he is 75% disabled and presently posted in Nandgaon Branch, Nasik, Maharashtra on the post of clerk. Grievance of the complainant is that the branch office is situated on second floor. There is no lift facility because of which he faces difficulty in reaching second floor. Complainant further submits that the branch is situated 40 K.Ms. away from his native village. He lives all alone in Nandgaon as family members do not reside with him. He claims that he has requested for transfer to another branch but no action has been taken. Complainant has prayed before this Court to post him either in Takli branch or Patoda branch because both these branches are situated on the ground floor and they are nearer to his native village.

9. Respondent submits that the complainant joined in 2013. Initially he was posted at Manmad branch which is situated only at the distance of 6 km from his native village. In 2017 he was transferred to his present branch because he was found involved in fraud case. In the same case, charges were proved against him and punishment of deduction of 2 stages was imposed upon him.

उपमा शीवार त व

10. Both the branches, i.e. Takli & Patoda, where the complainant has requested to be transferred, do not have any vacancies. Respondent has assured that it will find some other avenues where the complainant can be transferred.

11. The present complaint is very unfortunate one. Acts of both the complainant as well as the respondent are very surprising for the Court. Despite of knowing the nature of disability of the complainant and the mobility challenges which the complainant faces because of its disability, no officer of the respondent establishment applied its own mind and never transferred the complainant to such branch which is situated on the ground floor or which has lift facility. It is also surprising that the complainant is posted on this location since 2017, however, he never approached this Court on previous occasion for transfer to such branch which is situated on the ground floor or which might be accessibility to him easily.

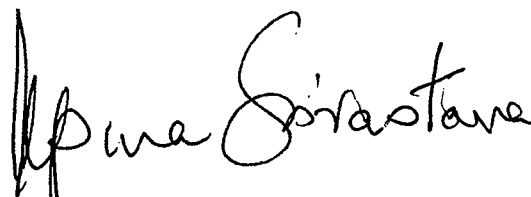
12. Section 20 of RPwD Act inflicts positive duty on all the government establishments to provide appropriate barrier free and conducive environment to Divyang employees. The most basic element of conducive environment is ease of access of the office. For a person with locomotor disability whose both legs are completely amputated, it is not possible to climb multiple stairs and reach office which is situated on second floor, without assistance of any other person. For such person it has both cause of discomfort and demeaning. By posting the complainant to such office, respondent establishment showcased its own failure to provide barrier free environment and also exhibited disdain attitude towards needs and rights of Divyang employees.

13. During online hearing respondent assured to this Court that all the necessary actions will be taken by the respondent to post him to any such branch which is situated on the ground floor and which is situated near to his home town.

14. This Court recommends that the respondent shall fulfill its promise to transfer the complainant branch near to home town and which is situated on the ground floor within 7 days of receiving the copy of this recommendation order.

15. **Respondent shall also file the Compliance Report of this Recommendation Order within 3 months from the date of this Recommendation failing which, this Court shall presume that the Respondent has not implemented this Recommendation and the matter shall be reported to the Parliament.**

16. The case is disposed off.



(Upma Srivastava)
Commissioner for Persons with Disabilities

Dated: 20.09.2022



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13277/1022/2022

Complainant

Shri Shailendra Singh
Assistant Controller of Patents Designs
Boudhik Sampada Bhavan
Plot No. 32, Sector-14 Dwarka,
New Delhi-110078
Email: shailsingh.ipo@nic.in

Versus

Respondent

1. The Controller General of Patents & Designs
Patents/Designs/Trademark
Geographical Indications (CGPDTM),
Boudhik Sampada Bhawan
Antop Hill, S.M. Road, Mumbai-400037
Email: delhi-patent@nic.in, piyush.ipo@nic.in
Contact No: 011-25300208
2. The Secretary
Department of Promotion of Industry &
Internal Trade (DPIIT)
Ministry of Commerce and Industry, Govt. of India
Udyog Bhawan, New Delhi-110117
Email: secy-ipp@nic.in

GIST OF COMPLAINT

The complainant, a caregiver to his mother aged 92 years, who is a person with low vision (50%) has filed a complaint dated nil received in this Court on 27.05.2022 regarding cancellation of his transfer order from Delhi to Chennai.

