



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: 13446/1022/2022

Complainant:

Shri Pradeep Kumar
Post Holding in KVS-PGT Physics,
Employee Code-74228
Contact No: 09811793310
Email: pradeeppladdakumar@gmail.com

— R35451

Vs

Respondent:

The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi-110016.
Contact No: 011-26521898
Email: kvs.estt.1@gmail.com

— R35452

GIST OF COMPLAINT

The complainant, a person with 40% Visual Impairment, has filed a complaint dated 04.09.2022, regarding his transfer in hometown due to increasing visual impairment.

2. The complainant has submitted that he got selected in North Eastern Zone of KVS under the North East Special Drive under a special clause "cannot take a transfer out of NER until elevated to the level of Vice Principal/Principal". He joined KV Goalpara on 29 June 2018 as a PGT Physics. The complainant stated that when he joined the Kendriya Vidyalaya Sangathan vision of his eyes was static (6/24) means 40% visual impairment & now the vision of his eyes is 3/60 meaning legally blind. Being partially visual Impaired he is working on the computer since the pandemic started and in the middle of it. He tested Covid-19 positive and developed a severe headache now his vision is worsening with each passing day. His left eye is Phthisis Bulbi (No perception of Light) and his right eye is Amblyopic, Nystagmic, Temporal Pallor and now recent MRI scan reports Optic Neuritis and atrophy (Inflammation of Optics nerves of the right eye with 6/60 vision and complete damage of optic nerves of the left eye). The complainant further submitted that he consulted the ophthalmologists Civil Hospital Goalpara in Feb, 2021 & Guru Nanak Eye Centre Delhi in Jul 2021. Then, he was referred from Civil Hospital Goalpara to GMHC, and consulted the ophthalmologists and neurologists at Guwahati Medical College and Hospital, Guwahati. The doctors stated that they would start the steroid therapy, however, even that is not the assured treatment and besides that, even there is no other treatment that can help. Now steroids have given him cardiovascular disease, and that may further lead to the loss of vision even severely.

3. The complainant got the treatment from GMHC Guwahati till Jan 2022 was then referred to AIIMS, New Delhi. As per the doctors of GMHC Guwahati he needs an escort while visiting the AIIMS. He cannot travel alone at night time, but he has to travel for treatment sometimes alone to the hospital and meets sometimes with accidents. The complainant further submitted that in his Head Quarter Goalpara, Assam, there is no one who can take him to the hospital all the way from Assam to New Delhi as his hometown is in Sonipat, Haryana.

4. The complainant further submitted that as per the transfer guidelines 2021, the employees having medical grounds are considered to take a transfer at par. The impairment he suffers from is even worse than any disease listed in the transfer guidelines 2021. However, this time also PH employees of NER Special drive faced discrimination because they were not considered for the transfer. The complainant then requested Commissioner of KVS to transfer him to a nearby hospital, through the proper channel. The complainant has requested this Court to consider his request for a transfer to his hometown or neighboring region (near the hospital if available) where his family can help him and he can visit a doctor with the assistant whenever it is required.

5. The matter was taken up with the Respondent vide letter dated 09.09.2022 under Section 75 of the RPwD Act, 2016.

6. In response, Assistant Commissioner (Estt./I/II) vide their letter no. dated 10.10.2022 has submitted that transfer of teachers is affected as per transfer guidelines which are well defined and transparent. Appropriate weightage is given to each ground viz. Spouse/PH/LTR/DFP/MDG etc. being adduced by the teacher concerned for transfer as per transfer guidelines. The respondent further submitted that as per the records, the complainant has joined as PGT (Physics) on 29.06.2018 at K.V. Goalpara, Assam through North East Region Special drive recruitment. Further, they submitted that the employee who have been recruited under North East Region special drive recruitment could not be transferred out of the North East Region as per the KVS transfer guidelines.

7. The respondent further informed that as per his transfer counts/displacement counts data records, he had applied for online annual request transfer application for the year 2021 and mentioned one choice station i.e. only Guwahati but he did not filled up the Part C column in his online request transfer application, which is mandatory for request transfer, due to this reason his request was not entertained at that time. The respondent further submitted that the complainant has joined on the post of PGT (Physics) at KV, Goalpara (NER) under PH Category through North East region special recruitment drive, so the complainant, PGT-Physics is liable to be transferred within North Eastern Region only. The respondent stated that as per the KVS norms employees who have been recruited under North East Region special drive recruitment could not be transferred out of the North East region, hence it is not possible for KVS to transfer him out of the North Eastern Region.


8. The complainant has submitted his rejoinder vide email dated 13.10.2022, that he is not satisfied with the comments submitted by the respondent. The complainant has requested this Court to direct the respondent to transfer him as soon as possible.

9. **Hearing:** The case heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 07.11.2022. The following were present:

- i) Shri Pradeep Kumar: **Complainant**
- ii) Shri Deepak Kumar Dabral, Asst. Commissioner (Estt.): **Respondent**

Observations /Recommendations:

10. The complainant has submitted that he got selected in North Eastern Zone of KVS under the North East Special Drive. He submits that at the time of appointment he signed on terms & conditions of the employment which contained a special clause "cannot take a transfer out of North Eastern Region until elevated to the level of Vice Principal/Principal". He joined KV Goalpara on 29 June 2018 as a PGT Physics. The complainant stated that when he joined the Kendriya Vidyalaya



Sangathan, vision of his eyes was static (6/24) means 40% visual impairment & now the vision of his eyes is 3/60 means legally blind. He further submits that during Covid pandemic, he fell ill because of Covid-19 virus, which further deteriorated his disability.

11. Complainant further submits that he got the treatment from Guwahati Medical College & Hospital, Guwahati ('GMCH, Guwahati') till Jan 2022 then GMCH Guwahati referred him to AIIMS, New Delhi. He claims that as per the doctors of GMCH Guwahati he needs an escort while visiting the AIIMS, New Delhi. The complainant further submitted that in his Head Quarter Goalpara, Assam, there is no one who can take him to the hospital all the way from Assam to New Delhi as his hometown is in Sonipat, Haryana.

12. Respondent submits that transfer of teachers is affected as per transfer guidelines which are well defined and transparent. Appropriate weightage is given to each ground viz. Spouse/PH/LTR/DFP/MDG etc. The respondent further submitted that as per the records, the complainant has joined as PGT (Physics) on 29.06.2018 at K.V. Goalpara, Assam through North East Region Special drive recruitment. Further, they submitted that the employee who have been recruited under North East Region special drive recruitment could not be transferred out of the North East Region as per the KVS transfer guidelines.

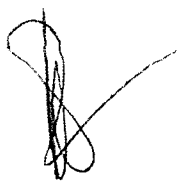
13. During online hearing, Respondent submitted that considering the fact that the Complainant needs immediate medical attention, he can avail of leave for visiting Delhi and get treatment.

14. This Court notes that it is important to honor the terms and conditions agreed to by the Complainant at the time of joining, therefore, this Court is not inclined to recommend that the Complainant must be transferred to Delhi immediately at this stage. It was also noted that the clause of the Contract which prohibits Complainant's transfer out of North Eastern Region cannot be held as violative of Disability Rights' because this clause was same for all the employees who were recruited under the special recruitment drive for North Eastern Region.

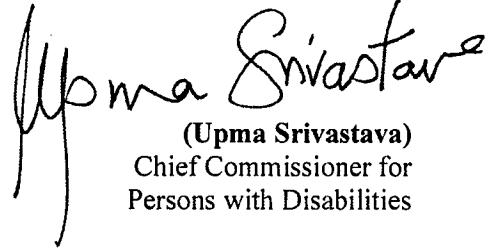
15. During online hearing this Court enquired from the Complainant about the time duration of his treatment on AIIMS, New Delhi. Complainant was not certain about the same.

16. This Court observed that it is important to strike a balance between the terms of the Contract signed by the Complainant and the fact that the Complainant needs medical treatment which is available in Delhi and hence his presence in Delhi is indispensable. It was also observed that once the treatment is over he could work in NER with the help of necessary support and assistance provided by the respondent in terms of assistive devices, nature of duties, etc.

17. Therefore, this Court recommends that at this stage when time duration of required treatment is not clear, the Respondent shall immediately approve 3-4 months leave (all leaves admissible/ special leave on medical grounds) in favor of the Complainant so that he can visit Delhi and can obtain necessary medical attention from AIIMS, New Delhi. If in case the Complainant is required to be treated continuously for more than 3-4 months then he can obtain in writing from AIIMS, New Delhi as to how many visits to AIIMS, New Delhi are necessary in a year for treatment of the Complainant. On the basis of such information of AIIMS, New Delhi, Respondent shall take a decision on transferring the complainant to Delhi.



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


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 10.11.2022



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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: 13422/1024/2022

Complainant: Shri Manik Dey
E-mail: <halim.abdul0486@gmail.com>
Mob: 9231582786

1235799

Respondent: The Divisional Railway Manager (P)
Sealdah Division
Eastern Railway - 700014
Email: <gm@er.railnet.gov.in>
Tel: 033 - 22307596

1235800

Complainant: 100% visual impairment

GIST of the Complaint:

Complainant Shri Manik Dey vide complaint dated **25.07.2022** has submitted that he was selected by National Institute for Visually Handicapped (NIVH), Dehradun under the then M/o Social Justice & Empowerment through an interview on 22.05.1995 and his name was enlisted in the panel for recruitment in Group 'D' post as evident from the letter dated 08.07.1999 of M/o SJ&E. He further submitted that his appointment was delayed due to no fault on his part and finally he received appointment letter on 09.02.2010 from the Office of the Chief Personnel Officer, Railway, Bhubaneswar and he joined Railway Services on 07.06.2010.

2. He has referred to OM No. 57/04/2019 -P & PW (B) dated 31.03.2021 regarding coverage under Central Civil Services (Pension) Rules, 1972 of those Central Government employees whose selection from appointment were finalized before 01.01.2004 but joined Government service on or after 01.01.2004. He has submitted that though his selection for appointment was finalized at least by 08.07.1999 much before 01.01.2004 but his appointment was delayed due to no fault on his part and finally he received his appointment letter on 09.02.2010 from the O/o Chief Personnel Officer, Railway, Bhubaneshwar. He has requested to provide benefits of Central Civil Services (Pension) Rules, 1972 in place of National Pension Scheme.

3. The matter was taken up with the Respondent vide letter dated **01.09.2022** under Section 75 of the RPwD Act, 2016.

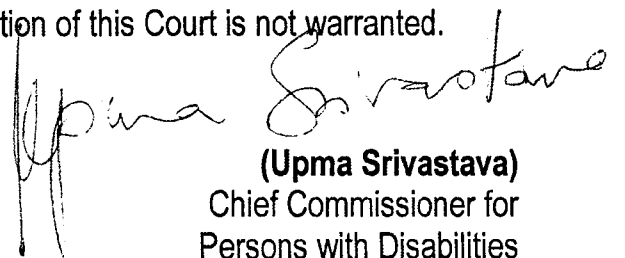
4. In response, Sr. Divisional Personnel Officer, SDAH Division, Eastern Railway vide letter dated **20.09.2022** has submitted that Shri Manik Dey had joined Railway as Chowkidar on 14.06.2010 on the basis of offer of appointment issued by CPO/East Coast Railway, Bhubaneswar vide letter dated 09.02.2010 accepted by him on 25.02.2010. On thorough scrutiny of appeal of Shri Dey, it is found that till 25.08.2008 he had not been appointed as mentioned in Ministry of Social Justice & Empowerment, Govt. of India's letter No. 16-07/2007-DD. III dated 25.04.2008, wherein it was mentioned "*you could not be provided job due to non-availability of vacancy*". In the said letter of Ministry of Social Justice and Empowerment, Govt. of India dated 25.04.2008 also mentioned as "*Ministry of Railways have, now agreed to consider the case of those candidates who hold minimum qualification of 8th for a Group 'D' post. You are, therefore, requested to fill up the enclosed application form and sent it to this Ministry at the earliest alongwith all supporting documents such as educational certificate, Caste/Category Certificate, proof of residence etc. so that your application could be forwarded to Railway Board for consideration.*" Therefore, the vacancy in which Shri Dey was appointed arose after 01.01.2004 i.e. the cut off date for switching over the CCS (Pension) Rules, 1972. Due to this reason in pursuance to Railway Board's letter No. D-43/12/2018-F (E) III dated 03.03.2020 Shri Dey could not be declared as eligible for switching over to Coverage under Railway Service (Pension) Rules, 1993 in place of National Pension Scheme.

