



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: 13264/1021/2022

Complainant: Ms. Shaila Kalekar
Email: <vgkalekar@gmail.com>

Respondent: The Managing Director & CEO
Punjab National Bank
Sector – 10, Dwarka, New Delhi

Complainant: 40% locomotor disability

GIST of the Complaint:

Complainant Ms. Shaila Kalekar, Special Assistant, working in Punjab National Bank, Margao, Goa vide complaint dated 27.04.2022 has submitted that she had joined United Bank of India on 03.04.1989 as a Head Cashier under OPH Category. Recently the said Bank has been merged with the Punjab National Bank and she was transferred to its one of the branch at Margao Goa in November 2021. She is going to retire in the month of February, 2023.

2. She further submitted that on 16.03.2022, she was appeared for promotion to the Cadre of Officer in JMG Scale-I and She has to attend the circle office of PNB at Kalhapur. Though, it was all of sudden but she managed to attend the said interview. Before the interview, she was asked by the Coordinator of the interview as to what happened to her hand and whether she will be OK if she will be promoted and transferred to another place. In response, she told them that she was appointed under the Physically Handicap Category, and she is interested in promotion only if she is promoted and retained in the same office as she has only 11 months for retirement. On declaration of promotion results she was surprised that she was approved for promotion as an officer in Jr. Management Grade Scale-I and allocated Mumbai Western Circle for further posting by Bank vide letter dated 17.03.2022.

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3. She also submitted that considering her physical and practical difficulties in travelling and other related issues she declined to accept the approval of promotion. She has requested the Management to retain her in the same office, the Management did not consider her request and was given the deadline either to accept the promotion or decline. Finally, she gave her refusal to accept the offer on 19.03.2022.

4. She has requested for justice by giving instruction to the Punjab National Bank for reconsideration of her promotion and to retain her at the same office till her superannuation.

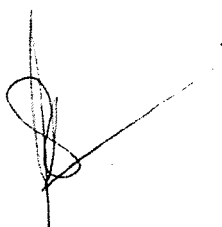
5. The matter was taken up with the Respondent vide letter dated **31.05.2022** under Section 75 of the RPwD Act, 2016 but despite reminder dated **01.07.222**, no response has been received from the respondent, therefore, hearing scheduled on **15.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **15.09.2022**. The following were present in the hearing:

- Ms. Shaila Kalekar – complainant
- Sri Mukesh Kumar Sinha, DGM, Head Office on behalf of respondent

Observation/Recommendations:

6. Complainant submits that she is employed as Special Assistant in the Respondent bank. Currently she is posted in Margaon, Goa since November 2021. Complainant alleges that she got opportunity to appear in promotion-interview, which she successfully qualified. She was promoted to the post of Junior Management Grade Scale-I and thereafter by order dated 17.03.2022 she was transferred to Mumbai. She requested the respondent establishment to post her in Goa and cancel her transfer to Mumbai by maintaining her promotion. However, respondent establishment gave her option to decline the promotion or join in Mumbai. Complainant submits that she finds it difficult to commute through public transport because she cannot balance herself because of disability. In Goa she lives with her family members who help her in commutation to and from her office. In Mumbai she does not have any family member, therefore, cannot travel on her own. Hence, she had to refuse her promotion.

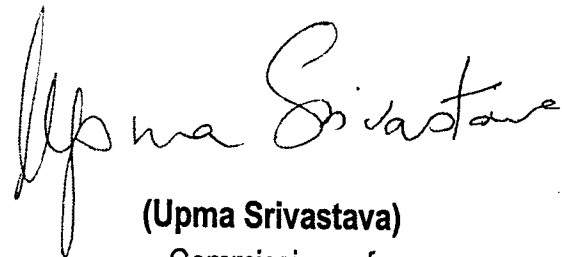


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7. During online hearing respondent submitted that in Goa office there was no vacancy of Junior Management Grade Scale-I post. Therefore, the complainant was transferred to Mumbai. Complainant requested in writing to this court that her grievance has now been resolved and expressed her unwillingness to pursue the complaint any further. Since, the complainant is not willing to pursue her complaint therefore this court is not inclined to proceed further with this complaint.

8. The case is disposed off.



(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 04.10.2022



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

भारत सरकार / Government of India

Case No: 13281/1023/2022

Complainant: Shri Sudhir Kumar Dixit
F-301, Dream Garden Flats
Sayajipura Village, Vadodara - 390019
Email: <sudhir.ambuj56@gmail.com>

R-34939

Respondent: The Chief General Manager
Bank of Baroda, Baroda Bhawan
7th Floor, R.C. Dutt Road, Vadodara - 390007
Email: <cgm@bankofbaroda.co.in> <rmbcr2@bankofbaroda.co.in>

R-34940

Complainant: 40% visual impairment

GIST of the Complaint:

Complainant Shri Sudhir Kumar Dixit vide complaint dated **28.05.2022** has submitted that he was retired from the Indian Air Force with permanent disability of 40 % on 31-01-2010 after serving the- motherland for 20 glorious years and he joined Dena Bank (now Bank of Baroda) on 13-09-2012 as re-employment. He further submitted that he joined the services of Bank of Baroda on 01-04-2019 as S.W.O 'B' in Bank of Baroda and presently he is posted at Branch Office Dabhoi in Vadodara Gujarat. Following inter-alia facts has been submitted by him:

- (i) That he was posted at Santrampur which is 165 kms away from his place of residence i.e., Sayajipura Village Ajwa Road Vadodara.
- (ii) That under these circumstances, he submitted an application seeking request transfer to Baroda city. But the authorities posted him at Dabhoi 35 kms away from my place of residence stating that request will be considered whenever vacancy exists in the city.
- (iii) That during COVID-19 first lockdown period (24-03-2020) he had applied for leave from 04-04-2020 to 20-04-2020 as per guidelines of the Ministry of home Affairs and health Ministry. The authorities indulged into discrimination in pursuance of policy of favoritism and partiality regardless of any merit and disregarded instructions of the Government by imposing penalty of salary deduction and consequent loss of seniority by treating him unauthorised absent for the period.

2. He has requested to instruct the management to (i) regularise his unauthorised absence by sanctioning special leave for the absence during COVID in accordance with Government of India instructions and (ii) follow the guidelines with regard to posting of physically disabled persons by posting him in a branch near to his residence.

3. The matter was taken up with the Respondent vide letter dated **06.06.2022** under Section 75 of the RPwD Act, 2016 but despite reminders dated **23.06.2022** and **08.07.2022**, no response has been received from the respondent. It was decided to hold a personal hearing in the matter and hence, the case was listed for personal hearing on **15.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **15.09.2022**. The following were present in the hearing:

- Shri Sudhir Kumar Dixit - complainant
- Ms. Vandana Gupta, Sr. Manager on behalf of respondent

Observation/Recommendations:

4. Complainant submits that he joined Dena Bank on 13.09.2012. Thereafter, Dena Bank was merged with Bank of Baroda in 2019 and hence he became employee of Bank of Baroda. Presently he is posted at Dabhoi branch in Vadodara district, Gujarat. He submits that on previous occasions he has requested the respondent to transfer him in his native place i.e. Sayazi Pura village, Vadodara Gujarat, however, his request was never excepted. He submits that during covid-19 lockdown period he applied for leave from 04.04.2020 till 20.04.2020. Thereafter, in May 2021 he was found corona positive and could recover only by 11.06.2021.

5. His grievance is that the respondent sanctioned only 14 days leave during this period and for rest of 16 days he was marked on unauthorised absence. Thereafter, from 28.07.2021 till 28.08.2021 he was suffering from liver infection and post covid symptoms. For this period also he was marked on unauthorised absence. Thereafter, on 17.09.2021 he was transferred to Sinor which is 55 km service from his native place. However, because of intervention of labour commissioner his transfer to Sinor was cancelled and he was transferred to Dabhoi. He submits that there were sufficient leave in his leave account, despite of which the respondent marked him on unauthorised leave with loss of pay

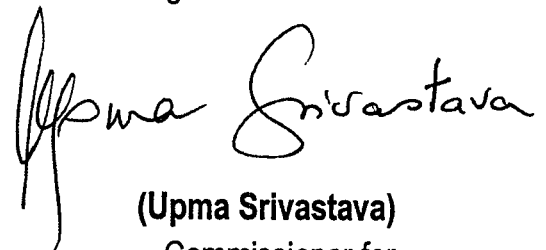
6. The two issues raised by the complainant in the present complaint are related to transfer and marking him on unauthorised absence. On the issue of transfer the respondent during online hearing expressed his willingness to transfer the complainant to branch



located in Badodra city which is also closest to the complainant's residence. Respondent submitted that to transfer the Complainant, relevant documents which are needed, such as, disability certificate and service book which, are not available in record. Respondent submitted that if the complainant will submit these two documents his transfer request can be considered. On this issue this court recommends that the complainant and respondent shall meet personally and the complainant shall submit the required documents so that his grievance can be resolved.

7. On the issue of marking the complainant on unauthorised absence, this court asked the respondent during online hearing whether leave in the complainant's account were available. Respondent informed that the leaves were available, however the complainant habitually absconds himself from work hence he was marked on 'unauthorised absence'. This court sees no point in marking the complainant on unauthorised absence when the leaves were available in his account. This court recommends that the respondent shall adjust the number of days on which the complainant remained absent against the leaves available in his account.

8. The case is disposed off.



(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 13.10.2022



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

भारत सरकार / Government of India

Case No: 13265/1023/2022

Complainant: Shri Saurabh Toshiyas
Email: <toshiyassaurabh@gmail.com>

Respondent: The Divisional Railway Manager
East Central Railway
Mughalsarai Division, Mughalsarai – 232101
Email: <drmmgs@ecr.railnet.gov.in>

Complainant: 50% Multiple disability

GIST of the Complaint:

The Complainant vide email dated **23.05.2022** has forwarded the complaint of Shri Ashok Kumar, a person with 50% multiple disability regarding family pension.

2. In his complaint Shri Ashok Kumar has submitted that his father was retired as Peon from East Central Railway PWI TD Gaya on 31.08.1985 and expired on 03.02.2011. His mother was expired prior to his father death. He was dependent on his parents for his livelihood. He is facing financial hardship. He had applied for family pension and visited the office for many years but has not received any help.

3. The matter was taken up with the Respondent vide letter dated **01.06.2022** under Section 75 of the RPwD Act, 2016 but despite reminder dated **05.07.2022**, no response has been received from the respondent, therefore, hearing scheduled on **13.09.2022**, which was re-scheduled to **14.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **14.09.2022**. The following were present in the hearing:

- Saurabh Tohiyas on behalf of Ashok Kumar – complainant
- Sri Rajiv Ranjan, Eastern Railways on behalf of respondent

Observation/Recommendations:

4. Complaint is related to non-payment of family pension to Divyangjan namely Ashok Kumar. It is filed on behalf of Ashok Kumar by Saurabh Toshiyas. Respondent submits that beneficiary's father was posted as peon and superannuated from service on 31.06.1985 and died on 03.02.2011. Thereafter, his mother also died on 13.02.2019. Respondent further submits that at the time of superannuation of his father, the beneficiary was minor

and was dependent upon him. At the time of superannuation, beneficiary's father submitted the request-form for family declaration and endorsed name of himself and his wife only. Father of the beneficiary never submitted an application to include the name of the beneficiary in his documents. Beneficiary never submitted any document to prove his disability on the date of his father's superannuation. His disability certificate is dated 19.10.2021 which signifies that he was not suffering from any disability as on the date of his father superannuation. Furthermore, as per Railway Service Pension Rule 1993, family pension is issued in favour of divyang dependent only if he acquires disability during the service of the employee.