2. The complainant is working with the Indian Patents Office, Delhi, under Office of the Controller General of Patents, Designs and Trade Marks, Department of Promotion of Industries and Internal Trade (DPIIT), Ministry of Commerce and Industry, Govt. of India as an Assistant Controller of Patents and Designs. The complainant further submitted that he has been transferred from Patent Office Delhi to Chennai vide office order no. CGPDTM-11018(11)/1/2021-CGOFFICE/80 dated 20.05.2022. He has referred to the D/o P&T's O.M. dated 06.06.2014 and 08.10.2018 as per which a Government employee who is care giver of dependent son/daughter/parents/spouse/brother/sister with specified disability as certified by certifying authority as a person with benchmark disability as defined by Section 2(r) Rights of Person with Disability Act, 2016 may be exempted from the routine exercise of transfer/rotational transfer. He also submitted that some officers and employees are working at the same place of posting for more than 20 years and some officers have not been. The complainant has requested this Court to give direction to the respondent to reconsider their order regarding his transfer.

3. The matter was taken up with the Respondent vide letter dated 03.06.2022 under Section 75 of the RPwD Act, 2016.

4. In response, Assistant Controller of Patents and Designs, GPM Incharge, Patent Office has filed a *reply on behalf of the respondent* No. 1 vide letter dated 01.07.2022. In the reply the respondent has submitted that the complainant is seeking exemption from transfer on the ground that the complainant is care-giver of his disable mother aged 92 years. He further submitted that the complainant is himself not a disabled employee. O/o CGPDTM makes an attempt to consider and accede to the requests of its human resources on compassionate grounds. The complainant after his recruitment in 2011 was posted at Patent Office, Kolkata. The Complainant's request for transfer to Delhi on family/personal grounds was considered sympathetically and vide office order bearing no. CG/F/1/9/2016/82 dated 10.02.2016, the complainant was transferred to Delhi Patent Office. The respondent further submitted that the officers working in the Patent Office are liable to serve in any part of India. The complainant has been transferred to Chennai on administrative ground vide office order no. CGPDTM-11018(11)/1/2021-CGOFFICE/80 dated 20.05.2022 for improving the efficiency and capacity building of patent office. Thus, the complainants request for exemption from transfer may not be considered.

5. The copy of the reply was forwarded to the complainant for filing the comments/rejoinder but he has not filed the rejoinder.

6. **Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 30.08.2022. The following were present:

- i) Shri Shailendra Singh: **Complainant**
- ii) Shri Piyush, Assistant Controller, Controller General of Patents, Designs, Trademark & Geographic Indications: **Respondent**

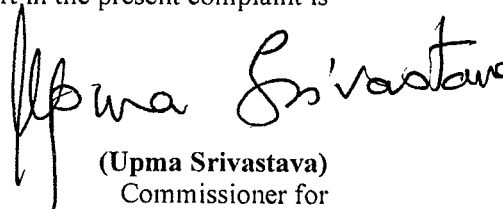
Observations /Recommendations:

7. Complainant submits that he is employed in respondent establishment. His 92 years old mother is visually impaired (50%). Complainant submits that he is the sole care giver of his mother. Earlier he was posted in Delhi. By order dated 20.05.2022 he was transferred to Chennai. Complainant wants to be retained in Delhi because he submits that it will be very difficult for his mother to travel to his home town from Chennai.

8. Respondent submits that the complainant is not disabled employee. He has filed his complaint on the ground of his mother's disability. Complainant was appointed in 2011 and was posted in Kolkata. In 2016 he was transferred to Delhi on his own request on personal grounds. Complainant was transferred by order dated 20.05.2022, whereas, disability certificate of his mother is dated 23.05.2022 which raises questions on the genuineness of his claims.