5. Complainant vide rejoinder dated 03.10.2022 has reiterated his grievance and submitted that his appointment was delayed more than 10 years for which he was not responsible.

Observation/Recommendations:

6. In light of the facts/material available on record and on the basis of the submission made by parties, this Court is inclined to note that issues raised by the complainant are not related to violation of disability rights. Hence intervention of this Court is not warranted.

7. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 14.11.2022



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. 13287/1011/2022

Complainant:

Shri V. Vignesh,
S/o Shri R. Vidya Shankar,
R/o 61 1st A Cross MEI Colony,
Peenya 3rd Phase, Laggere,
Bangalore-560058; Phone: 9840072051
Email: vigneshv2711@gmail.com

Respondent:

The Wing Commander,
Presiding Officer, HQTC (U) AF,
Air Force Station, Bangalore-560006
Email: adhikari.65@gov.in

Affected Person: The complainant, a person with 75% Locomotor Disability (Cerebral Palsy)

1. Gist of Complaint:

The complainant filed a complaint dated 07.03.2022 and submitted that he had applied for the post of Multi Tasking Staff under Persons with Disability category in Air Force Station, Hebbal, Bangalore. The complainant stated to have had appeared in the written examination (Roll No.MTS/2021/4107) on 28.10.2021 and had also appeared in the skill test on 18.12.2021. When the result published, his name was not in the final list. The complainant also alleged that one of the candidate who has been selected has written the examination with his parental uncle who is presently working as Government Engineer which is not allowed as per Scribe rules. Hence, he lost his chance of recruitment which causes much humiliation to him.

2. Submissions made by the Respondent:

The respondent filed their reply dated 22.07.2022 and inter-alia submitted that the individual/complainant had appeared for the skill test conducted on 18.12.2021. However, the individual/complainant was not able to qualify in the overall merit list. The Department/examining body could not form the panel of scribes due to the prevailing pandemic (COVID 19) at that time. Hence, this Unit has allowed the eligible candidates with their own scribe for the written exam in accordance with the D/o Disability Affairs guidelines dated 26.02.2013. The Unit has followed the directions of per Government of India's guidelines and the examination was conducted under strict vigil/invigilation to ensure free and fair exam.

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3. Submissions made in Rejoinder:

The complainant filed his rejoinder dated 25.08.2022 and submitted that the recruitment process was not fair and equitable.

4. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **29.09.2022**. The following persons were present during the hearing:

- (1) Shri V. Vignesh, the complainant; and Ms. B. Sundari, mother of the complainant.
- (2) None appeared for the respondent.

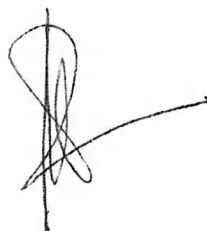
5. Observations & Recommendations:

5.1 Complainant submits that he applied for the post of Multi Tasking Staff. He claims that he qualified written examination as well as skill test. However, he was not finally selected. The complainant alleges that during the examination one of the candidates' paternal uncle was appointed as scribe, who is senior officer in the government establishment and was not eligible to be appointed as scribe.

5.2 Respondent submits that the complainant was not able to qualify in the overall merit list. Respondent followed M/o SJE notification dated 09.09.2020, whereby the ministry while implementing judgement of Delhi High Court laid down that if panel of scribe is not prepared then examination conducting establishments can follow 2013 guidelines on the relating to scribe facility instead of 2018 guidelines. As per 2013 guidelines criteria for qualification of scribe is not laid down. Respondent submits that since panel of scribes could not be prepared because of Covid, therefore, eligible candidates were allowed to bring their own scribes as per 2013 O.M. and therefore the candidate against whom the complainant filed the complaint, same criteria was adopted and he was allowed to bring his own scribe.

5.3 During online hearing, Complainant reiterated its claim that the other candidate qualified the examination with assistance of the scribe, who was more qualified and assisted the candidate in answering the questions. This Court asked the Respondent if similar Complaint has been received from other divyang candidates as well. Respondent apprised this Court that no such Complaint has been received from any other candidate.

5.4 As far as issue of violation of scribe guidelines is concerned this Court concludes that there is no violation committed by the Respondent. In 2013 MOSJE issued guidelines relating to scribe. In those guidelines it is clearly laid down that qualification of scribe is immaterial. Examination conducting bodies must increase vigilance. Thereafter, 2018 guidelines relating to scribes were issued by M/o SJE in 2018 guidelines two things were laid down, first, the educational qualifications of the scribe should not be more than educational qualifications of the candidate and



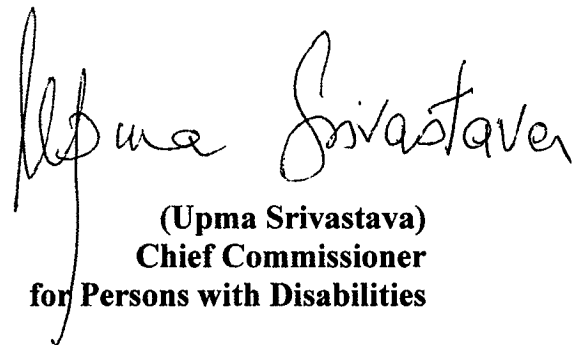
(3)

secondly, examination conducting bodies must form panel of scribes. Thereafter, in 2019 and also in 2020 M/oSJE issued guidelines that in case panel of scribes is not formed then 2013 guidelines must be followed, instead of 2018 guidelines. Therefore, the submission made by the respondent is correct.

5.5 Another issue is related to qualification of the scribe of the other candidate and use of unfair means by the other candidate. Complainant has not submitted any proof to support its claims. This Court is not inclined to intervene on this issue on the basis of hearsay evidence only. Hence, intervention of this Court in the present Complaint is not warranted.

5.6 Accordingly the case is disposed off.

Dated: 14.11.2022


(Upma Srivastava)
Chief 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. 13291/1011/2022

Complainant:

Shri Saurabh Kumar,
Toshiyas Sachiv,
Toshiyas Sanstha G8, Nandan Tower Colony More,
Kankarbagh, Patna-800020 (Bihar)
Email: toshiyashsaurabh@gmail.com

Respondent:

The Chairman,
Railway Recruitment Board,
Lichi Bagan, Maripur, Muzaffarpur : 842001
Phone No : 0621-2213405; FAX No : 0621-2213405
E-mail address : rrbmf-bih@nic.in

Affected Person: Shri Umesh Kumar, a person with 45% Locomotor Disability, S/o Late Kamta Prasad, R/o Village & Post: Kaup, PS: Charpokhari-802203, District: Bhojpur (Bihar)

1. Gist of Complaint:

The complainant filed a complaint dated 24.05.2022 of Shri Umesh Kumar, a person with 45% Locomotor Disability regarding no normalization in ALP & Technicians in Mains Trade Part-B w.r.t. Advt. No.CEN-01/2018. Shri Umesh Kumar also submitted that another boy in his shift has got normalization and his number had also been enhanced but not mine though I am a person with disability. He has requested that his normalization may be got done. The complainant submitted that injustice has been done to Shri Umesh Kumar and requested to take expeditious action.

2. Submissions made by the Respondent:

2.1 The Respondent filed their reply dated 13.07.2022 and submitted that the complainant's in his representation has mentioned that his marks of Part-B has not been normalized while the other candidate's Part-B marks had been normalized. The contention made by Shri Umesh Kumar is that his marks has not been normalised as his marks remained the same whereas the marks of other candidates of the same shift had been raised after normalization.

2.2 The Respondent further submitted that normalization is a mathematical process in which the marks of some candidates rise, marks of some candidates may go down while that some candidates may remain unchanged. This may happen in the same shift. The normalized marks candidates obtaining same raw marks would behave similarly but with variation of raw marks, the pattern (going up or down) may change. The raw marks of the applicant Shri Umesh Kumar were normalized in which it remained the same. No candidate can claim his/her normalized marks should rise after normalization.

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3. Submissions made in Rejoinder:

Shri Umesh Kumar filed his rejoinder dated 16.08.2022 and submitted that he is not satisfied with the reply filed by Railway Board.

4. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **13.10.2022**. The following persons were present during the hearing:

- (1) Shri Saurabh Kumar on behalf of Shri Umesh Kumar in person.
- (2) Shri R.K. Singh, RRB Muzaffarpur for the respondent.

5. Observations & Recommendations:

5.1 The complainant submitted that he appeared in written examination conducted to fill vacancies to notify through advertisement number CEN 01-2018. The grievance of the complainant is that normalisation of his marks was not done however, normalisation of marks of other candidate who appeared in same shift was done.

5.2 Respondent submitted that normalisation is mathematical process in which marks of the candidates may go down or may go up or may even remain unchanged. It is not certain that the marks will always go up in the process of normalisation. Normalisation of the Complainant's marks was also down, however, his marks remained unchanged.

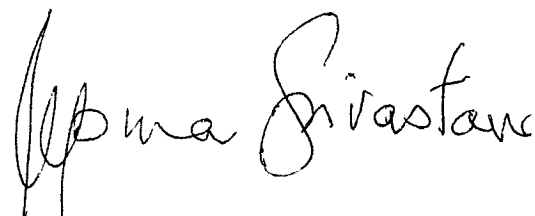
5.3 During online hearing, the Respondent submitted that his marks did not change even after the normalization process. Respondent also submitted that he was the only candidate whose marks did not change after the process of normalization. Raw marks obtained by the Complainant were 34.2223 out of 100, which remained same even after normalization process.

5.4 This Court recommends that in order to ensure that there was no mistake committed in the normalization process, the Respondent shall once again conduct normalization process of the Complainant's marks.

5.5 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.

5.6 Accordingly the case is disposed off.

Dated: 14.11.2022


(Upma Srivastava)
Chief 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.13303/1011/2022

Complainant:

Shri Harish Sragadam,
S/o Shri Saragadam Mohan Rao,
R/o House No.31-34-109/A, 28th Ward Village,
Greater Vishakamandal,
Visakamandal District, Andhra Pradesh
Email: harishsaragadam65@gmail.com

Respondent:

Advisor (Admin),
Office of Chief Advisor (Cost)
Department of Expenditure, Ministry of Finance,
'C' Wing, 2nd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110003; Email: gupta.pankaj@nic.in

Affected Person: The complainant, a person with 75% Visual Impairment

1. Gist of Complaint:

1.1 The complainant filed a complaint dated 30.05.2022 regarding the suitability list of PwBD was not in line with the Notification No.38-16/2020-DD-III dated 04.01.2021 of Ministry of Empowerment of Persons with Disabilities. The complainant has submitted that in recent vacancy notification of UPSC vide Advt. No.09-2022, Vacancy No. 22050904414, the post of Assistant Director (Cost) and Advt. No.01-2022, Vacancy No.22010102408 the post of Assistant Director (Cost) for recruitment was not in line with the Notification referred above.