5. During online hearing, the respondent was asked why the complainant's name was not included in Pension Payment Order. Respondent informed that the case of the complainant was examined and requisite documents were also examined. Thereafter, it was decided that since there was no proof submitted by the complainant to establish that he was disabled when his father was in service of the respondent establishment hence, he was not issued family pension. Complainant refuted the claims and submitted that in 1985 his father submitted a letter in respondent establishment in which fact of complainant's disability was also disclosed.

6. Contention raised by the Respondent that he was not disabled as on the date of superannuation of his father needs to be addressed. O.M. No 1/2/09-P&PW(E), dated 30.12.2009 established the basic rule that non intimation of details of divyang child by the employee/pensioner or her/his spouse does not make such child ineligible for family pension. Further O.M. No. 1/18/2001-P&PW(E) dated 25.01.2016 laid down that even if divyang child obtains disability certificate after death of employee/pensioner or her/his spouse, benefits of family pension can be extended to the child on the basis of such certificate if a) the authority is satisfied that the child is unable to earn his livelihood and b) the child was suffering from the disability on the date of death of employee/pensioner or her/his spouse. The same O.M. reiterates the rule position established in O.M. 1/18/01-P&PW(E), dated 30.09.2014 that in case the child produces disability certificate of permanent disability, issued prior to the death of employee/pensioner or her/his spouse then the child need not to obtain disability certificate afresh. Hence, litmus test in such situation is that whether or not the child was suffering from disability on the date of death of the employee/pensioner or her/his spouse.

7. Hence, this court recommends that the complainant will meet Shri Rajeev Ranjan, respondent representative present during online hearing and submit the document which was given by the complainant's father in 1985. Further this court recommends that the respondent shall examine the case as per OM's mentioned above.

8. The case is disposed off.

Dated: 13.10.2022




(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: 13252/1023/2022

Complainant: Shri Durga Prasad Jaroliya
318 Wright Town Near Dr. Aseem
Bajpayee Hospital, Jabalpur, M.P. - 482002
Email: <aviral27@nluassam.ac.in>
Mob: 9509956180

Respondent: Gun Carriage Factory
Through the General Manager
Jabalpur - 482011
Email: <gcf@ord.gov.in>

Affected person: Shri Akhlesh Jaroliya, a person with 40% Mentally Retarded

GIST of the Complaint:

Complainant Shri Durga Prasad Jaroliya vide complaint dated **12.05.2022** has submitted that his father Late Shri Sheo Prasad Jaroliya was working as chargeman II in Gun Carriage Factory, Jabalpur. He retired in the year 1978 and from that time only he had made several applications to GCF, Jabalpur for inclusion of his mentally retarded child i.e Shri Akhlesh Jaroliya in the Pension Passing order and provided all the relevant documents to pension cell GCF, Jabalpur for his family pension but no action has been taken yet.

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

3. General Manager Sectt., Gun Carriage Factory, Jabalpur vide letter dated **23.06.2022** has inter-alia submitted that the case of the complainant for grant of family pension is in active consideration in their office since 28.03.2022 from Shri Durga Prasad Jaroliya for grant of family pension to his mentally retarded younger brother Shri Akhlesh Jaroliya, sincere efforts are being made to retrieve the pension case file of his father Shri Sheo Prasad Jaroliya, ex-employee of GCF. However, since the employee-employer relationship between Late Shri Sheo Prasad Jaroliya and GM/GCF was terminated in the year 1978 and the case has become very old, as such the pension case file of Shri Sheo Prasad Jaroliya is not traceable. Therefore, non-applicant is facing hung practical problem in processing the claim of the applicant. However, sincere efforts is being made to obtain all

the requisite documents from different sources including Pension Sanction Authority i.e. PCDA (P), Prayagraj for processing the claim of the applicant. He further submitted that after careful examination of all available documents related to the case, it is found that the applicant is required to submit few more documents for processing the case for grant of family pension and as soon as requisite documents will be provided by the applicant to respondent, the case for grant of family pension will be initiated.

5. The Complainant vide rejoinder dated 12.07.2022 has submitted that GCF, Pension Cell has agreed to send the family pension case of Shri Akhlesh Jaroliya to Principal Controller of Defence Account(Pensions), Draupati Ghat Prayagraj as the Principal Controller of Defence Account (pensions) is the pension sanctioning authority. Petitioner has time and again through post/through Pension grievance cell/ Controller General of Defence Account, Delhi Cant has tried to establish contact but no reply has been received from the office of Principal Controller of Defence Account (pension) Prayagraj. He has requested to coordinate with Principal Controller of defence account(pension) Prayagraj to start the family pension of Shri Akhlesh Jarolia.

6. After considering the respondent's reply dated **23.06.2022** and the complainant's rejoinder dated **12.07.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **09.09.2022**.

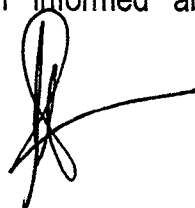
Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **09.09.2022**. The following were present in the hearing:

- Shri Durga Prasad Jaroliya and Advcate Shri Tathagat Sharma for complainant
- Shri Rajender Kumar Satle, Assistant Work Manager (Admn.) on behalf of respondent

Observation/Recommendations:

7. Complaint is filed on behalf of Divyangjan with Intellectual Disability. Complainant and beneficiary are brothers. Complainant submits that his father was employee in the Respondent establishment. He retired in 1978. He further submits that his father applied number of times for including name of Complainant's brother in Pension Payment Order. However, Respondent establishment failed to do the same. Moreover the Respondent has not replied to the applications sent by the Complainant requesting to add name of the Complainant in Pension Payment Order.

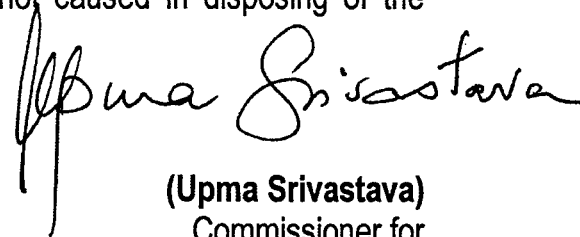
8. Respondent in its written reply submits that the employment records of the Complainant's father are not traceable because he retired in 1978. Complainant's application was received on 28.03.2022 and is under consideration. No previous formal request was received. Respondent further submits that some more documents are needed to process the Complainant's case. Complainant has been informed about these documents.



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9. During online hearing complainant alleged that his application is pending since long time and the respondent is not taking action on it. Respondent countered the claim and submitted that the complainant's application was received on 28.03.2022. Thereafter, it was processed and documents were sought from the complainant. After receiving the documents his application was forwarded to PCTA, Allahabad on 18.08.2022. His documents were received in July 2022. Respondent submitted that further action can only be taken after receiving reply from PCTA Allahabad. This court cannot agree with the complainant's claim that no action has been taken by the respondent on his application. Complainant has not made any case of discrimination on the ground of disability. However, taking the sympathetic view this Court recommends that the Respondent shall pursue the matter with PCTA Allahabad so that inordinate delay is not caused in disposing of the Complainant's application.

10. The case is disposed off.



(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 13.10.2022



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

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

भारत सरकार / Government of India

Case No: 13280/1023/2022

Complainant: Ms. Payal Pal

E-mail: <payalpal2005@gmail.com>

—R34946

Respondent: The Managing Director

LIC India, Jeevan Prakash Building

25 KG Marg, Atul Grove Road

Janpath, Cannaught Place, New Delhi

E-mail: <lhp.delhi-do1@licindia.com>

—R34945

Complainant: 100% visual impairment

GIST of the Complaint:

The complainant Ms. Payal Pal, Assistant vide complaint dated 31.05.2022 has submitted that she has been working in LIC India, Janpath, New Delhi for more than two years and she is being mentally harassed at workplace since the date of joining by the senior authorities on the ground of her disability and the harassment and the discrimination are still continuing.

2. She further submitted that her salary has been deducted for the month of July, August and November 2020, in spite of having an exemption period during lockdown. Her air Year has already been deducted for the same, when she asked about the written orders for the same, she has been insulted and has clearly denied by the stakeholders at the office on the ground of her blindness.

3. The branch administration kept ignoring her whenever she has tried to have any formal/written communication with them. She has been facing constant discrimination by her office for the leave cuts without her information, including forceful office attendances during lockdown and exemption periods and orders by DOPT, no increment till the date of her joining, non-cooperative approach for denying her the system with screen reader access to work at the work place. She has requested that reimburse must be given to her with the interest.

4. The matter was taken up with the Respondent vide letter dated 06.06.2022 under Section 75 of the RPwD Act, 2016

5. Manager (Legal), LIC of India vide e-mail dated **04.07.2022** inter-alia submitted that complaint of Ms. Payal Pal regarding mental harassment or discrimination caused by the senior authorities are wrong and incorrect, hence denied in toto. The complainant was never insulted/harassed on ground of her physical disability. He further submitted that during COVID, it was decided by Quick Response Team (QRT), which was constituted at CO/ZO/DO level and they were empowered to take appropriate steps as the situation demanded as per directives issued from Central/State Govt. as per Central Office Circular issued by LIC of India dated 19.03.2020. It was decided by the QRT vide order dated 30.06.2020 to open the office with 50% strength for class III and IV employees. As she was in class III hence she had to attend office as per roster and no absenteeism was allowed to the employees on the day of attendance as per roster. Therefore her absence from 01.07.2020 till 07.08.2020 (08.08.2020 and 09.08.2020 being second Saturday and Sunday) were treated as EOL and no salary was paid for those days in accordance of QRT decision dated 30.06.2020 and further orders. He further submitted that she was on leave from 05.11.2020 to 21.11.2020 i.e. for 17 days. As she was not having any leave balance hence the leaves were treated as EOL and the salary for the given period was deducted from the salary of 05/2022. With respect to the salary and increments, her Normal Grade Increment (NGI) due for 05/2021 was paid to her along with the salary of 05/2022 and with arrears, further her next NGI due for 06/2022 has been paid along with the salary of 6/2022.

6. The complainant vide e-mail dated **14.07.2022** has inter-alia submitted that her pending salary along with arrear and pending increments must be restored according to the OM of DoPT dated: 05-06-2020 F.No.11013/9/2014-EsttAIII, OM of DoPT dated: 14-09-2020 No.34-06/2020-DD-III, OM of DoPT dated: 07-10-2020: F.No.11013/9/2014-Estt.A.III, OM of DoPT dated 13-02-2021 F.No.11013/9/2014-Estt. Also, all her leaves shall be restored considering the exemption duration her salary including increment, arrear and reasonable accommodation must be restored with an immediate effect.

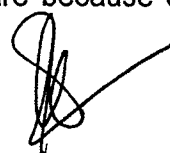
7. After considering the respondent's reply dated **04.07.2022** & complainant's rejoinder dated **14.07.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for personal hearing on **15.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **15.09.2022**. The following were present in the hearing:

- Ms. Payal Pal - complainant and Shri Ram Singh
- Adv. Rajiv Katiyayan along with Sri Biju George on behalf of respondent

Observation/Recommendations:

8. Complainant submits that she is an employee of respondent establishment. Respondent deducted her salary for the month of July, August and November 2020. She submits that her arrears were also deducted for the same period. She further, alleges that she has not been given any increment till date from the date of her joining. Moreover, respondent has also not provided her with screen reader software because of which she finds difficult to perform her job properly.