9. Complainant has requested this court to exempt him from transfer to Chennai. The only reason given by the complainant is that it will be difficult for her 92 years old Divyang mother to travel from Chennai to her home town situated in Himachal Pradesh. Complainant was posted at same location in Delhi for 7 years. This Court is inclined to note that 7 years of period was long enough for the complainant to be posted at same location. Further, this Court does not find any merit in the reason given by the complainant for exempting him from transfer to Chennai from Delhi. Intervention of this Court in the present complaint is not warranted.

10. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 20.09.2022



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No: 13211/1023/2022

Complainant: Shri Lalit Verma
Email: <lalitverma90@gmail.com>

Respondent: The Managing Director
Punjab & Sind Bank
Bank House, 21, Rajendra Place
New Delhi – 110008
Email: <Nishant.Deo@psb.co.in>

Complainant: 100% visual impairment

GIST of the Complaint:

Complainant Shri Lalit Verma, Officer, Bahadurgarh Branch vide complaint dated **12.04.2022** inter-alia submitted that he has been harassed, humiliated and discriminated by the Bank Management by providing less marks in APAR so that his ineligibility in the ongoing promotion process 2022-23.

2. The matter was taken up with the Respondent vide letter dated **27.04.2022** under Section 75 of the RPwD Act, 2016.

3. Dy. General Manager (HRD), Punjab & Sind Bank vide letter dated **26.05.2022** submitted that APAR of concerned official has been processed as per Bank norms wherein officer was given opportunity to submit representation regarding APAR marks which were disclosed to officer after submission of Reporting and Reviewing Authority. Said official did not file representation after disclosure of marks after review by competent authority and no correspondence was received from the above named for review of his APAR marks.

4. Complainant vide rejoinder dated **24.06.2022** submitted that Reviewing Authority had increased his marks from 17 to 75, due to which he became eligible for promotion process, as per Bank promotion policy and made him eligible for the promotion where there was no need to file the appeal against Reviewing Authority because minimum 75% marks is required for promotion, but Accepting Authority, Zonal Manager, Shri Harjinder Singh had deliberately reduced his marks from 75 to 60, stating the customer complaint and made him ineligible for promotion process 2022-2023 and subsequent promotion processes.

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5. After considering the respondent's reply dated **26.05.2022** & complainant's rejoinder dated **24.06.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **21.07.2022**.

6. During online hearing on 21.07.2022, the complainant had informed that as per the APAR guidelines an employee had to fill APAR for the period 2020-21 by 31.03.2021. As per the bank circular employees are allowed to file an appeal against the reviewing authority and once the marks accepted by the accepting authority, no window for appeal is available to employee. As per him, his reporting authority Ms. Kimpi Singh Branch In charge had given him only 17 marks out of 90 marks for the financial year 2020-21. The reason given by the Branch Manager was that there are customer complaints. As per him the Divyangjan employees were put off work from home from 01.04.2020 to 28.02.2021 due to Covid Pandemic as per the instructions of government/Bank issued from time to time.

7. The representative of the respondent submitted that the APAR of the concerned official was processed as per Bank norms where in officer was given opportunity to submit representation regarding APAR marks which were disclosed to him after submission of Reporting and Receiving Authority. The complainant has not filed the representation regarding review of APAR marks.

8. In response to respondent's statement the complainant had submitted that his marks in the APAR were increased by the then reviewing authority from 17 to 75, due to which he became eligible for promotion process as per bank promotion policy. He further, submitted that there was no need to file appeal against the reviewing authority as the marks have been increased by the reviewing authority to 75% required for promotion. But the accepting authority that is Zonal Manager Shri Harjinder Singh had deliberately reduced the marks from 75-60 stating the same customer complaints and made him ineligible for promotion process for the year 2022-23 and subsequent processes. He also informed the court that after acceptance of APAR marks by the accepting authority, no officer will be allowed to represent against his/her APAR marks.

9. This court after hearing the matter directed the bank to submit the copies of APAR's accepted by Shri Harjinder Singh, Zonal Manager in capacity of accepting authority during the last 5 years. Specifically those copies of APAR's which he had accepted, the APAR's of SC/ST/OBC/Pwd by 23.08.2022. The respondent bank's attention is also drawn towards Department of Financial Services letter number 3/31/2014 – welfare dated 18.11.2014 vide which the guidelines for providing the certain facilities in respect of persons with disabilities who are already employed in government for efficient performance of their duties were forwarded to all the CMDs to PSBs. The case is rescheduled for hearing on **30.08.2022**.



Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **30.08.2022**. The following were present in the hearing:

- Shri Lalit Verma – complainant
- Shri Kanwar Pal, DGM (HRD) on behalf of respondent

Observation/Recommendations:

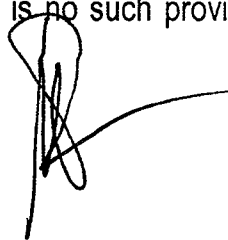
10. Complainant submits that he is an employee in respondent establishment since 2014. He submits that he filed complaint against some employees of the respondent bank. He claims that while his complaint was pending, adverse remarks were made by the respondent in his Annual Performance Report for the year 2020-21. He submits that he was given only 17 marks out of 90. Reason given for giving less marks was that some customers made complaint against him. Complainant submits that the reason given by the respondent is false because during 2020-21 Covid pandemic was going on due to which divyang employees were exempted from attending office and accordingly he did not attend office. He claims that if he did not attend office how could customers make complaints against him and if there exists any complaint, respondent can produce the same before court.

11. Complainant further submits that when he filed appeal against downgrading of APAR his marks were increased but later on Accepting Authority, Harjinder Singh, Zonal Manager again reduced his marks to 50 out of 90. Consequences of awarding less marks is that he has become ineligible for applying for promotion.

12. Respondent submits that marks were given to him in APAR as per the norms of establishment. Complainant had an opportunity to file representation after disclosure of marks, however no correspondences were received from him.

13. During online hearing complainant pointed out the main grievance. The complainant explained to this court the chain of awarding marks in APAR. As per the procedure employee has to fill and submit his 'Self Appraisal Report' which is then submitted to the Reporting Authority for giving marks. Thereafter, the APAR is given to Reviewing Authority and then it is submitted to Zonal Manager which is 'Accepting Authority'. Both the Reviewing Authority and Accepting Authority have power to increase or decrease the marks given by the Reporting Authority. In complainant's case Reporting Authority awarded 17 marks which were increased to 70 by the Reviewing Authority and then the marks were decreased to 60 by the Accepting Authority. Main grievance of the complainant is that there is no mechanism to file appeal against the marks awarded by the excepting authority.

14. Respondent submitted that permission to file appeal against Accepting Authority was not granted because there is no such provision in the concerned rules of the respondent establishment.



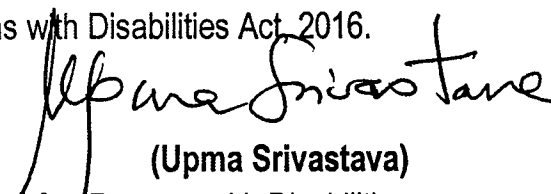
15. This court cannot assume the role of Reviewing Authority or Accepting Authority. However, this court is duty bound to look into the issues of discrimination with divyang employees. The very fact that there is no provision even for divyang employees to file an appeal against the decision of financial authority is act of discrimination with the divyang employees. This loophole can be used arbitrarily and can become a tool to harass divyang employees of the establishment.

16. During online hearing respondent suggested that though there is no provision to file appeal, however, a committee can be constituted to look into the issues raised by the complainant. The most important issue raised by the complainant is that 'Accepting Authority' downgraded marks awarded to the complainant in APAR on the basis of some complaints filed by the customers, whereas complainant alleges that the complainant was not even coming to the office because of covid exemption during the period which is mentioned in the alleged complaints.

17. This court recommends that as suggested by the Respondent itself, the Respondent shall constitute a committee comprising of 2 officers other than the officers who acted as Reporting Authority and Reviewing Authority or Accepting Authority in the complainant's case. This committee shall investigate into the issues raised by the complainant. On the basis of findings of this committee the respondent shall take appropriate action and shall award marks accordingly.

18. Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

19. Case is disposed off.


(Upma Srivastava)
Commissioner for Persons with Disabilities

Dated: 26.09.2022