1.2 The complainant submitted that he had written to the respondent to clarify the following issues, but the respondent did not reply:-

- (1) Whether PwBD categories (including Blind or Low Vision) will be included in the advertisements in accordance with Notification No.38-16/2020-DD-III dated 04.01.2021;
- (2) Whether said advertisements will be amended to include suitable list of PwBD specified as per Notification No.38-16/2020-DD-III dated 04.01.2021;
- (3) Whether the date of filling application will be extended for the aforesaid Advertisements; and
- (4) Whether the course of action with respect to the aforesaid advertisements was already lapsed.

(Page 1 of 5)

1.3 The complainant prayed that –

- (1) In accordance with the Notification No.38-16/2020-DD-III dated 04.01.2021 those vacancies may be amended;
- (2) UPSC Advt. 01-2022, Vacancy No.22010102408 for the post of Assistant Director (Cost) may be reopened; and
- (3) The last date for making application for Advt. No. 09 -2022, Vacancy No.22010102408 for recruitment to the post of Assistant Director (Cost) may be extended;


2. Submissions made by the Respondent:

2.1 Respondent filed their reply dated 10.08.2022 and submitted that the impugned vacancies had been issued in accordance with the Notification No.38-16/2020-DD-III. In line with the Notification, certain sub-categories of Persons with Benchmark Disability (PwBD) were considered suitable for the post of Assistant Director (Cost). The sub-categories are (i) Both Legs affected but not Both Arms (BL), (ii) One Leg affected (OL), (iii) One Arm affected (OA), (iv) Both Legs and One Arm affected (BLOA), (v) One Leg and One Arm affected (OLA), (vi) Leprosy Cured (LC), (vii) Dwarfism (DW), (viii) Acid Attack Victims (AAV), (ix) Muscular Dystrophy (MDy) and (x) Hard of Hearing (HH) found to be suitable for the post.

2.2 The complainant who is a visually impaired person and is suffering from Nistagmus High Myopia since his childhood, has lost his right eye vision due to retinal detachment and is now left with left eye vision with minus 30 eye power.

2.3 In the Notification No.38-16/2020-DD-III dated 04.01.2021, in respect of Group 'A' posts in Accounts & Audit, posts at Sl. No.1 {Assistant Accounts General (Audit)/ Assistant Accountant General (Audit)}, Sl.No.2 {(Director (Audit))}, Sl.No.3 {Joint Director (Audit)}, Sl. No. 4 {Deputy Director (Audit)}, Sl. No. 5 {Assistant Director (Audit)}, Sl.No.6 {Senior Audit Officer}, Sl. No. 23 {Assistant Finance Manager}, Sl.No.24 {Assistant General Manager (F & A)}, Sl. No. 28 {Chief Accountant} etc. have not been included as suitable for Blind nd Low Vision category and posts only having regular and repetitive nature of work are included. The post of Assistant Director (Cost) does not figure in the above Notification as per its functional requirement.

2.4 In view of the functional requirement of the post mentioned above, Assistant Director (Cost) cannot be equated with any of the Group 'A' posts under the heading 'Accounts Officer' under the heading 'Accounts & Audit' in Notification dated 29.07.2013 of D/o Disabilities Affairs and under the heading 'Accounts and Audit' in notification dated 04.01.2021 of DEPwD. The post of Assistant Director (Cost), Group 'A; Accounts category post in Junior Time Scale was mentioned only for illustrative purposes. The nature of work performed by Officers in Junior Time Scale are to maintain payment records, bill passing, record keeping, maintain records of



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sales tax, income tax etc. payments documentation, data feeding of financial transactions, budget preparation supervisory work which are repetitive in nature and do not have intensive analysis of massive data, hence cannot be compared with nature of duties of Assistant Director (Cost).

2.4 The Blind and Low Vision category are not functionally suitable for recruitment to the post of Assistant Director (Cost). Similar situation exists in some other Group 'A' Central Services viz Indian Foreign Service and Indian Audit & Accounts Service. The complainant is presently working in Finance & Accounts Department of MSTC Limited, the requirements and nature of duties for the post of Assistant Director (Cost) are different and cannot be compared with the post he is handling at present.

3. Submissions made in Rejoinder:

The complainant in his rejoinder dated 14.07.2022 submitted that Group-'A', Accounts Category, Junior Time Scale post is identified in Notification No. 38-16/2020-DD-III dated 04-01-2021 and this supersedes the list of posts for Groups 'A', 'B', 'C' and 'D' notified through notification No. 16-15/2010-DD-III dated 29.07.2013. Hence Reservation Roster for Persons with Disabilities (As on 01.09.2021), must be prepared in accordance with the Notification dated 04.01.2021 and OM No.36035/02/2017-Estt {Res} dated 15.01.2018 issued by DoPT.

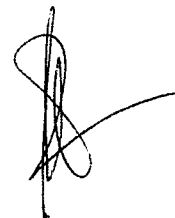
4. **Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **29.09.2022**. The following persons were present during the hearing:

- (1) Shri Harish Saragadam, the complainant in person
- (2) Shri K.K. Mahawat, Chief Advisor (Cost), D/o Expenditure for the respondent

5. Observations & Recommendations:

5.1 Complainant submitted that vacancies on the post of Assistant Director (cost) were issued. The post was identified suitable for locomotor disability, hard of hearing category and deaf and dumb category. Grievance of the complainant is that the post was not identified suitable for blind or low vision category, whereas in MOSJE list of identified posts, dated 04.01.2021 the post of Junior Time Scale is identified suitable for blind and low vision category.

5.2 Respondent submitted that the post of Assistant Director (cost) is not mentioned in the list of posts identified suitable dated 04.01.2021. Further, respondent submits that functional requirement of the post of Assistant Director (Cost) cannot be equated with other group A posts. Functional requirement of this post includes maintenance of payment records, record keeping, data feeding functions of transactions, budget preparation etc, which requires in-depth analysis and examination of documents which in result requires constant use of vision. Therefore, blind and low vision categories are not suitable for the post.



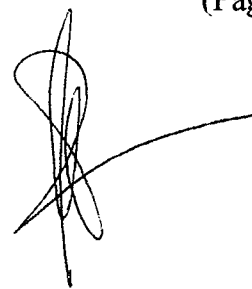
(Page 3 of 5)

5.3 Documents submitted by both the parties were perused. Respondent has not submitted any documents to support its claims that exclusion of divyangjan of blind and 'low vision' category is just and fair. Respondent submits that the posts of Assistant Director (Cost) is not identified for divyangjan of 'blind' and 'low vision' categories because the nature of work associated with this post includes maintenance of payment records, record keeping, data feeding functions of transactions, budget preparation etc, which requires in-depth analysis and examination of documents which in result requires constant use of vision.

5.4 Department of Empowerment of Persons with Disabilities issued list of posts identified suitable for various categories of divyangjan on 04.01.2021. The same was also perused. The list does not contain posts named 'Assistant Director (Cost)'. However, the list contains other Group A posts, such as Additional Controller Auditor General of India, Assistant Controller of Accounts, Deputy Director (Accounts), which have similar nature of work described against the nomenclature as associated with the post of Assistant Director (Cost), as informed by the Respondent. Description of 'nature of work' performed by the post of Additional Controller Auditor General of India, Assistant Controller of Accounts, Deputy Director (Accounts) includes --

"They ensure proper maintenance of accounts, accounts books, records of business and financial establishments, private institutions, Govt. or Quasi-Govt. offices. Supervise subordinates e.g. Account Clerks engaged in maintenance of accounts and records. Scrutinize bills, receipts, payment etc. for proper entries in cash -book, journal, ledger and other records. Keep record of all taxes, licenses, fees etc., required to be paid by organization in which engaged and ensure that they are paid in time and kept up-to-date. Get annual budget prepared and consolidated under their supervision and place it before 'Board' or appropriate authority for consideration. Prepare final accounts such as trial balance, profit and loss statement or such balance sheet etc., as required depending upon type of industry or organization in which engaged. See that prescribed accounting procedure is followed by offices, establishments and institutions and account books are properly maintained. Ensure that instructions given or objections raised are carried out or rectified. Make periodical and surprise checks of accounts. Advise appropriate authority on financial matters including revenue and expenditure such as procedure for procurement of raw materials, machinery and other purchases and also disposal of assets, write off depreciation, award of contract etc."

5.5 From the nature of work as described in the list it is clear that the nature of work of 'Assistant Director (Cost)' is similar to the nature of work associated with the posts of Additional Controller Auditor General of India, Assistant Controller of Accounts, Deputy Director (Accounts). It is also important to note that the Respondent has also not produced any evidence to prove that the decision to exclude the two categories of divyangjan was taken on the basis of report of any committee of experts.



5.6 Further, the attention of the Respondent is also attracted to Para 3 of DoPT O.M. No. 36035/02/2017 dated 15.01.2018. As per the para if any ministry or department thinks it necessary to exempt divyangjan from provisions of reservation for divyangjan, such ministry/department shall make proposal justifying the necessity to exempt the divyangjan and shall forward the proposal to Department for Empowerment of Persons with Disabilities. The final decision to exempt divyangjan shall be taken by the Department of Empowerment of Persons with Disabilities after consultation with O/o Chief Commissioner for Persons with Disabilities. Respondent has failed to produce any evidence to prove that the any such proposal was forwarded to DEPwD for obtaining exemption.

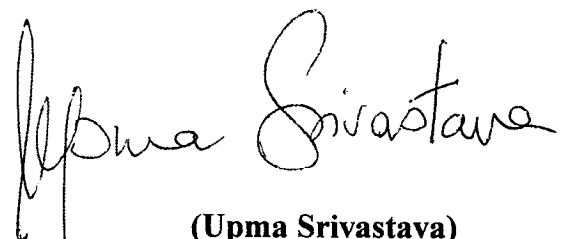
5.7 Hence, this Court concludes that the Respondent's decision to exclude divyangjan with 'blind' category and 'Low Vision' category is bereft of logic, reason and legality. Respondent's decision to exclude divyangjan with 'Blind' and 'Low Vision' category violates Section 3 and Section 20 of Rights of Persons with Disabilities Act, 2016 and also violates Article 14, Article 16 and Article 21 of Indian Constitution.

5.8 This Court recommends that the Respondent shall not exclude the Complainant and other divyangjan of 'Blind' and 'Low Vision' categories from appearing in the examination conducted for the appointment to the post of 'Assistant Director (Cost)'.

5.9 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.

5.10 Accordingly the case is disposed off.

Dated: 14.11.2022


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार / Government of India

Case No. 13081/1011/2022

Complainant:

Mr. Juel Savio Mendez,
Kallachamurry House, Panditkaruppan Road,
Cheranelloor, Kochi-682034 (Kerala)
Email: juelsaviomendez@gmail.com

Respondent:

The Chairman and Managing Director,
Fertilisers and Chemicals Travancore Ltd.,
Human Resources Department,
Udyogamandal-683501 (Kerala)
Email: cmd@factltd.com

Affected Person: The complainant, a person with 50% Locomotor Disability (Cerebral Palsy)

1. Gist of Complaint:

1.1 The complainant filed a complaint dated 13.01.2022 regarding denial of appointment to the post of Civil Technician even after securing 3rd rank in the general list on the basis of his disability.

1.2 The complainant submitted that he had appeared in the recruitment exam conducted in January, 2020 for the recruitment to the post of Civil Technician published by Fertilisers and Chemicals Travancore Ltd. [FCTL] vide Notification No.01/2020 and secured 3rd rank in general list. On 15.12.2021, FCTL called him for making temporary appointment for 04 years and offered appointment letter. After document verification, the Medical Officer rejected the candidature of the complainant being a disabled person.