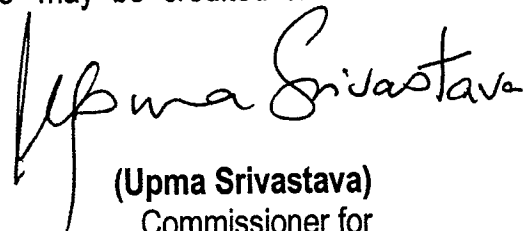


9. Respondent submits that the complainant did not attend office from 21.03.2020 till 07.08.2020 and joined office on 10.08.2020. Her absence from office from 23.03.2020 till 30.06.2020 was treated as 'work from home' and she was paid full salary for this period. Thereafter, covid 19 situation changed and it was decided that the employees of the establishment will attend office on alternate days. However, complainant remained absent from office therefore her absence from 01.07.2020 till 07.08.2020 was treated as 'Extra Ordinary Leave' which is leave without pay and hence her salary for this period was not paid. Thereafter, she remained absent from 05.11.2020. For this period her absence was treated as Extra Ordinary Leave without pay and therefore, she was not paid salary for this period as well. With respect to issue of screen reader software, the matter has been referred to higher office

10. The main issue is related to non payment of salary for complete month of July 2020, thereafter for 10 days of August 2020 and 17 days of November 2020. During online hearing complainant further submitted that during the month of July 2020 and August 2020. She was not present in the station where she was posted, i.e. Delhi NCR. Complainant herself admitted that during that period she was in Haridwar. Since, the complainant herself admitted that she was not residing in Delhi NCR during July and August therefore no question of giving work from home arises. Exemption from attending office physically cannot be equated with holidays. Any employee who claims 'work from home' facility has to make himself/herself available for work during office hours. If the employee was on leave and was not available for work from home then in such case work from home cannot be given to such employee hence benefits related to work from home can also not be claimed by such employee.

11. For the month of November 2020, the complainant remained absent and did not express her willingness to do work from home therefore, even for this period she cannot claim that she was working from home and therefore salary for this period must be given to her. However, taking sympathetic view this court recommends that the complainant's absence during November 2020 can be adjusted against leaves which will accrue in future and salary deducted for remaining on 'Extra Ordinary Leave' may be credited to the Complainant.

12. The case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 13.10.2022



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. 13282/1011/2022

Complainant:

Mr. Ramesh L,
R/o No.10/1, Bajanai Koil,
K.H. Road, ranavoor, Chennai-600057;
Email: lakshmananramesh977@gmail.com;
Phone: 9941465838

— R34950

Respondent:

Deputy Circle Head,
Punjab National Bank,
HRD Department, CO: Chennai South,
PNB Towers, 2nd Floor, No.46-49, Royapettah High Road,
Chennai-600014; Phone: 044-28120224
Email: cochnhrd@pnb.co.in

— R34951

Affected Person: The complainant, a person with 75% Locomotor Disability

1. Gist of Complaint:

1.1 The complainant filed a Complaint dated 07.05.2022 regarding denial of his appointment to the post of Peon by the Punjab National Bank on the ground of his studies in college.

1.2 The complainant had applied for the post of Peon at Punjab National Bank on 23.01.2022 after reading the Advertisement in Dinakaran Tamil Daily. The bank sent him a call letter dated 11.04.2022 and he participated in the document verification on 20.04.2022. He produced his Tenth Standard School Certificate, Twelfth Standard Certificate, Identity Card of Differently Abled Person, Medical Certificate and College Transfer Certificate in original with photocopies.

1.3 After verification of documents, provisional Appointment Letter dated 20.04.2022 was issued to him by the bank directing him to report on 28.04.2022 at 10:00 AM sharp at Punjab National Bank, CO: Chennai South for completion of joining formalities and further posting failing which the offer of appointment will be deemed to be cancelled.

1.4 The complainant alleged that after seeing the College Transfer Certificate, the respondent bank refused to give employment because he had studied in College.

2. Submissions made by the Respondent:

2.1 The respondent bank filed their reply dated 03.08.2022 and submitted that the complainant was the only eligible applicant to have applied for OH category. The respondent further submitted that for recruitment of Peon in subordinate cadre

(Contd.... Page-2)

applications were invited from eligible candidates fulfilling eligibility criteria as per the extant Bank guidelines, circulated vide HRMD Circular No.494/2020 dated 26.03.2020, which is as under:

“Min. and Max. pass in XIIth standard or its equivalent with basic reading/writing knowledge of English.”

2.2 Further, Shri Ramesh L had submitted a self-declaration dated 20.04.2022 during document verification stating that – “I have completed 3 years of study in B.A. (Economics), 1 Arrear in English (Graduation degree). However, he has 1 Arrear and has not completed his graduation.”

2.3 In order to support his claim that he had not completed graduation, he was advised to submit a letter from the “Controller of Examinations”, University of Madras stating that he had not completed graduation at that time. On 28.04.2022, he had reported at CO: Chennai south, but did not complete all the joining formalities. He vide letter dated 28.04.2022 had requested that he was not able to complete all the joining formalities and requested time till 11.05.2022 for submitting his disability certificate from authorized medical board, medical report, stamp paper to execute agreement of service and letter from the University for proof of non-completion of graduation.

2.4 In response to the aforesaid request received from Shri Ramesh L., the Bank vide office letter dated 29.04.2022, had advised Shri Ramesh L. for submission of supporting documents, i.e. letter from the "Controller of Examinations", University of Madras in support of his claim that he had not completed his graduation. He was permitted time as per his request. However, Shri Ramesh L. did not report after that. Since he did not report for completing the joining formalities on 12.05.2022, his candidature for selection as Peon was cancelled.

3. Submissions made in Rejoinder:

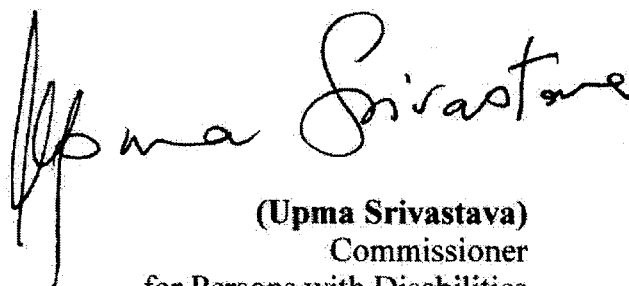
No rejoinder was received from the complainant.

4. Observations and Recommendations:

4.1 As per the respondent's reply, the complainant had reported to Bank on 28.04.2022, but did not complete all the joining facilities and sought time till 11.05.2022 for completing the joining formalities. As the complainant did not report for completing the joining formalities on 12.05.2022, his candidature for selection as Peon was cancelled. The reply filed by the respondent is satisfactory. However, taking a sympathetic view, this Court recommends that the Respondent shall grant one last opportunity to the Complainant to complete the joining formalities.

4.2 Accordingly the case is disposed off.

Dated: 13.10.2022



(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. 13288/1011/2022

Complainant:

Shri Karanti Goyal,
S/o Shri Hans Raj Goyal,
R/o RB 133, RBI Colony, Sector-06,
R.K. Puram, New Delhi-110022;
Email: karanti.goyal@gmail.com

1235176

Respondent:

Ministry of Environment Forests & Climate change,
Through: Secretary,
Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi-110003
Email: secy-moef@nic.in

1235177

Affected Person: The complainant, a person with 50% Visual Impairment (Low Vision)

1. Gist of Complaint:

1.1 The complainant filed a complaint dated 18.05.2022 and submitted that he had applied for the IFoS Examination, 2022 in Low-Vision category and its preliminary examination was scheduled on 05.06.2022 through Civil Services Examination (Preliminary). The complainant prayed to quash "Clause 2 of Appendix III" of Indian Forest Service Examination Rules, 2022; amendment of "Note appended to Rule 18" and "Clause 2 of Appendix III" of Indian Forest Service Examination Rules, 2022 in consonance with the proviso to Rule 18 and Rule 19 by removing the applicability of walking test on Low Vision candidates; and complete exemption to the complainant/applicant, being a Low Vision candidate, from the walking test as prescribed in "Note appended to Rule 18" and "Clause 2 of Appendix III", because the said Rule 18 and Rule 19 are discriminatory to be selected for the post of Indian Forest Service (IFoS).

2. Submissions made by the Respondent:

2.1 The respondent filed their reply dated 28.06.2022 and submitted that the complainant appeared in IFS Exam, 2014 but failed to complete the walking test in first chance held on 16.02.2015 and one more opportunity was given to him along with 6 other Non-PH candidates. However, he again failed in the walking test.

(Contd.... Page-2)

Hema Srivastava

2.2 Respondent further submitted that in the past years several Visually Impaired and other PH candidates had successfully completed their walking test and appointed in Indian Forest Service. Also, there were several non-PH candidates who failed the walking test.

2.3 The complainant had raised similar issue in O.A. No.1078/2015 before CAT, New Delhi and the same was dismissed as no merit was found. The complainant filed a Writ Petition No.4638 of 2021 before the Hon'ble High Court of Delhi against said judgment of Tribunal. The same is pending. Therefore, the instant matter is sub-judice.

3. Submissions made in Rejoinder:

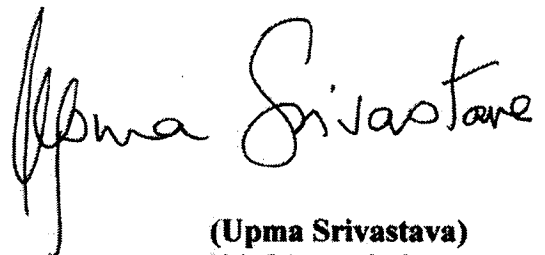
The complainant in his rejoinder dated 30.06.2022 has refuted the reply filed by the respondent. The O.A. No.1078/2015 filed before CAT, New Delhi and Writ Petition No.4638 of 2021 pending before the Hon'ble High Court of Delhi are related to different examination rules which have nothing to do with this complaint.

4. Observation/Recommendations:

4.1 Complainant has not disclosed any ground for exempting divyangjan with Low Vision from walking test. On the contrary, Respondent submits that in past many other divyangjan of Low Vision category successfully passed 'walking test'. Hence, this Court concludes that the Complainant has failed to disclose reason for scrapping 'walking test' for divyangjan with 'Low Vision' category. Intervention of this Court in the present Complaint is not warranted.

4.2 Accordingly, the case is disposed off.

Dated: 20.10.2022



(Upma Srivastava)
Chief 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. 13308/1132/2022

Complainant:

Shri M.M. Sekar,
 R/o 24, Nellikaran Street,
 Thiruvottriyur, Chennai-600009 (TN)

R35178

Respondents:

(1) Managing Director,
 National Housing Bank,
 Core-5-A, India Habitat Centre,
 Lodhi Road, New Delhi-110003
 Email: ho@nhb.org.in

R35179

(2) Chief Executive Officer,
 Edelweiss Housing Finance Limited,
 Tower 3, Wing B, Kohinoor City,
 Kohinoor City Kirod Road,
 Kurla(W) Mumbai 400070
 Email: homeservice@edelweissfin.com

R35780

Affected Person: Shri M.M. Sekar, a person with 60% Locomotor Disability

1. Gist of Complaint:

1.1 The complainant dated 16.11.2021 was forwarded by the State Commissioner for Persons with Disabilities, Govt. of Tamil Nadu. The complainant alleged that he was cheated by the Edelweiss Housing Finance Limited, Mumbai (EHFL Mumbai) in the matter of a Home Loan availed by the complainant from EHFL Mumbai.