2. Submissions made by the Respondent:

2.1 FCTL filed their reply dated 15.03.2022 and submitted that after 04 post notified for Technician (Civil) (03 UR and 01 OBC), 01 post was reserved for Persons with Benchmark Disability – Deaf and Hard of Hearing as laid down under Section 34(1)(b) of the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016]. The complainant being a Person with Benchmark Disability – 50% Locomotor Disability, did not fall under specified disability notified. Hence in terms of Clause 11 of the OM No.36035/02/2017-Estt(Res) dated 15.01.2018 he was not considered for the post reserved for PwBD; he was considered for the posts not reserved for PwBD candidates. The complainant had secured 3rd position in unreserved (UR) category and 4th position in the OBC-NCL category. FCTL offered appointment on permanent basis to two candidates from the merit list.

(Page 1 of 4)

(2)

2.2 Further, the complainant was offered appointment on Fixed Tenure Contract Adhoc Basis vide email dated 15.12.2021 with a direction to report for pre-employment medical examination / certificate verification on 20.12.2021. Since the complainant was not found medically fit as per Clause 8.0 Health / Medical Fitness, he was not considered for appointment. Clause 8.0 of the Notification reads as under:-

“8.0 Health/Medical Fitness:

Every candidate offered appointment in the Company shall be subjected to Pre-employment medical examination before being allowed to join the services of the Company. The opinion of the Company Medical Officer in this regard shall be final.”

3. Submissions made in Rejoinder:

The complainant filed his rejoinder dated 18.03.2022 and reiterated his complaint.

4. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **06.09.2022**. The following persons were present during the hearing:

- (1) Shri Juel Savio Mendez, the complainant in person
- (2) Shri Dilip Mohan for the respondent


5. Observations & Recommendations:

5.1 Complainant submits that the respondent establishment issued notification to fill the vacancy of ‘Technician (Civil)’. Complainant applied for the post, appeared in examination and secured 3rd rank. Thereafter, he was called for documentation verification and medical examination. After medical examination he was declared as unfit because of his disability. Complainant claims that he can perform all kind of civil works and he has worked as Junior draftsman in other establishments as well.

5.2 Respondent submits that total 4 vacancies of ‘Technician (Civil)’ were notified out of which 1 was reserved for Divyangjan. The post was specifically reserved for Hearing Impaired category. Complainant’s disability is Orthopedically Handicapped. Hence, he was considered for unreserved post.

5.3 Thereafter, the complainant was called for document verification and medical examination. Respondent establishment has established procedure of medical examination. In medical examination it was found that the complainant has cerebral palsy and right side Hemiparisis. As per clause 8 of medical examination procedure, deformity of spine or in limb is considered as disqualification criteria. Respondent further submits that the Respondent establishment is categorised as ‘hazardous’ hence the post is not identified suitable for ‘Orthopedically Handicapped’.

5.4 The main issue in the present Complaint is whether the Complainant’s candidature should have been considered against the unreserved post and if the Respondent has violated the Complainant’s right by rejecting his candidature on the ground of disability.



(3)

5.5 In Para 4.1 of DoPT O.M. No. 36035/02/2017 dated 15.01.2018 it is clearly laid down that divyangjan with category of disability which is identified suitable for a given post has right to compete against the unreserved vacancy. The rule is reproduced below –

“4.1 In the category of posts which are identified suitable for persons with benchmark disabilities, a person with benchmark disability cannot be denied the right to compete for appointment by direct recruitment against an unreserved vacancy.”

5.6 From the plain reading of the rule, it is certain that divyangjan has right to compete against the unreserved vacancy as well. The only condition is that such divyangjan must belong to the category of disability which is identified suitable for the post.

5.7 During online hearing specific question was asked from the Respondent that what was the process and who was the authority which decided to not identify the impugned post as suitable for divyangjan with Locomotor Disability. Respondent informed this court that no exemption was sought from the concerned ministry/department, decision to not identify the post as suitable action was taken on the basis of reservation roster.

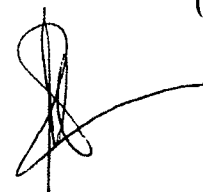
5.8 Identification of post as suitable for particular category of disability cannot be taken on the basis of roster. Reservation roster can be used to determine reservation point and disability-category for which the post has to be reserved. Rosetta stone for identifying the post as suitable or unsuitable is List of posts identified suitable, dated 04.01.2021, issued by Department of Empowerment of Persons with Disabilities (Hereinafter referred as ‘the list’).

5.9 This Court perused the list. At Sr. No 293 on page no 1934, post of Junior Engineer is identified suitable for divyangjan with Locomotor Disability. During online hearing, the Respondent apprised this Court that the functions performed by ‘Junior Engineer (Civil)’ is same as functions performed by ‘Technician (Civil)’.

5.10 This Court is inclined to conclude that Respondent’s decision to exclude divyangjan with ‘Locomotor Disability’ is arbitrary and is not supported by any reason. If Respondent believes that divyangjan with Locomotor Disability cannot perform the work attached with the post of ‘Technician (Civil)’, the appropriate mechanism for the Respondent is to seek exemption from the Department of Empowerment of Persons with Disabilities. From the reply of the Respondent it is certain the no such exemption has been sought by the Respondent.

5.11 Further it is to be noted that the Complainant qualified the examination and he was rejected in medical examination because of his locomotor disability. It is also an undisputed fact that the Complainant was able to qualify on his merit against the unreserved vacancy. Since the Respondent has not obtained any exemption for the post of Technician (Civil) and another post with similar nature of work performed (i.e. Junior Engineer) is identified for divyangjan with Locomotor Disability hence this Court concludes that rejection of the Complainant in medical examination because of

(Page 3 of 4)



(4)

his disability is arbitrary. Relevant rule on the issue of medical examination of divyang candidates is at Para 12 of DoPT O.M. dated 15.01.2018. As per the rule, medical examination of divyang candidate has to be conducted keeping in view the fact of disability of the candidate. The rule is mentioned below –

“In case of medical examination of a person with benchmark disabilities for appointment to a post identified as suitable to be held by a person suffering from a particular kind of disability, the concerned Medical Officer or Board shall be informed beforehand that the post is identified suitable to be held by persons with benchmark disabilities of the relevant category and the candidate shall then be examined medically keeping this fact in view.”

5.12 On the basis of rule position and reasons mentioned above, this Court concludes following -:

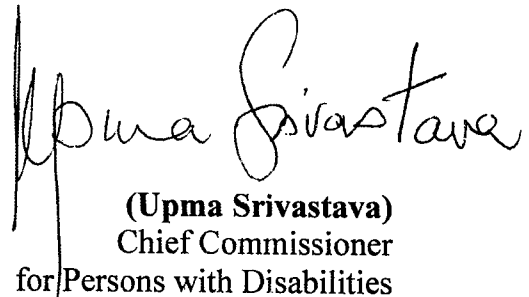
- a. Respondent did not seek exemption for appointing divyangjan with Locomotor Disability on the post of ‘Technician (Civil)’. Hence, Respondent’s decision to exclude divyangjan with locomotor disability, including Complainant, is arbitrary and violates disability rights of the Complainant.
- b. Post of ‘Technician (Civil)’ can be deemed to be identified suitable for divyangjan with locomotor disability because another post with same functional requirements is identified suitable for divyangjan with locomotor disability.
- c. Complainant has right to contest against the unreserved vacancies.
- d. Complainant’s medical examination has to be conducted in accordance with rule laid down in Para 12 of DoPT O.M. dated 15.01.2018.

5.13 This Court recommends that the Respondent shall re-examine the Complainant in accordance with Para 12 of DoPT O.M. dated 15.01.2018.

5.14 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.

5.15 Accordingly the case is disposed off.

Dated: 14.11.2022


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार / Government of India

Case No. 13290/1011/2022

Complainant:

Shri Saurabh Kumar,
Toshiyas Sachiv,
Toshiyas Sanstha G8, Nandan Tower Colony More,
Kankarbagh, Patna-800020 (Bihar)
Email: toshiyashsaurabh@gmail.com

Respondent:

The Secretary,
Railway Board,
Ministry of Railway,
Rail Bhawan, Rafi Marg,
New Delhi-110001
Email: secyrb@rb.railnet.gov.in

Affected Person: Persons with Disabilities

1. Gist of Complaint:

The complainant filed a complaint vide email dated 24.05.2022 regarding violation of the provisions of the Rights of Persons with Disabilities Act, 2016 [RPwD Act, 2016] in recruitment of Indian Railways; and the posts reserved for persons with disabilities are remaining vacant. The complainant alleged that approximate 2.5 Lakh posts have been lying vacant for years. Due to slow process of recruitment process the vacant posts are not being filled up.

2. Submissions made by the Respondent:

The respondent filed their reply dated 26.08.2022 and submitted that in compliance with RPwD Act, 2016, 4% reservation has been duly provided to Persons with Disabilities (PWD) candidates in open market recruitment for non-gazetted posts in Railways. In the year 2018 and afterwards, total seven centralized Employment Notifications (CEN) had been notified for 2,83,747 vacancies of Group 'C' posts (including Level-1 posts) in Railways out of which 11,165 posts have been notified for PwBD candidates. While recruitment process for three CENs are still at the examination stage, a panel of 2270 PwBD candidates had been issued against the remaining four CENs. The provisions of RPwD Act, 2016 are being implemented in the Railways.

(Page 1 of 2)

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3. Submissions made in Rejoinder:

The complainant filed his rejoinder dated 06.09.2022 and submitted that the logic given in the reply filed by the respondent is not ethical.

4. Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **29.09.2022**. The following persons were present during the hearing:

- (1) Shri Saurabh Kumar, the complainant in person
- (2) Shri D. Joseph, Director (Estt); Shri Sanjay Kumar, Dy. Director (EN); and Shri A.N. Rao, M/o Railway Board

5. Observations & Recommendations:

5.1 Complainant submits that more than 2.5 lakh posts in respondent establishment are vacant because of which Divyangjan are also not employed. Respondent submits that in 2018, 7 centralised employment notifications have been notified and 4% reservation has been extended for PwD candidates.

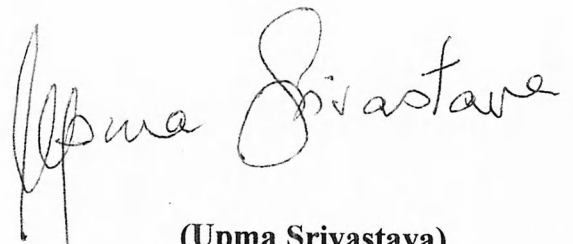
5.2 The issue is related to Direct Recruitment to Group C posts. Respondent submits that in last 2 years total 2,83,747 vacancies of Group C posts have been notified and out of which 11,165 were reserved for divyangjan. Section 34 of Rights of Persons with Disabilities Act, 2016 mandates that 4% vacancies have to be reserved for divyangjan. 4% of 2,83,747 is 11,350 whereas the Respondent reserved only 11,165 vacancies. Therefore, it is clear that less than 4% vacancies were reserved. Respondent should have reserved at least 185 vacancies more for divyangjan in order to fulfil the mandate of Section 34 of Rights of Persons with Disabilities Act, 2016.

5.3 Respondent also informed during online hearing that all Group C posts have not been advertised yet. In near future approximately 25,000 Group C vacancies will be notified. This Court recommends that when rest of the Group C vacancies will be notified, Respondent shall consider 185 vacancies as 'backlog vacancies' and shall reserve 185 vacancies for divyangjan in addition to 4% of vacancies which will be notified in future, as informed by the Respondent.