1.2 The complainant submitted that EHFL Mumbai had sanctioned a loan (28.02.2018) of Rs.11,00,000/- at the interest of 9.5% whereas he was issued a cheque of Rs.10,64,557/- only. The complainant received a bank statement wherein it was mentioned that he had to pay Rs.17,009/- per month for a period of 144 months at an interest rate of 15.7%. Later on, he received another bank statement that he had to pay Rs.17,009/- for a time period of 145 months; he received a third bank statement in which he was asked to pay Rs.17,009/- for a time period of 179 months. The complainant prayed that necessary action be taken against EHFL Mumbai, so that he could get back his house property documents.

2. Submissions made by the Respondent:

The respondent filed their reply dated 05.08.2022 and inter-alia submitted that an amount of Rs.11,00,000/- was sanctioned to the complainant as loan against property. Out of the sanctioned loan an amount of Rs.35,443/- was deducted towards

(Contd.... Page-2)

purchase of Life Insurance which was opted by the complainant. The applicable rate of interest was Rs.15.7% per annum for 144 months and that the increase in tenure was due to moratorium facility opted by the complainant for a period March, 2020 to August, 2020 which resulted in the extension of the tenure to 179 months. As regards, adjustment of the entire EMI towards interest, the respondent clarified that as on 21.10.2021, a sum of Rs.4,81,361 was received against the loan account, out of which a sum of Rs.84,978/- was adjusted towards principal amount and Rs.3,96,383/- was adjusted against interest.

3. Submissions made in Rejoinder:

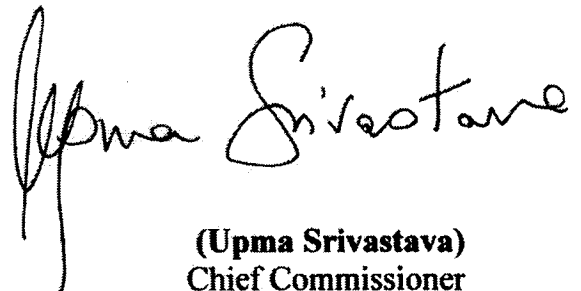
The complainant filed rejoinder dated 01.09.2022 and submitted that the bank had agreed on his request to charge rate of interest 9.5%.

4. Observations and Recommendations:

4.1 In the present Complaint the Complainant has failed to disclose any ground of discrimination on the basis of disability, therefore the present Complaint does not fall within the preview of this Court. Hence, the intervention of this Court in the present Complaint is not warranted.

4.2 The case is disposed off.

Dated: 20.10.2022



(Upma Srivastava)
Chief 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. 13339/1014/2022

Complainant:

Shri Guru Mehar,
S/o Shri Balwan Singh,
R/o House No.A-172,
1st Floor, Lavana Hospital,
Maidan Garhi Extension-110068,
Hauz Khas, South District Delhi;
Email: gurumeharkadian@gmail.com

1235181

Respondent:

Chairman,
State Bank of India,
State Bank Bhawan, Madame Cama Road,
Nariman Point, Mumbai-400021
Email: chairman@sbi.co.in; cmrc.lhodel@sbi.co.in;
agmphr.lhodel@sbi.co.in; cm.rc@sbi.co.in

1235182

Affected Person: The complainant, a person with 86% Hearing Impairment

1. Gist of Complaint:

The complainant filed a complaint dated 24.06.2022 regarding denial of joining as PO by State Bank of India by citing the reason that the Appendix-A in the "Guidelines for conducting written examination for Persons with Benchmark Disabilities" dated 29.08.2018, is not a "certificate" within meaning for Scribe purpose. He further submitted that he had cleared all the cut offs and was successfully recommended for joining by SBI's own panel doctor after long investigation. CCPD in its various judgements had instructed SBI to follow guidelines for Scribe in letter and spirit but still he has been denied joining.

2. Submissions made by the Respondent:

2.1 The respondent filed their reply dated 19.07.2022 and submitted that the complainant – Shri Guru Mehar – had applied for the post of Probationary Officer under (d) & (e) (Multiple Disabilities) category in response to SBI's Advertisement No.CRPD/PO/2021-22/18 dated 05.10.2021. The complainant availed the facility of scribe and additional time on the basis of his application and declaration supported by certificate regarding physical limitation in an examination to write, issued by Dr. Manish Sharma superintendent of

(Contd... Page-2)

Alpna Srivastava

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Department of Orthopaedic Surgery, Madan Mohan Malvya Hospital, Government of NCT of Delhi which is undated and bearing the reference number DL 0920419980006924. The reference number used in this certificate is the reference number of Disability certificate issued by Medical Authority, South Delhi, Govt. of NCT of Delhi dated 04.12.2021 which is issued after the date of registration of the candidate i.e., 25.10.2021 as per advertisement number CRPD/PO/2021-22/18 issued by SBI.

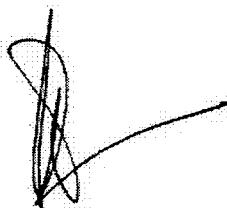
2.2 As per the said advertisement the last date of registration of application was 25.10.2021 and para 2 of advertisement provided that a person who wants to avail benefits of reservation will have to submit a disability certificate issued by competent authority as per Government of India guideline. **Such certificate will be subject to verification and re-verification as decided by competent authority. The certificate should be dated on or before the last date of registration of application.**

Para 18 of the said advertisement under head disclaimer provide as "in case it is detected at any stage of recruitment that a candidate does not fulfil the eligibility norms and/or that he/she has furnished any incorrect/false information or/has suppressed any material fact, his/her/their candidature will stand cancelled. If any of these shortcomings is/are detected even after appointment his/her services are liable to be terminated. Decision of the Bank in all matters regarding eligibility, conduct of written examination/other tests/selection would be final and binding on all candidates. No representation or correspondence will be entertained by the Bank in this regard".

2.3 Shri Guru Mehar was provisionally selected as Probationary Officer in SBI subject to verification of documents and fulfillment of certain conditions. At the time of document verification, he produced his PwD Certificate dated 04.12.2021 under HI category which had been issued after the date of registration of application i.e. 25.10.2021. As Shri Guru Mehar had produced only one certificate under HI category while he had applied under (d) & (e) category (Multiple Disabilities), in his online registration form, he was advised by the Bank to produce valid disability certificate for (d) & (e) category issued by the competent authority as per Govt. of India guidelines before the registration of application dated i.e. 25.10.2021. However, he failed to submit the required certificate/documents so far.

2.4 The complainant was regularly asked by the Bank to submit the valid PwD Certificate under (d) & (e) category vide emails dated 16.04.2022,

(Contd.... Page-3)



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17.05.2022 and 30.05.2022, but he didn't submit the same till filing of the reply. The bank had given further final opportunity to the complainant to submit the required disability certificate on or before 01.08.2022. In case the complainant fails to submit the disability certificate under (d) & (e) category issued before the date of registration of application i.e. 25.10.2021, the candidature of the complainant would be cancelled in accordance with the terms and conditions of the advertisement.

3. Submissions made in Rejoinder:

The complainant in his rejoinder dated 12.08.2022 submitted that in previous email SBI had threatened him to revoke his candidature even when matter is sub-judice before the CCPD. He has also attached a copy of email dated 10.08.2022 received from the State Bank of India informing him that as he did not submit valid disability certificate under (d) & (e) category, his selection as Probationary Officer in State Bank of India stands withdrawn.

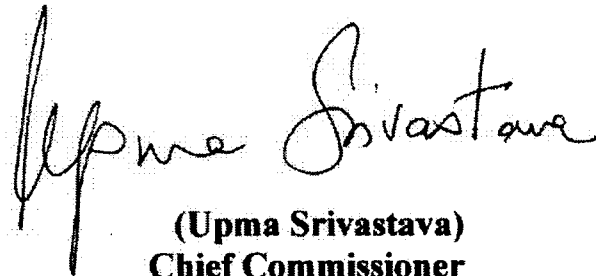
4. Observations & Recommendations:

4.1 The copy of disability certificate enclosed by the complainant with the complaint is of 04.12.2021 whereas the last date of registration of application was 25.10.2021. Further, as per the said certificate his disability is 86% Hearing Impairment whereas he had applied under Multiple Disabilities (d) & (e).

4.2 As despite various emails from the bank, the complainant had not submitted the copy of the disability certificate prior to 25.10.2021 showing multiple disabilities before 01.08.2022 (i.e. the time granted by the Bank) the Bank had withdrawn his selection as Probationary Officer.

4.3 The case is accordingly disposed off.

Dated: 20.10.2022


(Upma Srivastava)
Chief 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. 13261/1033/2022

Complainant:

Shri Ram Babu,
Email: ram385@gmail.com
Mobile: 96547744038

— R35183

Respondent:

The Registrar,
Jamia Milia Islamia University,
Jamia Nagar, New Delhi -110025;
Ph: 26980337, 26980229, Email: registrar@jmi.ac.in

— R35184

Affected Person: The complainant, a person with 40% Locomotor Disability (Both Lower Limbs)

1. Gist of Complaint:

The Complainant filed a complaint dated 23.05.2022 regarding correction in the marks of 2nd year final year mark sheet. The Complainant submitted that he needed to submit the final year mark sheet in his workplace as well as he needs to apply for the further higher education. He had applied for the correction in the marks sheet on 06.04.2022 and handed over the application along with the original marks sheet to Shri Parvesh, in the Office of the Controller of Exams. He was called after one month. The complainant visited him on 23.05.2022 i.e. after more than 01 month to collect his corrected marks sheet. No satisfactory reply was given to him even he was discriminated and abused by the staff of Jamia Milia Islamia University.

2. Submissions made by the Respondent:

The respondent filed his reply dated 08.07.2022 and inter-alia submitted that the complaint of the complainant was examined and the findings were forwarded to the Nodal Officer. The respondent further submitted that Mr. Parvesh had been cross-examined in view of the allegations so made. Further, the statements of other staff members were also taken into consideration about the alleged incident. The Office of Controller of Examination had already considered the grievance of Mr. Ram Babu for issuance of the correct marks sheet and the correct marks sheet and provisional certificate had been issued to the complainant.

3. Submissions made in Rejoinder:

No rejoinder was filed by the complainant to the reply of the respondent.

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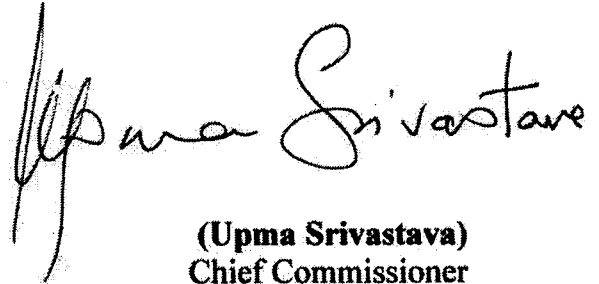
Upma Joshiastare

4. Observation/Recommendations:

4.1 As per the reply filed by the respondent it is observed that the grievance of the complainant has been redressed. However, the Respondent is advised to issue necessary instructions and to sensitize the staff and officials towards persons/students with disabilities so that the persons/students with disabilities may not have to face discriminatory behaviour in future.

4.2 Accordingly the case is disposed off.

Dated: 20.10.2022



(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

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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: 13219/1022/2022

Complainant:

Shri Ashish Chyandravanshi
HIG A-59 Duplex
Mukharji Nagar
Vidisha
Mobile No: 09826830411
Email: ashish_bp17@rediffmail.com

235194

Vs

Respondent

The DGM
Union Bank of India
2nd Floor, 228 Zone-1
M P Nagar Bhopal
Mobile No: 09870110222
Email: rh.bhopalsouth@unionbankofindia.com

235195

GIST OF COMPLAINT

The complainant, a person with 40% locomotor disability, has filed a complaint dated 24.04.2022 praying that he should be given a posting according to the transfer policy of the bank and transfer policy of the employees with disability.

2. The complainant has submitted that he is working as Assistant Manager in Union Bank of India since 12th June 2017. He was recruited from PH category and, therefore, he got posting in his home town Vidisha. He had a fibula graft hip surgery in May 2014, due to which he had to face some difficulty in walking. So in December 11, 2014, he was issued disability certificate by District Hospital, Vidisha. The complainant got promotion from Assistant Manager to Manager Scale-2 on 1st April 2021. Then he got transferred to Jaunpur after promotion, which was later cancelled by the CGM HR Central Office Mumbai as per the transfer policy of PH Employee of the bank. The complainant has further submitted that again the bank in the month of August had transferred him to Ganj Basoda, which is 55 KM away from his home. He had expressed his inability to go to another city by referring circular. The complainant had requested to the management to keep him in Vidisha only as there are several other PH employees working in the same branch from long time even after taking 2-3 promotions, but the management refused his request by saying that they cannot keep him in the same branch due to vigilance problem. As per him the DGM of the bank forcefully convinced him to join the Branch Manager at Ganj Basoda keeping aside all the guidelines and policies of PwDs. After 8 days from his joining at Ganj Basoda he realized lots of pain in his hip joint and when he go to see doctor he advised that 'you have to replace your hip joint ASAP'. He tried to convey his physical problem lot of time by different ways to DGM of the bank, but he had decided to harass him and got success in that as he had to replace his Hip joint on 11th October 2021 for which he took the medical leave from 5th October 2021 to 27th January 2022.

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.ccd disabilities.nic.in

(पया मविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)
(Please quote the above file/case number in future correspondence)

3 The complainant further submitted that due to his inability to visit the branch, he had to apply reversal application from his promotion to the Central Office clearly mentioning that if the Bank cannot give him job profile and job posting as per PH employees circular then consider his reversal from his promotion. The higher management had accepted his reversal request showing their inhuman behaviour because he was not the person who got the promotion on seniority basis. He got the promotion by clearing written exam and interview. But the Bank found it easy to reverse the capable employee rather than considering first request to give him his job profile and job posting as per the PH employees circular.

4. After recovering from his surgery, he conveyed his interest to resume the services to HR Department. His HR Department had given him two choices either Ganj Basoda or Raisen. Due to the fear of deduction of his salary, he had given his concern to join Raisen which is 36 KM away from his home. The HR Department asked him to join the Vidisha Branch on 28th January 2022 for the time being as he was unable to go to Regional Office, Bhopal for resuming service formalities. On 2nd February 2022 DGM of the bank again transferred him to Raisen Branch by travelling approximately 72 KMs daily for the PwDs is really tedious and painful work. The complainant also informed that couple of months back he had his total hip replacement surgery. The complainant has prayed for the following :-

(i) He only want that job posting should be given to him according to the transfer policy of the Bank and transfer policy of the handicapped employee. As home posting has been given to handicapped employee in the bank and they are not removed even after promotion up to scale -3. And want job profile as per circular of Handicapped employees; and

(ii) A question from Higher Management Human Resource Department if you can accept reversal on the request of the employee then can't interfere in the job posting on his request, if there is lack of knowledge and wrong posting of the employee in pride, if it does.

5. The matter was taken up with the Respondent vide letter dated 11.05.2022 under Section 75 of the RPwD Act, 2016.

6. In response, Regional Head, HR Department, Union Bank of India, Regional Office-Bhopal, vide letter dated 11.07.2022, submitted that the complainant was transferred to Ganj Basoda Branch in August 2021 after his promotion to Scale-II (Manager). The respondent quoted the letter of the complainant dated 03.08.2021 in which the complainant had given the preference of 3 branches viz. Bhatni, Ganj Basoda and Sihora Vidisha. Based on his letter the complainant was transferred to Ganj Basoda branch. After his joining at the Ganj Basoda Branch the complainant reported that he was unable to continue working in branch as he will be going for hip replacement and after that long bed rest is also suggested by the treating doctor. The complainant had availed the medical leave starting from 05.10.2021 to 27.01.2022. After his medical leave new branch head was posted to Ganj Basoda Branch as it is functional role and cannot be kept vacant.

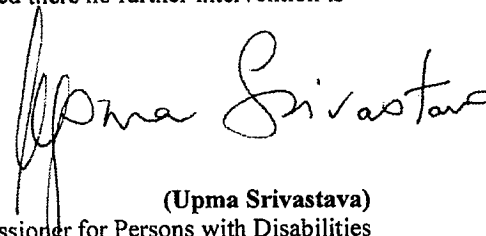
7. Meanwhile the complainant had requested for his reversal from promotion which was accepted by the competent authority and his order was issued for Zonal Office Bhopal. After his reporting to Zonal Office Bhopal the complainant was issued with transfer order of Bhopal South Regional Office where he reported to Vidisha Branch after the medical leave on 28.01.2022. Subsequent to that the complainant vide his mail dated 28.01.2022 had given his consent to join Raisen Branch which is approx. 35 kms from Vidisa. Based on his preference, order was issued for Raisen Branch. Hence, his posting at any of the both branches were not intentional based on any prejudice or bias but based on manpower availability and deployment. Now, the Bank had issued his transfer order to Vidisha Branch vide order dated 15.06.2022 and the complainant had already reported to Vidisha Branch on 23.06.2022.

8. The complainant has not file the rejoinder.

Observations /Recommendations:

9. As the complainant got posting in Vidisha and has already joined there no further intervention is required in the matter.

10. The case is disposed off.



(Upma Srivastava)
Chief Commissioner for Persons with Disabilities

Dated: 20.10.2022



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: 13189/1023/2022

Complainant: Shri R.R. Thaware

Music Teacher

Jawahar Navodaya Vidyalaya, Panchgaon

Post – Neri, Tahsil – Mohadi

Dist. – Bhandara, Maharashtra – 441905

E-mail: <rajendrathaware63@gmail.com>

Respondent: The Chairman

Navodaya Vidyalaya Samiti (NVS)

B – 15, Sector – 62, Institutional Area

Noida, Gautam Budh Nagar, Uttar Pradesh – 201307

E-mail: <commissioner.nvs@gov.in>

Complainant: 100% visual impairment

GIST of the Complaint:

Complainant Shri R.R. Thaware, Music Teacher vide complaint dated **16.03.2022** inter-alia submitted that he had shifted to the post of Music Teacher under Section 47 of the PwD Act, 1995 and the said post is vocational and students are not there during vacation hence, the Principal considered him as a vocational Staff and suggested no need to sign the muster roll. Though he was present in the Vidyalaya campus during vacation but after 04 years of continuous service as a music teacher, the internal audit has pointed out 322 days vacation period which will be adjusted against earned leave. He further submitted that it is huge financial loss for leave encashment of 300 days at the time of retirement and there is no pension scheme in NVS. He has requested to provide 10% special allowance and vacation.

2. The matter was taken up with the Respondent vide letter dated **19.04.2022** under Section 75 of the RPwD Act, 2016.

3. Joint Commissioner (Admn), Navodaya Vidyalaya Samiti vide letter dated **09.05.2022** inter-alia submitted that Shri R.R. Thaware was initially joined in NVS as LDC

on 10.11.1987 and promoted time to time. The services of Shri R.R. Thaware, Office Superintendent is being utilized against the vacant post of Music Teacher owing to becoming 100% blind during service and he is drawing pay and allowances against the post of Office Superintendent only. They further submitted that his contention of claiming of all the benefits of Music Teacher is not in order. Therefore, he is not eligible to draw special allowance and also not eligible for availing vacation as admissible to the teacher staff of NVS.

4. Complainant vide rejoinder dated **29.05.2022** inter-alia submitted that the vacation period of four years to be converted into EL to EOL is incorrect and he must get vacation and special allowance.

5. After considering the respondent's reply dated **09.05.2022** and the complainant's rejoinder dated **29.05.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **20.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **20.09.2022**. The following were present in the hearing:

- Shri R.R. Thaware - Complainant
- Shri Rajesh Chelle, Assistant Commissioner on behalf of respondent

Observation/Recommendations:

6. Complainant submits that he is working as a music teacher in the respondent establishment. He submits that initially he was appointed on administrative post. Later, during the service he acquired disability and he was given duty of music teacher. Principal of the respondent establishment treats him as a administrative staff and pays special allowance for his duties which are given to administrative staff. His grievance is that as he is working as a music teacher, he availed of vacations like other teachers. He submits that an internal audit was conducted and 322 days of period has been considered as a vacation period and the same has been adjusted against his earned leaves.

7. Respondent submits that complainant joined as LDC on 10.11.1987. Thereafter, during service he acquired disability. As per DoPT OM dated 19.05.2015 the complainant



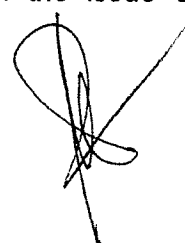
was assigned duty of music teacher because after acquiring disability he was not suitable for the post he was holding. At the time of assigning of music teacher duties he was given choice to either opt for the post of music teacher or post of Office Superintendent. Complainant was assigned duties of music teacher on his own choice. Currently complainant's services are utilised against post of music teacher and he is drawing pay and allowance against the post of Office Superintendent only. Respondent submits that complainant is seeking benefits associated with the post of music teacher, which is inappropriate. Complainant is not eligible to draw special allowance and also not eligible for availing of vacations which are admissible to the teaching staff.

8. During online hearing complainant submitted that respondent gave him 2 months summer vacations and 1 month winter vacations. Thereafter, the respondent informed the complainant that the vacations were sanctioned by mistake and those vacations were treated as leave. Complainant was also informed that the additional allowance which is paid to him will also be stopped and in future and he will not be paid the same.

9. Respondent informed during online hearing that the complainant's cadre was never changed. He was adjusted against the post of the music teacher only to utilise his service. After accounts of the respondent establishment were audited it was observed for the complainant was taking salary for the post of Office Assistant and at the same time he was taking benefits and allowance which are given to music teachers. Respondent submitted that the complainant cannot be allowed to draw benefits and salary of both the posts at the same time.

10. This court enquired why extra allowance is paid to music teachers. Respondent informed that school of the respondent establishment is residential facility. Therefore, teachers have to perform extra work like visiting the kitchen etc for which extra allowance is paid. Respondent also submitted that the complainant performs those extra functions.