5.4 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.

5.5 Accordingly the case is disposed off.

Dated: 14.11.2022



**(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities**



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार / Government of India

Case No. 13304/1103/2022

Complainant:

Shri Pintu, S/o Shri Mathee Ram,
R/o H.No.B-30, Ganapati Dham,
Phase-2, Jagjeetpur, PS: Kankhal,
Haridwar-249408 (Uttarakhand)
Email: pintutyagi19@gmail.com
Mobile: 8800924483

1235665

Respondent:

Divisional Railway Manager,
Moradabad Division,
Northern Railway Zone,
Civil Lines, Near Kapoor Company,
Moradabad-244001
Email: drm@mb.railnet.gov.in

1235667

Affected Person: The complainant, a person with 40% Disability

1. Gist of Complaint:

The complainant filed a complaint dated 25.05.2022 requesting for opening of a separate reservation ticket counter and other related matter for persons with disabilities at Haridwar Railway Station to avoid standing up for a long time in the queue. As per the complainant, there is no separate ticket booking/reservation counter at Haridwar Railway Station.

2. Submissions made by the Respondent:

The Respondent filed a reply dated 18.08.2022 and submitted that Counter No.563 at Haridwar Railway Station is nominated for issuing reservation ticket to persons with disabilities, ladies and senior citizen. On an average only two tickets per day are issued on concession certificate for persons with disabilities for last 18 months. There is no justification for opening a separate new counter for persons with disabilities because the counter No.563 is already smoothly working for persons with disabilities where tickets are issued to them on top priority.

3. Submissions made in Rejoinder:

The complainant filed his rejoinder dated 01.09.2022 and expressed his thanks for the reply given by respondent. However, he complained that he is unable to book concessional ticket online despite having an online Railway Card. He also submitted that he is facing a problem with online railway ticket booking (issued on Nov 29th, 2019) but till date not a single booking being done by him, it shows the credential mismatched/error. He requested for resolving the matter for online ticket booking/provide the contact details of the concerned person as he tried frequently to visit Haridwar Railway Station to resolve it but it is still unresolved.

(Page 1 of 2)

(2)

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

- (1) Shri Pintu, the complainant in person
- (2) Ms. Anju Singh, DCM for the respondent

5. Observations & Recommendations:

5.1 The complainant filed a complaint requesting for opening of a separate reservation ticket counter and other related matter for persons with disabilities at Haridwar Railway Station to avoid standing up for a long time in the queue. As per the complainant, there is no separate ticket booking/reservation counter dedicated to divyangjan at Haridwar Railway Station.

5.2 The Respondent filed a reply dated 18.08.2022 and submitted that Counter No.563 at Haridwar Railway Station is designated for issuing reservation ticket to persons with disabilities, ladies and senior citizen. On an average, in last 18 months only two tickets per day are issued on concession certificate for persons with disabilities. There is no justification for opening a separate new counter for persons with disabilities because the counter No.563 is already smoothly working for persons with disabilities where tickets are issued to the on top priority.

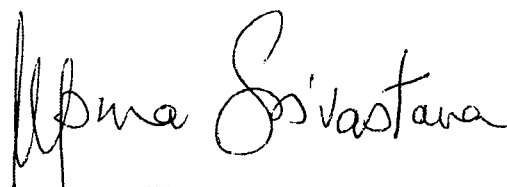
5.3 The complainant filed his rejoinder dated 01.09.2022 and expressed his thanks for the reply given by respondent. However, he complained that he is unable to book concessional ticket online despite having an online Railway Card. He has requested for resolving the matter for online ticket booking/provide the contact of the concerned person as he tried frequently to visit Haridwar Railway Station to resolve it but it is still unresolved.

5.4 Main grievance raised in the Complaint is resolved. Relating to online booking, it is a new grievance raised in Rejoinder. Hence, this Court recommends that the Respondent shall take note of the new grievance raised by the Complainant in its rejoinder and shall make endeavors to resolve the issue as soon as possible.

5.5 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.

5.6 Accordingly the case is disposed off.

Dated: 15.11.2022


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
 दिव्यांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities (Divyangjan)
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
 भारत सरकार / Government of India

Case No. 13341/1101/2022

Complainant:

Mr. Ansar Alam,
 Investigator (SS) Grade-I,
 Vigilance Cell (ORGI),
 Ministry of Home Affairs,
 New Delhi-110066; Email: ansaralam.rgi@gov.in

Respondent:

(1) Director (CGHS),
 Ministry of Health and Family Welfare,
 Department of Health and Family Welfare,
 Room No. 545 A, Nirman Bhavan,
 Maulana Azad Road, New Delhi-110001
 Email id: sanjay.jain24@cghs.nic.in

(1) Chief Medical Officer,
 CGHS Dispensary, 1-12, Pitanji,
 Block-E, East Kidwai Nagar,
 Kidwai Nagar, New Delhi,
 Delhi 110023; Email: kdwnsz.dl@cghs.nic.in

Affected Person: Persons with Disabilities

1. Gist of Complaint:

1.1 The complainant filed a complaint vide email dated 26.05.2022 regarding inaccessible infrastructure of the CGHS Dispensary D12 East Kidwai Nagar, Delhi for persons with disabilities.

1.2 The complainant is a CGHS beneficiary and his nearby dispensary is at Kidwai Nagar on the second floor of the south market. There are two lifts, one of which is non-functional since many months and other one is not working since more than a week. He further submitted that it is almost impossible for persons with disabilities to climb stairs and reach the second floor. The complainant prayed to look into the matter.

2. Submissions made by the Respondent:

Sr. Chief Medical Officer In Charge, CGHS WC Kidwai Nagar (D12), Respondent No. 2 filed its reply dated 02.09.2022 and submitted that the lift was not working for a few days in the month of May, 2022. Presently, the lift is working

(Page 1 of 2)

(2)

properly. Shri Ansar Alam is regularly visiting the W.C. to avail medical facility. Whenever such problem arises doctors & staff of the dispensary always extend their helping hands. Sr. CMO has given his mobile number to Shri Alam and many times when lift was not working, he was given medical facility at ground floor. The maintenance of lift is done by NDMC and the NDMC management has been already requested to maintain the lift on priority so that no such problem arises in future.

3. Submissions made in Rejoinder

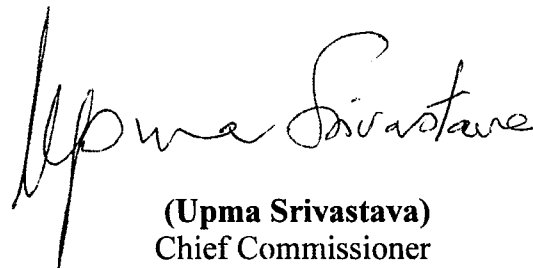
No rejoinder was received from the complainant.

4. Observations & Recommendations:

4.1 From the reply filed by the respondent, it appears that the grievance of the complainant has been redressed. The copy of the reply was forwarded to the complainant for filing the rejoinder but no rejoinder has been filed by the complainant. In view of the above, no further intervention is warranted in the matter.

4.2 Accordingly the case is disposed off.

Dated: 15.11.2022


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार / Government of India

Case No. 13306/1011/2022

Complainant:

Shri Vikram Singh, S/o Shri Gajraj,
R/o Village-Makarandpur,
Post: Kotara, Makarandpur,
District: Kanpur Nagar – 209206 (UP)
Email: singhkaviraj780@gmail.com; Mobile: 8707096316

Respondent:

Air Commodore, Air Force Station,
Chakeri, Kanpur-208008,
Email: traffic.knp@gov.in

Affected Person: The complainant, a person with 40% Visual Impairment (Low Vision)

1. Gist of Complaint:

The complainant filed a complaint dated 20.05.2022 regarding denial of appointment to the post of MTS. The complainant submitted that he was called for written examination on 26.08.2021 and he had cleared the Written Test and Trade Test conducted by the respondent on 04.10.2021 for the said post. When the list of selected candidates was published by the respondent, the complainant did not find his name in that list.

2. Submissions made by the Respondent:

No reply was received from the respondent despite letter dated 08.07.2022.

3. **Hearing:** The case was heard via Video Conferencing by the Commissioner for Persons with Disabilities on 29.09.2022. The following persons were present during the hearing:

- (1) Shri Vikram Singh, complainant in person
- (2) Group Captain Shri Ashish Mishra for respondent

4. Observations & Recommendations:

4.1 Complainant submits that advertisement for the post of MTS (Civil) was advertised by the respondent establishment. Complainant appeared in the examination on 26.08.2021. He claims that he successfully qualified the written examination and thereafter qualified trade test as well, however, he was not finally selected. Complainant further, submits that another candidate namely Yogesh who is also Divyangjan was selected however, complainant is more qualified than Yogesh.

(Page 1 of 2)

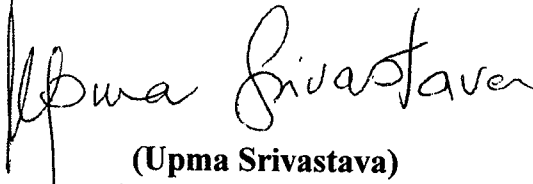
(2)

4.2 During online hearing, Respondent submitted that total 120 divyang candidates applied against the vacancies advertised. 1 vacancy was reserved for divyangjan. After written examination, 6 candidates qualified for skill test. The selected candidate scored 87 marks and Complainant scored 61 marks.

4.3 Complainant claims that he is more qualified than the candidate who was selected. However, no evidence is given by the Complainant to support his claim. Moreover, marks scored by the selected candidate and the Complainant are contrary to the claims made by the Complainant. Hence, intervention of this Court in the present Complaint is not warranted.

4.4 Accordingly the case is disposed off.

Dated: 15.11.2022


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



मत्यमय नयत

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: 13456/1022/2022

Dated: 17.11.2022

Dispatch No

Complainant:

Shri Abhay Kant Singh
S/o Shri Rama Kant Singh,
Helper,
Village: Raghurampur,
Post : Chandmari,
District - Patna, Bihar-801503

1235779

Versus

Respondent:

The Divisional Railway Manager(P) (1)
Sonpur Mandal
East Central Railway
Dist. Saran, Bihar-841101
Email: drm@see.railnet.gov.in

1235780

The Divisional Railway Manager (2)
DRM Office
East Central Railway
Danapur, P.O.-Khagaul
District: Patna (Bihar)
Pin: 801105
Email: drm@dnr.railnet.gov.in, drmdanapur@gmail.com

1235781

Sub: Complaint dated 24.08.2022 of Shri Abhay Kant Singh, a person with 60% Hearing Impairment, working as Helper in the Sonpur Mandal, requesting for Inter Zonal transfer on own request from Sonpur Mandal to Danapur Mandal-regarding

Madam/Sir,

Please refer to the above-mentioned complaint received from Shri Abhay Kant Singh requesting for Inter Zonal Transfer on own request from Sonpur Mandal to Danapur Mandal.

2. The Office of DRM (P), Sonpur Division vide letter dated 27.09.2022 has informed that the complainant has been relieved from the Sonpur Division to Danapur Mandal on 06.09.2022.

3. The complainant vide email dated 29.09.2022 has informed that he has been relieved from Sonpur Division on 06.09.2022 and joined duty at Danapur Division on 07.09.2022.

4. In view of the above, as the complainant's complaint has been redressed, no further intervention of this Court is felt appropriate in the matter. The complaint is closed.