11. The issues which deserve contemplation of this court are admissibility of vacations and payment of extra allowance to the complainant. On the issue of admissibility of



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vacations, this court concludes that it is unfair for the respondent to adjust vacations given to the complainant against his leave. Respondent did not claim that the complainant demanded vacations. It was the respondent who on its own motion granted vacations to the complainant. Thereafter, when the audit was conducted it was decided that the complainant is not eligible for the vacations hence the vacations were decided to be adjusted against the leave. The decision is unfair for divyang complainant because he is being punished for the mistake which he never committed.

12. On the issue of payment of extra allowance this court concludes that the respondent must adopt a middle path. It is an admitted fact by both the parties that the complainant was adjusted against the post of music teacher because he was finding it difficult to perform functions of Office Superintendent because of his disability. Both the parties admitted that it is settled position of law that when the employee acquires disability then his service cannot be terminated and he has to be adjusted against some other post, functions relating to which can be performed by divyang employee while remaining on the same pay scale and service benefits.

13. The same is laid down in section 20(4) of Rights of Persons with Disabilities Act, 2016. The aim of the provision is to protect pay and benefits which the employee was getting before acquiring disability. This provision cannot be interpreted in negative sense and hence if the employee is adjusted against some other post and if pay and benefits of such post are higher than the previous post then the employee cannot be denied such pay and benefits which are associated with the subsequent post. The aim of the provision is to protect the salary and benefits associated with the previous post. The aim is not to deprive the employee from the higher pay and benefits.

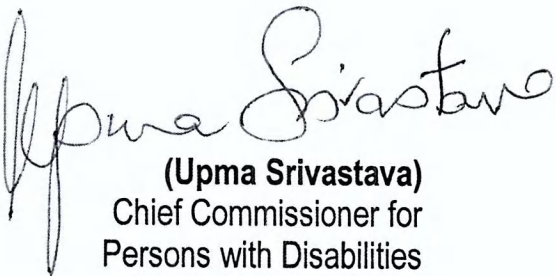
14. On the issue of admissibility of vacation, this court recommends that the respondent shall reply to audit and the vacations already given to him shall not be adjusted against his extra ordinary leave or against any other leave because the complainant was indeed working on the post of music teacher against which the vacations are admissible.

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15. On the issue of payment of extra allowance, this court recommends that the respondent shall check the salary paid to music teacher and office superintendent. If salary given to music teacher is more than the salary which is given to the office superintendent then in such case the respondent is recommended to pay the salary of music teacher along with extra admissible allowance of 10%. If the salary paid to Office Superintendent is more than the salary paid to music teacher then in such case the salary which is paid to Office Superintendent shall be given to the complainant

16. Case is disposed off.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13293/1023/2022

Complainant: Shri G. Srinivasa Prasad
Block No. 12, Flat No. MIG F7
Phase V, K.P.H.B. Colony, Kukatpally
Hyderabad – 500072, Andhra Pradesh

Respondent: The Divisional Railway Manager
Office of the Divl. Railway Manager
South Central Railway, Personnel Branch
IV Floor, Sanchalan Bhawan, Secunderabad
E-mail: <srdpo@sc.railnet.gov.in> <adrmgsc@gmail.com>
Phone: 91-4027820343

Complainant: 100% Hearing Impairment

GIST of the Complaint:

The complainant Shri G. Srinivasa Prasad vide complaint dated **13.06.2022** has submitted that his father was retired from South Central Railway on 20.09.1987. His mother was expired on 01.05.2000. He further submitted that his father had requested to Railway Authorities to include his name as first nominee in the Family pension vide letter dated 19.09.2000. His father died on 26.06.2003. He also submitted that he has submitted many applications to Railway authorities for sanction of family pension but the authorities of South Central Railway could not consider his request for sanction of family pension.

2. The matter was taken up with the Respondent vide letter dated **28.06.2022** under Section 75 of the RPwD Act, 2016

3. In response, Sr. Divisional Personnel Officer, South Central Railway vide letter dated **27.07.2022** has submitted that Shri G. Srinivasa Prasad is a person with hearing impairment and he was directed to Railway Hospital vide this office letter dated 22.09.2003 for certification of disability and earning capacity. In terms of Rly. Board's letter dated 04.04.1975 – Estt S.C. No. 64/75 family pension shall be payable to the son/daughter/of a

Rly. Servant who is suffering from any disorder or disability of mind or is physically crippled or disabled as as to render his/her and unable to earn a living.

4. The Medical Certificate was issued by the Railway Medical Authorities to him wherein it was certified that 75% (hearing loss) and did not declare that he is unable to earn livelihood. Later, he had represented through pension Adalat held during December 2008. He was advised vide letter dated 28.11.2008, that Chief Medical Supdt/Rly Hospital/LGD had only certified on 14.07.2004 that you had having 75% hearing loss but did not declare the earning capacity. Accordingly a detailed reply has been sent to Sri G. Srinivas Prasad stating that he is not eligible for family pension.

5. Further along with his representation dated 14.02.2014 he has submitted a fresh Medical Certificate dated 06.03.2013 issued by ENT Surgeon's wherein it was certified that his disability was 100% "Profound". Based on his representation, Rly Medical Authorities have been once again advised to certify the earning capacity of Sr. G. Srinivas Prasad. Subsequently, a letter was received from ACMS/HU/CKL to direct the claimant to Central Hospital Lalaguda to attend the Medical Examination at CH/Lalaguda. Accordingly, Sri. G. Srinivas Prasad was advised to attend for Medical Examination. But he failed to attend for Medical Examination. However, once again reminder dated 13.07.2022 has been sent to Sri G Srinivas Prasad to attend Railway Hospital Lallaguda duly marking a copy to ACHD/Admn/CH/LGD, to attend the medical examination for certifying the earning capacity. In view of the above, on receipt of medical certificate, along with earning capacity, further necessary action will be taken.

6. A copy of the above reply was sent to the complainant on **29.08.2022** for submission of his comments but till date no response has been received.

7. After considering the respondent's reply dated **27.07.2022** and the complainant's complaint, it was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **11.10.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **11.10.2022**. The following were present in the hearing:

- None appeared for the parties



Observation/Recommendations:

8. Complainant submits that he applied for family pension in Respondent establishment, however his application has not been considered. He has not disclosed any other detail.

9. Respondent submits that the Complainant's father was ex-employee in Respondent establishment. He retired on 30.09.1998 and died on 26.06.2003. Complainant's representation dated 14.02.2014 was received. Along with the representation he submitted disability certificate in which his ability to earn was not mentioned. The Complainant was advised to attend 'medical examination' for determination of earning capacity. Complainant failed to attend the medical examination. Further, reminder was again sent on 13.07.2022 to attend the medical examination.

10. Stand taken by the Respondent is correct. Capacity to earn is indispensable element. Complainant must appear before the medical examination board. This Court recommends that the Complainant shall undergo medical test and if he is found 'not able to earn livelihood', his name can be included in Pension Payment Order.

11. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13283/1021/2022

Complainant: Shri J. Vignesh
Assistant Manager (Scale - I)
Bank of Baroda, Karkardooma Branch
New Delhi
Through Ms. Priyanka Chugh, Advocate
House No. CG, Tower No. 09, Type-II
East Kidwai Nagar, Delhi - 110023
Email: <apriyanka894@gmail.com>
<vignesh81090@gmail.com>

Respondent: The Head (HR Operation)
Bank of Baroda
Head Office, HRM Department
Baroda Bhawan, Alkapur, Baroda - 390007
Email: <Resvccl.ho@bankofbaroda.com>

Affected person: Shri J. Vignesh, complainant a person with 100% hearing impairment

GIST of the Complaint:

Complainant Ms. Priyanka Chugh, Advocate filed a complaint dated **31.05.2022** on behalf of Shri J. Vignesh, a person with 100% hearing impairment. She has submitted that Shri J. Vignesh had joined Bank of Baroda as a Probationary Officer in the post of Assistant Manager (Scale-I) in the year 2015 under PwD quota. She further submitted that he had appeared for promotion from Scale I to Scale II in the year 2018 under Fast Track Channel. The complainant gave exam under Fast Track in the year December, 2018 and the result came on 1st April, 2019 in which complainant was rejected in the Interview. (The eligibility criteria of Fast Track Channel is officer should complete beyond 03 years but less than 04 years. Normal Track means beyond 05 years. The respondent gives preference to 25% on fast tracks and 75% on normal track). She alleged that Shri J. Vignesh gave interview three times in the year 2018, 2019 & 2020. Despite studying hard, he was rejected by the respondent every time in the interview when interview panel get to know that the complainant has hearing disability.

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2. The matter was taken up with the Respondent vide letter dated **10.06.2022** under Section 75 of the RPwD Act, 2016 but despite reminder dated **17.08.2022**, no response has been received from the respondent. It was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **22.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **22.09.2022**. The following were present in the hearing:

- Shri Shri J. Vignesh – Complainant alongwith Ms. Priyanka Chugh, Adv.
- Mr. Mandeep Kumar, Chief Manager on behalf of respondent

Observation/Recommendations:

3. The complaint is related to non-promotion of the complainant. Complainant submits that he was appointed in respondent establishment on 06.07.2015 under disability category. Currently, he is working in Karkarduma branch of the respondent establishment. Complainant submits that he appeared in promotion exam in 2018, 2019 and 2020. In each year he qualified written examination however, he was rejected in interview because of his disability. Complainant submits that he must be promoted by giving relaxation in qualifying marks and he must also be given reservation in promotion.

4. During online hearing respondent submitted that the complainant is Group A employee. Reservation in promotion does not exist in Group A posts. On this point, reply of the respondent is satisfactory and no intervention is required.

5. Another issue is related to promotion exam. Complainant could not qualify promotion exams in 2018, 2019 and 2020. Every year complainant was able to qualify written examination, however he was rejected in interview. During online hearing respondent submitted that pre promotion training was not given in any of the year in which the promotion exam was conducted.

6. Concept of Reasonable Accommodation is defined in Section 2(y) of Rights of Persons with Disabilities Act, 2016. As per provision, it means necessary and appropriate modification and adjustments, to ensure to Persons with Disabilities the enjoyment or exercise of rights with others. Further, Section 20(2) makes it positive obligation of every government establishment to provide 'Reasonable Accommodation' and appropriate barrier free and conducive environment to divyang employee.



...3....

SECTION 2(y) - "reasonable accommodation" means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others

SECTION 20(2) -Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

7. This principle is incorporated in RPwD Act, 2016 for effective implementation of rights recognised or guaranteed by the Act. Concept of 'Reasonable Accommodation' is not new in Indian legal jurisprudence. Hon'ble Supreme Court in JEEJA GHOSH v. UNION OF INDIA; (2016) 7 SCC 761, noted that a key component of equality is the principle of reasonable differentiation and specific measures must be undertaken, recognizing the different needs of persons with disabilities, to pave the way for substantive equality. Principle of 'Reasonable Accommodation' acknowledges that in order to rectify the social problem of discrimination with divyangs, affirmative conditions have to be created for facilitating the development of Divyangjans. This principle is not merely a formality, it is component of duty not to discriminate with Divyangjans hence the state is bound to provide these facilities to its Divyangjans. Hon'ble Supreme Court explained this in VIKASH KUMAR v. UPSC; 2021 SCC OnLine SC 84.