(Signature)

(Upma Srivastava)

Chief Commissioner for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार / Government of India

Case No: 13270/1022/2022

Complainant:

Shri Pandurang Babulal Mahale
P.A.O.E. Ambernath SO-421502
Thane Division, Navi Mumbai Region,
Maharashtra
Pbmahale44@gmail.com
Mobile No: 07990171186

Vs

Respondent:

The Chief Postmaster General
Maharashtra Circle, Department of Post
2nd Floor, Mumbai GPO, Old Building
Mumbai-400001
Email: cpmg_mah@indiapost.gov.in
Contact No: 022-22620829

GIST OF COMPLAINT

The complainant, a person with 58% Locomotor Disability, has filed a complaint dated 23.04.2022 regarding retaining his posting in Ambernath SO Post Office.

2. The complainant has submitted that on 29.10.2021 Chief Postmaster General allotted him Navi Mumbai Region for LSG promotion without any financial benefit O.E. Ambernath SO have sanction strength of 1 HSG, 2 Sub Post master, 1 LSG PA and 3 postal Assistant. He has given request applications to the PMG Navi Mumbai Region on 01.11.2021 for allotting him O.E. Ambernath Post Office under Thane Division, Navi Mumbai Region. But he has allotted upper Tudil Post Office under Raigad Division which is about 150-200 KMs from his residency. The complainant again send request application for allotting him O.E. Ambernath SO but again allotted him Mumbai Post office under Thane Division which is 50-60 KMs away from his residency. The complainant again send request application and allotted him the O.E. Ambernath SO on 13.04.2022. Under this process he lost his seniority in LSG Post from the 29.10.2021 to 28.02.2022 as compare to physically fit postal employees. The complainant has requested to this Court to give necessary directive to the respondent for implementation of recommendation in case no. 2861/1022/2017 and give him promotion with effect from 29.10.2021 and exemption from rotational transfer.

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

4. In response, Asst. Postmaster General (Staff), Maharashtra Circle, Mumbai vide his letter no. dated 04.07.2022, submitted that the complainant was recruited in Department of Posts as Postman, and allotted to Mumbai City North Division vide Circle Office, Mumbai's Memo. No. dated 26.06.2002. He was further allotted to Andheri RS Post Office vide SSPOs, Mumbai City North Division's Memo no. dated 20.08.2002.

Further, the complainant was declared successful in LGO exam dated 23.04.2006 and promoted to Postal Assistant (PA) Cadre vide Circle Office, Mumbai's Memo no. dated 04.10.2006. On completion of induction training for departmental candidates at PTC Vadodara and practical training at Mahim HO, Mumbai, he was appointed as Leave Reserve Postal Assistant at Mahim HO w.e.f. 13.01.2007. Thereafter, the complainant was transferred under Rule 38 to Mumbai City North West Division w.e.f. 01.03.2008 and then to Thane Division wherein he was posted as LRPA. at Ordinance Estate, Ambernath PO under Thane Division w.e.f. 09.08.2016.

5. As regards LSG Promotion, the respondent had submitted that the complainant then promoted to LSG Cadre vide Circle Office Memo Dated 29.10.2021 under OC-OH category and allotted to Navi Mumbai Region on promotion. Navi Mumbai Region vide Memo dated 30.11.2021 further allotted him to Upper Tudil PO under Raigad Division. However, the complainant instead of joining on promotion had submitted his representation dated 01.12.2021 for re-allotment to Thane Division. His request for re-allotment to Thane Division was considered by the competent authority and he was reallocated to Thane Division vide RO, Navi Mumbai Memo dated 20.01.2022.

6. The Members of Transfer and Posting Committee met virtually on 24.01.2022 and decided the case posting of officials re-allotted to Thane Division in LSG Promotion. The post of LSG PA at Ambernath OE was not vacant on 24.01.2022. For accommodation of complainant at O.E Ambernath as per his request, it would have been improper to transfer the female employee working as LSG PA, OE, Ambernath before completion of her tenure. Hence, the complainant's request for posting at O.E Ambernath could not be considered. As there was no vacancy in any offices of Ambernath area under Thane Division, the Committee recommended his posting to Mumbra PO under Thane Division, which is nearest among all vacant posts in Thane Division so as to avoid any sort of financial loss and to retain him in X-Class city with 27% HRA. The complainant refused to join Mumbra PO and continued to submit representations to various authorities for posting as LSG PA, OE, Ambernath PO.

7. The Members of the Transfer and Posting Committee again met virtually on 21.02.2022 to consider the complainant's representation dated 17.02.2022 and decided to consider the request of the complainant as LSG, SPM, Ambernath South PO w.e.f. 01.03.2022 as the vacancy occurred on superannuation of an official w.e.f. 28.02.2022. The distance of Ambernath South PO from his residence is only 6.3 Kms. The complainant joined as LSG, SPM, Ambernath South PO w.e.f. 01.03.2022 as per his request. However, he still continues to submit representations and RTI's without waiting for vacancy to arise. He never show any concern towards the problems faced by the administration in considering his request.

8. On going through the past records of the complainant, it has been observed that his request for posting was always considered on the grounds of his disability. His request has always been considered and he has been posted in Post Offices of Ambernath area only which is within 10 km radius from his residence as per availability of vacancy in respective cadre and norms of Rotational transfer issued from time to time. Further, it is learnt that he uses his personnel 2-wheeler as mode of transport for commuting to workplace. Further, as mentioned in complaint dated 23.04.2022, request of the complainant to post him as LSG PA, O.E. Ambernath PO has already been considered in rotational transfer order dated 13.04.2022 and he has assumed the charge on the said post w.e.f. 03.06.2022.

9. The respondent further submitted that as regards complainant's request to exempt him permanently from rotational transfer and to be retained at O.E. Ambernath PO at all times even on promotion cannot be considered as the post is sensitive and as per guidelines incumbent needs to be rotated to avoid any sort of misappropriation or fraud in future. Moreover, this is a policy matter of Department to rotate official in every three year.



10. The complainant has submitted his rejoinder vide email dated. 22.05.2022, submitted that he is not satisfied with the comments submitted by the respondent.

11. **Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 06.10.2022. The following were present:

- i) Shri Pandurang Babulal Mahale: **Complainant**
- ii) Shri S.B. Vyavahare, SSPO, Thane Division: **Respondent**

Observations /Recommendations:

12. Complaint is filed against number of rotation transfers of the Complainant. Complainant submits that he was working as Postal Assistant in Ambernath post office in Ambernath West district. Later, he was transferred to Kansai office in Ambernath East District.

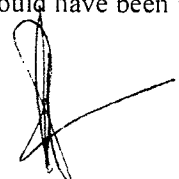
13. Complainant claims that thereafter he filed a complaint before the office of CCPD and the court of CCPD recommended by order dated 14.08.2020 to retain him in Ambernath post office, Ambernath West district. Complainant submits that on 29.10.2021 he was again transferred after being promoted. On promotion he was posted to Tudil post office under Raigad division which is 150 K.Ms. away from his residential address. Complainant claims that he has filed the application, requesting the respondent to post him in Ambernath post office, Ambernath West District. However, he was again transferred to Mumbra post office under Thane Division which is situated 30 K.Ms. away from his place of residence. Complainant further claims that on 13.04.2022 he was again transferred to Ambernath post office, Ambernath West but later he was again transferred to Ambernath South.

14. Complainant has further alleged that he has lost his seniority in comparison to other officers who were promoted along with him.

15. Respondent submits that the complainant was recruited in 2002 and was allotted Mumbai city, North Division. Later in 2006 he successfully qualified promotion exam and was promoted to Postal Assistant cadre. After completion of training, he was appointed as Leave Reserve Postal Assistant at Mahim head office on 13.01.2007. Thereafter, in 2016 he was posted at Ordinance Estate, Ambernath Post office, Ambernath West district. In year 2019 he was posted as P.A at Kansai post office it was situated only 6.3 K.Ms. away from his home. However, he approached court of CCPD. The court recommended to transfer him at Ambernath post office but respondent executed the courts order and he was transferred to Ambernath post office, Ambernath West with effect from 30.09.2020.

16. Later, the complainant was promoted on 29.10.2021 and he was allotted Navi Mumbai region. Instead of joining at his place of posting, complainant submitted his representation dated 01.12.2021 for posting him at Ambernath post office, Ambernath West. The request was positively considered and he was allotted to Thane Division, however, the post of LSG was not vacant in Ambernath post office. Ambernath West, therefore, he could not be posted there and he was posted to Mumbra PO. The complainant again filed representation which was positively considered and he was posted in Ambernath South Post Office which is only 3 K.Ms. away from his residence.


17. Complainant has further alleged that he has lost his seniority in comparison to other officers who were promoted along with him. On this issue respondent submitted that actual date of joining in the cadre is date of entering into the cadre. Complainant accepted his promotion 01.03.2022. Instead of joining his first posting allotted on promotion, he continued to submit his representation which consequently led to the said delay. Had the official joined the first posting at Raigad on his first promotion, he would have been in



line with other officials. Respondent finally submitted that the complainant has now been posted at Ambernath post office Ambernath West with effect from 03.06.2022.

18. Reply of the respondent is satisfactory. It is noteworthy to mention that respondent never posted the complainant far away from his native place. Since, his joining respondent always made efforts to keep him posted within Thane Division. In 2021 on being promoted, respondent did not post him out of Thane Division. Complainant wants to be exempted permanently from rotational transfer which is not practical and possible. Intervention of this Court in the present Complaint is not warranted.

19. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 17.11.2022



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: 13278/1022/2022

Complainant:

Shri Kewal Krishan
S/o Shri Prakash Chand
H. No. 85, Toph Sherkhania Jammu,
Jammu & Kashmir-181121
Email: kewalkrishan21571@gmail.com
Mobile No: 06005294754, 07006351255

135787

Vs

Respondent:

The Chief Executive Officer
Employees Provident Fund Organisation (EPFO)
Bhavishya Nidhi Bhawan
14, Bhikaji Cama Place,
New Delhi-110066
Contact No: 011-26172671
Email: cpfc@epfindia.gov.in

135788

GIST OF COMPLAINT

The complainant in his complaint dated 27.05.2022 has submitted that he is an Ex-serviceman and left the service as his wife was suffering from Parkinson's Disease leaving her completely dependent on him for performing her day-to-day tasks. He further submitted that his son (Sahil) who is working as an SSA in the Central EPFO, RO Gurugram (East) was also diagnosed with B/L Heredomacular Dystrophy (40%) affecting both his eyes. He too needs proper care and attention to carry out his daily needs. His son has a progressive disease and his eyesight is exacerbating/weakening day by day. He has requested for transfer of his son (Shri Sahil) to EPFO Regional Office, Jammu from RO, Gurugram (East) so that he could take care of both i.e., his wife and son at the same time.

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

3. In response, Additional Central PF Commissioner (HRM), EPFO Head Office, vide letter dated 19.07.2022 submitted that EPFO is a statutory body under the administrative control of the Ministry of Labour and Employment. Social Security Assistant (SSA) cadre employees are recruited on Regional (State) basis i.e., an SSA desirous of working in a particular State shall appear for the open competition examination against the notified vacancies of that particular State. Roster Registers and Reservation Registers, Seniority are maintained Region (State) wise. Prospects of career progression such as promotions and pay up-gradations of SSA cadre employees fall within that region (State) only.

4. The respondent further submitted that complainant's son had applied for the post of SSA against the vacancies pertaining to Haryana (State) on his own will. After successfully passing the examination and completion of other formalities, he was appointed to the post of Social Security Assistant in Regional Office, Gurugram (East) on 30.03.2021 against the DR vacancy of Haryana State under PwD (Low Vision), Category A.

5. Central Board of Trustees, Employees' Provident Fund, the Governing Body of Employees' Provident Fund Organisation has formulated the Inter Regional (State) Transfer Policy for inter-State transfers for SSA Cadre employees.

6. The respondent further submitted and requested to this Court to close the case of complainant and may be advised to submit request for Inter Regional (State) Transfer in accordance with the extant Inter Regional (State) Transfer Policy. Further, if desired, the official may be advised to submit Intra State Transfer request to post him in more accessible workplace in Haryana State.

7. The complainant filed his rejoinder vide email dated 04.08.2022, submitted that he is not satisfied with the comments submitted by the respondent. The complainant once again requested to this Court for giving the directive to the respondent for transfer of his son Sahil (SSA) to EPFO RO Jammu so that he can get out of his deadlock and take care of both his wife and his son.

8. **Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on 06.10.2022 The following were present:

i) **Shri Kewal Krishan: Complainant**

ii) **Ms. Uma Mandal, Additional CPFC (HRM) & Ms. Veena Bhatia, Addl.**

CPFC (HQ): Respondent

Observations /Recommendations:

9. Complaint is filed by father of divyang son. Complainant submits that his son is Divyangjan with macular dystrophy. He submits that eye sight of his son is weak and hence, he needs continuous care and attention. He further submits that her wife also suffers from Parkinson's disease therefore, he cannot live along with his son. Complainant requests this court to transfer his son from his present place of posting, R.O Gurugram to EPFO Regional Office Jammu.

10. Respondent submits that the beneficiary is Social Security Assistant cadre employee. Employees of his cadre are recruited on regional basis. At the time of direct recruitment vacancies of each state are separately advertised. Any person desirous of working in particular state appear in the competitive exam against notified vacancies of that particular state. Complainant's son applied for the post of SSA against the vacancies arising in Haryana. After successfully qualifying the examination, he was appointed to the post SSA in Regional Office Gurugram. Respondent further submits that there is rule of interstate transfer also as per which employee can be transferred from one state to another for period of 5 years, which also depend upon vacancies. Transfer request of the beneficiary has been reserved and will be considered in due course of time.

11. During online hearing, Respondent apprised this Court that transfer policy is under process of being drafted. DoPT O.Ms. relating to transfer of divyang employees will be incorporated in the transfer policy which is under process of being formulated. Respondent also informed that by the end of October 2022, the policy will be finalized and will be implemented.

12. Formation of transfer policy is a general issue. Grievance filed by the Complainant is personal to the Complainant. The case of the Complainant can also be considered as per DoPT O.M. O.M. No. 14017/16/2002 dated 13.03.2002 issued by DoP&T. This O.M. clarifies rule laid down in O.M. dated 10.05.1990. The said O.M. laid down that Government employees belonging to Group C and Group D must be posted near to their native place. O.M. of year 2002 further extended this rule for employees belonging to group A and B as well. Movement between two locations is not the only challenge faced by Divyangjan. In order to live life with dignity, Divyangjan also need necessary infrastructure and support which is

sometimes available at native place only. The same is the objective of the DoPT O.M., mentioned in preceding paragraph.

13. In the present case, parents of the Complainant reside in native place, i.e. Jammu. Considering the nature of disability of the Complainant, this Court is inclined to conclude that Complainant's transfer to Jammu is necessary for the Complainant to enjoy his right to life with dignity, which is mandate of Section 3 of Rights of Persons with Disabilities Act, 2016. The provision is mentioned below –

Section 3 – EQUALITY & NON-DISCRIMINATION - (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

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

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

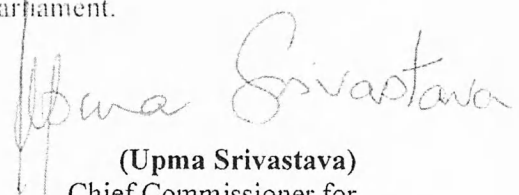
(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

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

14. On the issue of transfer policy, this Court recommends that the Respondent shall include in its transfer policy, all the rules and guidelines formulated by the DoPT on the issue of transfer of Divyang employees, delineated above in this Recommendations Order. This Court recommends that the case of the Complainant be decided in accordance with the transfer policy and DoPT guidelines delineated above. Moreover, if the Respondent fails to formulate and execute transfer policy within 45 days from date of hearing then in such case this Court recommends that the Respondent shall transfer the Complainant to Jammu where the native place of the Complainant is situated.

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

16. This case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 18.11.2022



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: 13218/1022/2022

Complainant :

Shri Kailash Kumar
C/o Vinay R Patil
H. No. 112, Hemant Nagar
Near Ganesh Temple, Keswapur Hubballi
Karnataka-580020
Mobile No: 09590438241/7022640867
Email: kailashk8938@gm ail.com

1235773

Vs

Respondent:

The Sr. Divisional Personnel Officer,
Office of the Divisional Railway Manager
South Western Railway
Keshwawapru Hubballi
Karnataka-580023
Email: drn@ubl.railnet.gov.in
Contact No: 09731668600

1235774

GIST OF COMPLAINT

The complainant, a person with 80% Locomotor Disability, has filed a complaint wrongly mentioned the date 14.07.2022 (received in this Court on 25.04.2022), regarding transfer from Hubballi Division of South Western Railway to Samastipur Division of East Central Railway.

2. The complainant has submitted that he was working as Station Master since 6 years in Hubli Division S.W. Railway. On 18.02.2020, he got an accident while returning from night duty and then due to vein blockage his right leg above knee was amputated. Due to this problem he was medically De-Categorised and posted as Office Superintendent in Sr. DOM/O/UBL. He has further stated that he had submitted an application for Inter Railway request transfer for transfer to Samastipur Division of East Central Railway. The Samastipur Division has accepted and issued NOC on 11.10.2021. He also stated that due to his disability, it is difficult for him to look after his family staying at Hubballi, as there is no one to look after them. His aged parents and In-laws are staying at Saharsa (Bihar).

3. The complainant has requested concerned officers for transfer to Samastipur Division of East Central Railway, but till writing of the complaint he has not been relieved despite acceptance of transfer letter issued from E.C. Railway/Samastipur Division.

4. The matter was taken up with the Respondent vide letter dated 11.05.2022 under Section 75 of the RPwD Act, 2016 followed by reminders dated 31.05.2022 and 21.06.2022 but no reply has been received from the respondent.

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

i) **Shri Kailash Kumar: Complainant**

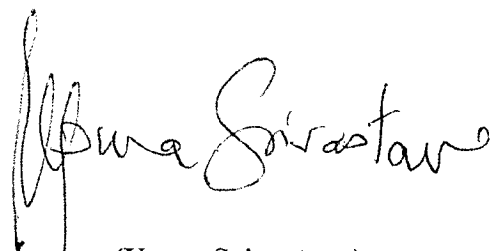
ii) **Shri S. Purendra Naik, Divisional Personal Officer: Respondent**

Observations /Recommendations:

6. Complaint is related to transfer. Complainant submits that he was working as Station Master in Hubballi Division. On 18.02.2020 he met an accident because of which his right leg had to be amputated. Thereafter, he was de-categorised and was posted as Office Superintendent. He submits that his native place is in Samastipur Division East Central Railway. Currently, he is posted in Hubballi Division which is in Southern West Railway. He applied for transfer to Samastipur Division. His request was accepted by Samastipur Division and NOC was also issued on 11.10.2021 by Samastipur Division. However, he has not been relieved by Hubballi Division. He requests this Court to direct Hubballi Division to issue relieving orders.

7. Respondent could not join the online hearing and he was connected over phone. Pin point question was asked from the Respondent as to when the respondent will issue relieving orders. Respondent submitted on record that the relieving orders will be issued within a week from the date of the hearing. Since, the Respondent has agreed to issue relieving orders hence this Court is not inclined to entertain this complaint any further. The complaint is disposed off with liberty granted to the complainant to approach this Court again in case the relieving order is not issued within one week from the date of hearing.

8. This case is disposed off.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 18.11.2022



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: 13387/1022/2022

Dated: 21.11.2022

Dispatch No.

Complainant:

Shri Raveendra Nath Maurya
AGI Accounts
Food Corporation of India,
Above Maurya General Store
Near Sadar Hospital, Harra ki Chungi
Azamgarh, Uttar Pradesh-276001
Email: ravfei@gmail.com

Versus

Respondent:

The Executive Director (North)
Food Corporation of India
A-2A-2B Sector-24, Zonal Office (North)
Noida (Uttar Pradesh)- 201301
Email: ednorth.fci@gov.in

Sub: Complainant of Shri Raveendra Nath Maurya, AGI (Accounts), working in the Food Corporation of India requesting for cancellation of his transfer order from Uttar Pradesh to Punjab Region as he is care giver to his daughter who is a person with 90% Cerebral Palsy - regarding.

Madam/Sir,

Please refer to the above-mentioned complaint dated 18.07.2022.

2. In this regard the complainant vide email dated 08.08.2022, has informed that his posting authority has cancelled his transfer order and retained his posting. He has requested to withdraw his complaint.

3. Since, the complaint has been redressed no further intervention of this Court is felt appropriate in the matter and the complaint is closed as withdrawn.

(UPMA SRIVASTAVA)

Chief Commissioner for Persons with Disabilities



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: 13296/1022/2022

Complainant:

Shri Abhishek Dubey
Assistant Manager, Pricing
Flat No. 501, Tower-9,
Bhagirathi Enclave, Lucknow-226030
Near Medanta Hospital, Uttar Pradesh
Email: abhidubeyiitkgp@gmail.com
Mobile No: 09821114294, 09838507356

Vs

Respondent:

The Chairman
Indian Oil Corporation Ltd.
3079/3, Sadiq Nagar,
J.B. Tito Marg, New Delhi-110049
Email: chairman@indianoil.in ; Vaidyasm@indianoil.in

GIST OF COMPLAINT

The complainant, a person with 40% Locomotor disability, has filed a complaint dated 17.06.2022, regarding transfer to Lucknow (near to native place) in HR Department based on his skill, experience and competence. The complainant has submitted that he had approached all the concerned authorities in his organization through proper channels and have also give repeated representations conveying about the discrimination, his physical condition and relief sought as per extant rules but till filing of the complaint no response and relief was received.

2. The complainant has submitted that he had joined IOCL on 13.06.2018 and was posted as HR Officer at Mathura Refinery despite his request to post him near to his native place Kanpur. He further submitted that Ms. Divya Nagar and Ms. Naveli Singh were joined 10-30 days after his joining and were posted in UPSO-I. After joining Mathura he was not allotted an IOCL accommodation and it was conveyed that there was almost a two year waiting for the accommodation. He was asked to arrange the accommodation on his own. He gave a representation dated 10.06.2019 for his transfer to Lucknow but no reply was received. He again vide his representation dated 19.03.2020 requested the Grievance Redressal Officer for his transfer to Lucknow on sympathetic grounds but later in March, Global Pandemic due to Covid 19 started delaying all the transfer and posting that year. Later on he was transferred to Noida instead of Lucknow and assigned a completely new function of Planning and Coordination. As per him there was a negligible representation of employees with disability at that time in UPSO-I, Lucknow Office including HR Department but he was posted in Planning and Coordination Department. The complainant also given another representation dated 03.03.2021 to ED and State Head (UPSO-II Noida) who duly recommended for transfer of his services from UPSO-II Noida to UPSO-I Lucknow. On 19.04.2021 he had received a transfer order as per which he was transferred from UPSO-II, Planning and Coordination Noida to COCO (A Company Operated Petrol Pump).