"54. The principle of reasonable accommodation has found a more expansive manifestation in the RPwD Act 2016. Section 3 of the RPwD Act 2016 goes beyond a formal guarantee of non-discrimination by casting affirmative duties and obligations on government to protect the rights recognized in Section 3 by taking steps to utilize the capacity of persons with disabilities "by providing appropriate environment". Among the obligations which are cast on the government is the duty to take necessary steps to ensure reasonable accommodation for persons with disabilities. The concept of reasonable accommodation in Section 2(y) incorporates making "necessary and appropriate modification and adjustments" so long as they do not impose a disproportionate or undue burden in a particular case to ensure to persons with disability the enjoyment or exercise of rights equally with others." Equality, non-discrimination and dignity are the essence of the protective ambit of the RPwD Act 2016."

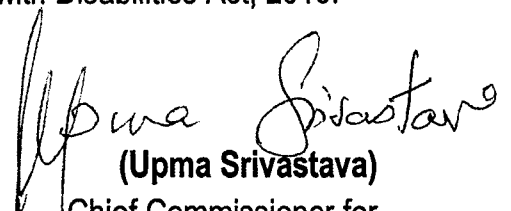


8. This concept is connected with the principle of equality mentioned in Article 14 of Indian Constitution. The concept helps Divyangjan to eliminate the limitations on the performance of divyang employees. This concept is not limited to making modification in physical infrastructure only. Modifications must be made in every aspect of the job which can cause substantial disadvantage to divyang employee in comparison with enabled employee. In addition to modification in physical features of infrastructure, modification can also be made in working hours, assessment of divyang employee, pre-promotion training, providing assistive aids and devices etc.

9. This court recommends that the Respondent shall apply concept of reasonable accommodation and relaxed the standards in favour of divyang candidates to consider suitability in promotion examination. Further, this court recommends that the respondent shall give pre promotion training so that divyang employees can be given level playing field along with non divyang employees in promotion examination.

10. 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.

11. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13325/1023/2022

Complainant: Shri Mana Mahato
C/o Hiralal Mahato
Buna Buritala, PS – English Bazar
Post+ Dist – Malda, West Bengal – 732101

R35211

Respondent: The Garrison Engineer (A/F) Hasimara
PO – Hasimara, Dist.-Alipurduar
Dist. Alipurduar – 735215, West Bengal
Tel: 03566-255050

R35212

Complainant: 60% locomotor

GIST of the Complaint:

The complainant Shri Mana Mahato, Mate vide complaint dated **06.06.2022** has submitted that he had joined Military Engineer Service, GE (AF), Hasimara on 04.12.2015. Presently he is posted at Bagdoria Unit since 27.02.2019. He further submitted that he has completed 06 years of services but his service book has not been centralized and he has already completed 03 years in the present unit still his service book has not been sent to his present office which is unnecessary delayed. He had submitted the representation again on 12.02.2022 but still his service book has not sent to his present office. He alleged that GE (A/F) Hasimara is not forwarding his service book at his present unit.

2. The matter was taken up with the Respondent vide letter dated **28.06.2022** under Section 75 of the RPwD Act, 2016

3. In response, EE, GE (AF), Hasimara vide letter dated **07.07.2022** has inter-alia submitted that Service Book, leave account and other connected documents has been forwarded to his present unit vide letter dated 07.07.2022 for fixation of pay. He has requested that in view of the above, the case may please be dropped as a special case.

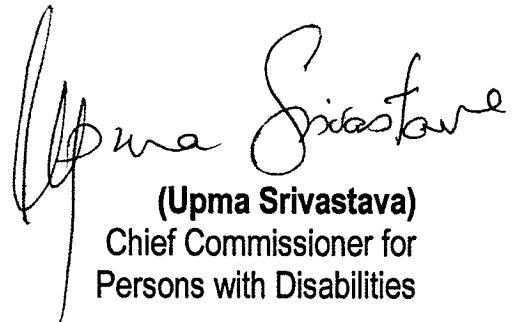
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4. A copy of the above reply was sent to the complainant on **10.08.2022** for submission of his comments but till date no response has been received.

Observation/Recommendations:

5. In light of the facts and material available on record, the reply of the respondent was found satisfactory and no further intervention is required.

6. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

भारत सरकार / Government of India

Case No: 13321/1023/2022

Complainant: Shri Rajendra Babu

Email: <baburajendradop@gmail.com>

Respondent: The Secretary

Department of Posts

Dak Bhawan, Sansad Marg, New Delhi – 110001

Email: <secretary-posts@indiapost.gov.in>

Complainant: 55% Muscular Dystrophy

GIST of the Complaint:

प्रार्थी श्री राजेन्द्र बाबू, उपडाकपाल, जटपुरवा, खीरी का अपनी शिकायत दिनांक 16.06.2022 में कहना है कि वह शारीरिक रूप से दिव्यांग एवं पोलियो से एक पैर व एक हाथ पूरी तरह से ग्रसित है। प्रार्थी का आगे कहना है कि उन्हें सामान्य दर से दुगनी दर पर परिवहन भत्ता लगातार अभी दिया जा रहा था किन्तु माह अक्टूबर 2021 से केवल सामान्य दर से ही परिवहन भत्ता दिया जा रहा है। उनके अनुसार डाक निदेशालय के पत्र सं. 21/3/2017-ई. 11 बी दिनांक 12.07.2018 के अनुसार प्रार्थी को सामान्य दर से दुगनी दर पर परिवहन भत्ता दिये जाने का प्रावधान है। प्रार्थी ने निवेदन किया है कि उन्हें सामान्य दर से दुगनी दर पर परिवहन भत्ता दिलवाया जाए।

2. The matter was taken up with the Respondent vide letter dated **28.06.2022** under Section 75 of the RPwD Act, 2016 but despite reminder dated **08.08.2022** but no response has been received from the respondent. It was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **22.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **22.09.2022**. The following were present in the hearing:

- Shri Rajendra Babu - Complainant
- Shri Jagdeep Gupta, DDG (Pers.) along with Sri Himanshu Mishra, Asst. Postmaster General on behalf of respondent


Observation/Recommendations:

3. Complainant submits that he is Divyangjan with locomotor disability and takes assistance of artificial legs. He submits that till October 2021 he was given Transport Allowance at the double the normal rate. However, from October 2021 onwards he is granted transport allowance at normal rate. He further submits that as per head office letter dated 12.07.2018 he is eligible for transport allowance at double rate.

4. Respondent submits that Double Transport Allowance was earlier given to the Complainant. Later internal audit was conducted and objection was raised that the disability certificate submitted by the Complainant is not verified. Thereafter, Transport Allowance at double the normal rate was stopped w.e.f. 04.10.2021. Thereafter, the Respondent approached the concerned medical authority for the verification of disability certificate of the Complainant. On 05.09.2022 letter was received from the concerned medical authority, whereby it was informed that the disability certificate is genuine. Respondent has again approved the TA at double the normal rate

5. During online hearing respondent submitted that TA at double the normal rates will be given to the complainant with effect from 04.10.2021. Since, the respondent has acceded to the demands of the complainant therefore further intervention of this court is not required.

6. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13313/1023/2022

Complainant: Dr. Rajesh Kumar
Asstt. Professor
Dept. of History, Bhagini Nivedita College
Najafgarh, New Delhi – 110043
Email: <drajeshcccl@gmail.com>

Respondent: The Principal
Bhagini Nivedita College
Kair, Near Najafgarh, New Delhi – 110043
Email: <bnc.kair@gmail.com>

Complainant: 40% locomotor disability

GIST of the Complaint:

Complainant Dr. Rajesh Kumar, Asstt. Professor vide complaint dated **31.05.2022** has submitted that he is Incharge of NCWEB at Bhagni Nivedita College, Najafgarh and he is performing his duty as Dy. Supdt. of NCWEB Exam. He further submitted that a non teaching staff Shri Joginder had came to him and started pressurising him to allot him duty in Examination which was not possible. He alleged that Shri Joginder had shouted upon him and abused him in filthy language. The complainant is under fear that Shri Joginder may attack on him.

2. The matter was taken up with the Respondent vide letter dated **28.06.2022** under Section 75 of the RPwD Act, 2016, but despite reminder dated **08.08.2022**, no response has been received from the respondent. It was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **22.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **22.09.2022**. The following were present in the hearing:

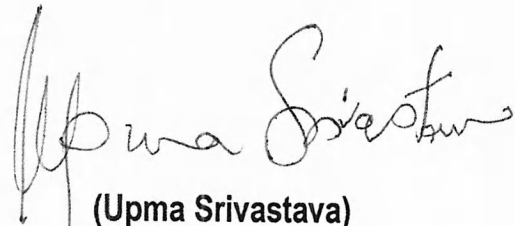
- Dr. Rajesh Kumar - Complainant
- Sri Anup Awasthi, Section Officer on behalf of respondent

Observation/Recommendations:

3. Complainant submits that he is working as Assistant Professor and also discharging functions of in charge of NCWED. He submits that he was performing his duty as Deputy Superintendent on 31.05.2022 when a non-teaching staff namely Mr. Joginder approached the complainant and pressurised him to allot examination duty. Complainant submits that Mr. Joginder shouted at him and abused him in filthy language. He expresses his fear that Mr. Joginder may attack him in future.

4. During online hearing Respondent submitted that Mr. Joginder is non teaching employee in the respondent establishment. After the incident Mr. Joginder gave a written apology. This court is satisfied with the fact that Mr. Joginder has repented for the Act he committed. However, this court recommends that the respondent shall conduct sensitization training and programmes of all the employees of the respondent establishment to make all the employees aware of the rights of Divyangjan.

5. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13320/1023/2022

Complainant: Smt. Chitra M lyengar
Email: <chitramiyengar@ord.gov.in>

Respondent: The General Manager
Ordnance Factory Ambajhari
Amravati Road, Nagpur – 440021
Email: <ofajvig@ord.gov.in>

Complainant: 40% locomotor disability

GIST of the Complaint:

Complainant Smt. Chitra M lyengar, Private Secretary to DDG/Field Unit, Ambajhari vide complaint dated **15.06.2022** submitted that she has completed 30 years of unblemished services in her organization with all Sr. Level Officers but misbehavior of Ms. Goldy Babu, WM/Admin has completely disturbed her mental peace and health . Hence, she has requested to provide proper justice to the undersigned so that she can work with mental peace.

2. The matter was taken up with the Respondent vide letter dated **28.06.2022** under Section 75 of the RPwD Act, 2016.

3. In response, General Manager, Ordnance Factory Ambajhari vide letter dated **27.07.2022** has inter-alia submitted that the complaint mainly pertains to an argument, which happened between the complainant and Ms. Goldy Babu, Deputy Director/Admin (Designated as Works Manager/Admin in Ordnance Factories) regarding the unauthorised occupancy of an office space by the complainant. In her complaint, she has raised concerns about behaviour of Ms. Goldy Babu, WM/Admin towards her in addressing the issue regarding the office space previously allotted to her. On 7th April 2022, the complainant called up Ms. Goldy Babu, WM/Admin and informed that she was shifting to an individual room opposite to the office of the DDG/Field Unit. Ms. Goldy Babu, WM/Admin reportedly

informed the complainant that she had no authority to shift on her own accord without the explicit approval of GM/OFAJ and that it would be prudent to take up the matter with her higher authority. In such a case, the complainant should have approached officers in her reporting channel i.e., DDG/Field Unit, who should have ascertained the issue and taken up the matter with the HOD/General Manager of the factory for change of office. In spite of all the above instructions given, on 09.04.2022, the complainant decided on her own accord to occupy the space opposite to DDG/FU without any approval/consent from the competent authority i.e., General Manager/OFAJ and arranged for shifting of furniture, telephone etc. without any intimation to the concerned section or Ms. Goldy Babu, WM/Admin, who is in charge of administration of the factory and also supervises the tasks/activities such as allocation of rooms, furniture, inventory etc. to the officers/staff of the factory but said office space opposite to the office of DDG/FU was being considered and reserved for Shri Kishore Makhijani, Jt GM/JAG rank Officer. He further submitted that after the matter was brought up by the complainant vide her letter dtd. 09.04.2022, WM/Admin has clarified the facts of the case vide letter dtd. 28.04.2022 that action for vacation of the office premises was undertaken as part of the official duties and that another office space was allotted to the complainant after GM's approval dtd. 13.04.2022, in view of the inconvenience expressed by the complainant. Vide letter dtd. 24.06.2022 WM/Admin has tendered a written apology and expressed that her actions were only in an official capacity and were not intended to cause any damage/hurt the image or feelings of the complainant. At present, the complainant has been provided a separate cabin/office for officiating.

4. The above reply was forwarded to the complainant on 10.08.2022 for submission of her comments/rejoinder but till date no response has been received.

5. After considering the respondent's reply dated **27.07.2022** and the complainant's complaint, it was decided to hold a hearing in the matter and therefore, the case was listed for hearing on **15.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **15.09.2022**. The following were present in the hearing:

- Smt. Chitra M lyengar - Complainant
- Sri Anjan Kumar Mshra, AGM on behalf of respondent



Observation/Recommendations:

6. Complaint is filed against another employee namely Ms. Goldy Babu who is working as Private Secretary to DDG. Complainant submits that Ms. Goldy Babu misbehaved with the complainant. No details have been mentioned by the complainant.

7. Respondent submits that investigation was conducted into the alleged instance whereby it was found that office was allocated to the complainant by General Manager. The office was adjacent to the office of DDG. Complainant is working as PS to DDG. As per norms of the respondent establishment the Secretarial staff is allocated office space adjacent to the office of the officer to whom they are attached with.

8. Complainant had certain problems in working from the office space allocated to her. Hence, without approaching the concerned officers, on her own accord she changed her office space without taking approval of the competent authorities. Noticing her unauthorised occupation of office space, another PS to DDG namely Ms. Goldy Babu asked the complainant regarding this and an altercation happened between the two. The matter was taken up by the complainant with the appropriate authorities and thereafter Ms. Goldy Babu tendered her apology and stated that her actions were only in official capacity and were not intended to hurt the image of the complainant. At present the complainant has been provided separate office space.

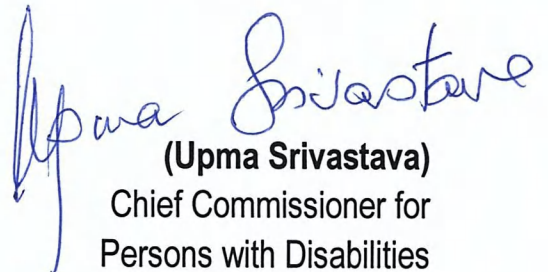
9. This court is satisfied with the fact that Ms. Goldy Babu has tendered her written apology. On the issue of sitting space, complainant submitted during online hearing that the office where space arrangement has been made for her is situated 100 feet away from the office of DDG, with whom she is working. She finds it difficult to go to the office of DDG from her sitting space. She further, submitted that there is another sitting space available just in front of the office of DDG where she can sit and her mobility issue will also get resolved. Respondent submitted that in the office room which is nearest to the DDG with whom the Complainant is working is already occupied by 3 Section Officers hence there is no adequate space for the Complainant.

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10. This Court recommends that considering the disability of the Complainant, the Respondent shall allot the office to the Complainant which is nearest to the office of DDG with whom she is working, even if it results in sharing the office space with other employees. She can be shifted to the nearest room where she can share space with Section Officers. Further, this Court is satisfied with the fact that Ms. Goldy Babu has tendered her written apology, however, this Court recommends that the Respondent shall conduct a sensitization programme to make all the employees of the Respondent establishment aware about rights of divyangjan.

11. Respondent shall file compliance report of this recommendation within 3 months of receiving the copy of this recommendation. 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.

12. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022



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: 13326/1023/2022

Complainant: Shri Umesh Kumar

E-mail: <umesh18611930bvp@gmail.com>

Respondent: The Chief Works Manager

Office of the Chief Works Manager

Western Railway, Bhavnagar, Para

E-mail: <cwmbvp@gmail.com>

Complainant: 41% locomotor disability

GIST of the Complaint:

प्रार्थी श्री उमेश कुमार, जूक्लर्क का अपनी शिकायत दिनांक 20.06.2022 में कहना है कि उनकी भर्ती दिनांक 25.11.2013 को पश्चिम रेलवे में खलासी (ग्रुप 'डी' - ग्रेड पे 1800/-) के पद पर हुई थी तथा दिनांक 31.08.2017 को उनका चपरासी पद हेतु ऑर्डर निकाला गया। प्रार्थी का आगे कहना है कि दिनांक 07.05.2021 को ग्रुप 'डी' से कनिष्ठ लिपिक ग्रेड पे 1900/- पर पहला प्रमोशन दिया गया। प्रार्थी का आरोप है कि उनसे जूनियर अभी ग्रेड पे - 2800 एवं ग्रेड पे - 4200 में कार्य कर रहे हैं और उनको उनके नीचे कार्य करना पड़ रहा है।

2. The matter was taken up with the Respondent vide letter dated 27.06.2022 under Section 75 of the RPwD Act, 2016.

3. मुख्य कारखाना प्रबंधक, पश्चिम रेलवे, भावनगर परा का अपने पत्र दिनांक 14.07.2022 में कहना है कि श्री उमेश कुमार (ओबीसी), 40 प्रतिशत लोकोमोटर को दिव्यांग कोटे के तहत मुख्य कारखाना प्रबंधक - भावनगर परा के तहत खलासी के पद में दिनांक 25.11.2013 को नियुक्त किया गया तथा वर्ष 2017 में प्रार्थी के निवेदन पर खलासी पद से चपरासी पद स्थानांतरण हुआ। विपक्षी का आगे कहना है कि जूक्लर्क कम टाइपिस्ट का पद चयन द्वारा भरा जाता है और उसमें उन्हें लिखित परीक्षा में उपयुक्त होना आवश्यक है लेकिन श्री उमेश कुमार सन् 2018 और सन् 2019 में उपयुक्त नहीं पाये गये इसलिए उन्हें पदोन्नति नहीं दी

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गयी थी और इस अनुसार उपयुक्त पाये गए कर्मचारी से वह अपना कम्पेरीजन नहीं कर सकते हैं। श्री उमेश कुमार का नाम तीसरी बार वर्ष – 2021 में रैंकर कोटा(33-1/3प्रतिशत) के जूक्लर्क कम टाइपिस्ट के चयन दिनांक 01.04.2021 में उन्हें उपयुक्त पाया गया तदनुसार उन्हें चपरासी पद से जूक्लर्क कम टाइपिस्ट पद में इस कार्यालय में दिनांक 07.05.2021 द्वारा पदोन्नति दी गयी।

4. प्रार्थी ने अपने प्रत्युत्तर दिनांक 16.08.2022 में अपनी शिकायत को दोहराया है।

5. After considering the respondent's reply dated **14.07.2022** and the complainant's rejoinder dated **16.08.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **15.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **15.09.2022**. The following were present in the hearing:

- Shri Umesh Kumar - Complainant
- Sri S.P. Makwana, APO (W) on behalf of respondent

Observation/Recommendations:

6. Complainant submits that he was appointed on the post of Khalasi in 2013. He claims that since 2013, he was assigned various additional duties which he always performed without making any objections. He claims that he has performed all his functions sincerely and diligently. On 07.05.2021 he was promoted to the post of lower division clerk for the first time. His main grievance is that he was given first promotion in 2021, after 7 year of his appointment. Whereas other employees who were junior to him were given promotion before him. He submits that in the respondent establishment employees are promoted after every 2 years. However, he was singled out and was given first promotion after expiry of 7 years.

7. Respondent submits that whenever the complainant was given additional responsibility, he was also given additional allowance attached to that duty. Respondent submits that from the post of peon, avenues of promotion are present in clerical cadre subject to qualification in written examination. In 2018 the Complainant was given

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opportunity to appear in promotion examination, however, he failed to qualify the exam. Similarly, in 2019 he appeared in promotion examination however he again failed. In 2021 he was again shortlisted and this time he qualified the written examination and hence by order dated 07.05.2021 he was promoted to the post of junior clerk.

8. Respondent claims that complainant was not promoted in 2018 and 2019 because of failing in the written examination. On 22.03.2022 seniority list was issued in which complainant's name is present at Sr. No. 2

9. During online hearing this court asked the Respondent if any employee junior to the complainant was promoted before him. Respondent informed this court that employees junior to the complainant were promoted in 2018 and 2019 because they were able to qualify the promotion examination, whereas the complainant failed to do the same. In the written reply also the respondent informed this court that the complainant could not qualify the promotion exam in 2018 and 2019. However, the respondent also failed to prove that pre promotion training was given to the complainant which could have helped him in qualifying the promotion exam. This court is inclined to bring to the notice of the respondent relevant guidelines on this point. DoPT by virtue of O.M. No. 36035/3/2013, dated 31.03.2014 in Para B provides for pre promotion and post recruitment training for divyang employees. These guidelines are inconsonance with concept of reasonable accommodation which is already laid down in Rights of Persons with Disabilities Act, 2016.

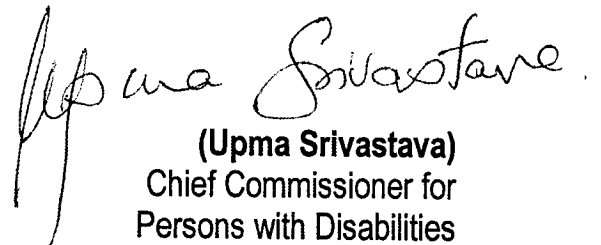
10. Another contention raised by the Complainant was related to non extension of reservation in promotion for divyang employees. Respondent submitted on this point that DoPT did not issue guidelines on this issue hence reservation in promotion was not extended. On this issue this Court is inclined to bring to the Respondent's notice, DoPT O.M. No. 36012/01/2020 dated 17.05.2022, whereby DoPT has issued guidelines with respect to reservation in promotion for divyang employees. However since reservation in promotion cannot be extended with retrospective effect hence this Court recommends that the Respondent shall extend reservation in promotion for divyang employees in future.

Upma Srivastava

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11. This Court recommends that the Respondent shall conduct pre-promotion training of all divyang employees every time an examination is conducted for promotion, as also laid down in DoPT guidelines mentioned above. Complainant also raised the contention related to payment of extra wages for extra work performed. This court further recommends that the Respondent shall check its records and if it is found that the complainant was made to perform any extra duty then remuneration attached with such duty must also be paid to him.

12. Respondent shall file compliance report of this recommendation within 3 months of receiving the copy of this recommendation. 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.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 28.10.2022