5वीं मंजिल, एनआईएसडी भवन, प्लॉट नं० जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष: 011-20892364, 20892275

5th Floor, NISD Building, Plot No.G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: 011-20892364, 20892275

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

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

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

3. As per him he has been discriminated and mentally harassed in the matter of transfer and posting. He has requested that his services may be transferred to UPSO I, Lucknow near to his native place in the HR Department as per his core competency. He also requested to direct the respondent to be more empathetic and sensitive towards disabled employees and to take coercive action as done previously in his case.

4. The matter was taken up with the Respondent vide letter dated 12.07.2022 under Section 75 of the RPwD Act, 2016.

5. In response, Executive Director (HR), Indian Oil Corporation Ltd. Mumbai, vide letter dated 11.08.2022, submitted that the Corporation does not discriminate any employees on the basis of physical disabilities in any matter relating to employment. Further, their transfer policy states that Officers joining the services of Corporation under PwD category may be posted at a location of the allocated division which is near to their home town as far as feasible. The respondent also submitted that their transfer policy is sync with the DoPT's O.M. dated 31.03.2014. The respondent further submitted that there has neither been any instance of discrimination nor denial of any right of the complainant as his case has been dealt with sensitivity and fairness and for taking care of career growth of complainant. The Management has reviewed the grievance of the complainant and vide Office Order No. P/512390/167259 dated 21.07.2022 he was posted at Lucknow as Assistant Manager (HR), Uttar Pradesh State Office-I.

6. The complainant has submitted the rejoinder vide email dated 26.08.2022 and stated that he has been continuously discriminated and no relief was given as per applicable sections of RPwD Act and Rules and extant Government Rules as per applicable DOPT Circulars mentioned above, since joining till the date of complaint.

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

- i) Shri Abhishek Dubey: **Complainant**
- ii) Dr. M.R. Das, Executive Director, (HR), Marketing Division & Shri Nishant Prasad, DGM (HR) : **Respondent**

Observations /Recommendations:

8. The complainant has filed a complaint regarding transfer to Lucknow (near to native place) in HR Department based on his skill, experience and competence. The complainant has submitted that he had approached all the concerned authorities in his organization through proper channels but no response and relief was received. The complainant has submitted that he had joined IOCL on 13.06.2018 and was posted as HR Officer at Mathura Refinery despite his request to post him near to his native place Kanpur.

9. He further submitted that Ms. Divya Nagar and Ms. Naveli Singh who joined 10-30 days after his joining and were posted in Kanpur office. After joining Mathura he was not allotted an IOCL accommodation and was asked to arrange the accommodation on his own. He gave a representation dated 10.06.2019 for his transfer to Lucknow but no reply was received. He again vide his representation dated 19.03.2020 requested the Grievance Redressal Officer for his transfer to Lucknow on sympathetic grounds but later in March, Global Pandemic due to Covid 19 started delaying all the transfer and posting that year. Later on he was transferred to Noida instead of Lucknow and assigned a completely new function of Planning and Coordination.

10. The complainant also gave another representation dated 03.03.2021 to ED and State Head (UPSO (I Noida) who duly recommended for transfer of his services from Noida to Lucknow. On 19.04.2021 he



had received a transfer order as per which he was transferred from Planning and Coordination Noida to COCO (A Company Operated Petrol Pump).

11. As per him he has been discriminated and mentally harassed in the matter of transfer and posting. He has requested that he may be transferred to Lucknow near to his native place in the HR Department as per his core competency. He also requested to direct the respondent to be more empathetic and sensitive towards disabled employees and to take coercive action as done previously in his case.

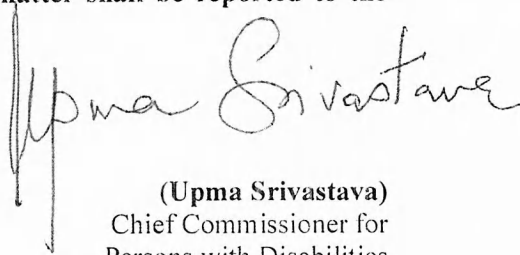
12. In response the Respondent submitted that the Corporation does not discriminate any employees on the basis of physical disabilities in any matter relating to employment. Further, their transfer policy states that Officers joining the services of Corporation under PwD category may be posted at a location of the allocated division which is near to their hometown as far as feasible. The Management has reviewed the grievance of the complainant and vide Office Order No. P/512390/167259 dated 21.07.2022 he was posted at Lucknow as Assistant Manager (HR), Uttar Pradesh.

13. Two grievances raised by the Complainant were related to transfer to Lucknow and assigning of work of Human Resource Management. The Complainant has been posted to Lucknow as Assistant Manager (Human Resource). Hence both the Complaints of the Complainant have been settled.

14. However, it is important to mention Section 20(5) of Rights of Persons with Disabilities Act, 2016. As per the provision, government establishments must form policy on transfer and posting of divyang employees. On various occasions, this Court has issued recommendations in various cases delineating guidelines on the issue of transfer of divyang employees. Hence, this Court recommends that the Respondent shall peruse the guidelines of DoPT on the issue of transfer of divyang employees and recommendation given by this Court in BRAJ LAL vs. DEPARTMENT OF REVENUE; CASE No. 13012/1022/2021, attached along with this Recommendation and then shall form its transfer policy after duly incorporating the DoPT O.Ms. issued on the issue of transfer.

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

16. This case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 21.11.2022

Encl: - As stated above.



सत्यमेव जयते

01C

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: 13012/1022/2021

Shri Braj Lal: **Complainant**
D-401, Dharti Crystal
Opp. Railway Station
Tragad Road, Chandkheda,
Ahmedabad -382424
Mobile No: 09427179194
Email: brajlal2015@gmail.com

Versus

The Commissioner: **Respondent**
Office of Principle Chief Commissioner.
Ministry of Finance, Department of Revenue.
Central GST Zone, Ahmadabad,
GST Bhavan, Revenue Marg,
Ambawadi, Ahmedabad-380015
Tele No: 079-26301540
Email: ccu-cexamd@nic.in

GIST OF COMPLAINT

The complainant is presently working as Intelligence Officer in Directorate General of Good and Service Tax Intelligence, Ahmadabad Zonal Unit. Ahmadabad. The complainant is 55% hearing disability. The complainant had requested for Inter Commissionerate Transfer from the Vadodara Zone, Gujarat to Jaipur Zone, Rajasthan dated 11.04.2017. The complainant stated that the policy for Inter Commissionerate Transfer (ICT) for the employees working in the grade of Inspectors has not been consistent and the same has been subjected to revisions from time to time. By order 19.02.2004, ICT officers/ staff belonging to Group B, C and D was banned. However, the ban was relaxed on spouse ground and compassionate ground vide order dated 27.03.2009 and 29.07.2009. Thereafter, by another order dated 9.2.2011, the board permitted ICT of group B, C and erstwhile group D employees from the jurisdiction of one cadre controlling authority to another one, in cases of employees from the jurisdiction of one cadre controlling authority to another one, in cases of employees appointed against the three categories of hearing, visual and physical impaired quota having disability of 40% or above subject to availability of vacancies.

The complainant further submitted that he had joined the service of the department (erstwhile CBEC and now CBIC) on 08.11.2010 after qualifying Staff Selection Commission Combined Graduate Level Examination 2008 and then he was promoted in the grade of inspector on 01.04.2017 under recruitment rules, 2002. Post his promotion to the grade of Inspector under recruitment Rules, 2002, he had applied for Inter Commissionerate Transfer from Vadodara Zone to Jaipur Zone on 11.04.2017 to the Office of the Commissioner, Service Tax Commissionerate, Ahmedabad along with his request for ICT, another inspector, namely Shri Rakesh Devathia had also applied for the same from Vadodara Zone to Jaipur Zone.

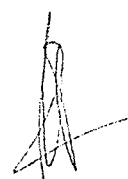
Both the applications were forwarded by the Additional Commissioner (P&V), Service Tax, Ahmedabad vide letter no. dated 11.05.2017. The complainant further stated that in Group A and C Posts, ICT is available. In case of a group 'A' officer, it takes less than a month's time to get his/her ICT order issued. In case of a group 'B' officers holding the post of inspectors who are not entitled to get this opportunity to seek ICT. Therefore, the policy of the department appears to be arbitrary, discriminatory and the same appears to be in gross violation for Articles 14, 16 and 21 of the Constitution of India. According to the department, as per the Recruitment rules of 2016, which have been notified on 26.12.2016, ICT is not available for the Inspectors. These Rules were notified on 26.12.2016. On 20.09.2018, Board had issued a Circular holding that no ICT application can be considered after coming into force of the RR of 2016. The complainant has requested CCPD Court to intervene in the matter and transfer him to his native place i.e. Jaipur.

2. The matter was taken up with the Respondent vide letter dated 22.12.2021, under Section 75 of the RPwD Act, 2016.

3. In response, Office of the Principle Chief Commissioner (PCCO), CGST & C.Ex., Ahmedabad Zone, vide email dated 23.12.2021, submitted that Shri Braj Lal joined the department on 08.11.2010 as Tax Assistant and was posted in Central Excise & service Tax Commissionerate Bhavnagar from 08.11.2010 to 15.02.2013. The officer had no physical disability at the time of his joining in this department. However, the officer was transferred and posted at Service Tax Commissionerate, Ahmedabad, at Ahmedabad station from 18.02.2013 to 13.05.2014. Subsequently, on promotion in the grade of Senior Tax Assistant, he was posted at Service Ahmedabad from 20.05.2014 to 31.03.2017. Further, the complainant was promoted in the grade of Inspector and posted in Service Tax Ahmedabad Commissionerate (Ahmedabad Station) from 01.04.2017 to 30.06.2017. As per Transfer / Rotation and posting policy, 2018, the said officer was transferred to CGST Gandhinagar and posted at Palanpur Division under CGST Ahmedabad zone which is nearest place of posting from the Applicant native place from 15.07.2019 to 25.09.2020. Further, on the basis of willingness and request representation submitted by the officer, he has been posted at Directorate General of GST Intelligence, Ahmedabad Zonal Unit, Ahmedabad from 28.09.2020 to till date.

The respondent further submitted that Shri Braj Lal was promoted from the grade of Sr. Tax Assistant to the grade of Inspector and joined as Inspector on 01.04.2017 in the department. He had applied for Inter Commissionerate Transfer from erstwhile Central Excise Vadodara Zone to Jaipur on 11.04.2017. All application received by this office to CCO Vadodara as the officers had not completed two years probation period in the grade of Inspector as prescribed under Recruitment Rule 2002 as required under recruitment rule 2002. The respondent further submitted that the ICT related issue was under examination by committee, constituted by the board vide letter no. dated 03.10.2017 at that time. Further the respondent submitted that Shri Rakesh Devathia, was a direct recruited Inspector and had joined the department on 16.11.2009 and he had completed his probation tenure at the time of applying for ICT. Accordingly, his ICT application was forwarded as per existing guidelines issued by the Board at that time.

The respondent further submitted that the allegation made by the complainant is not factual. Group 'A' officers under CBIC are all India transferable. The contention of the applicant is not related with him as he is group B non gazetted Executive officer. The respondent further



submitted that recruitment rule 2002 in the grade of inspector was effective till 25.12.2016. Lifting ban on Inter Commissionerate transfer in respect of willing officers in the Group 'B' 'C' post under Central Board of Indirect Taxes Customs clearly mentioned that " Under no circumstances, request for ICT should be entertained till the officer appointed in a particular Commissionerate / Post completes the prescribed probation period. The complainant had not completed probation period (Two years) at that time, therefore, ICT application was not forwarded to CCO (cadre Controlling Authority), Central Excise, Vadodara Zone. The respondent further submitted that ICT related matter was also under examination by the Committee constituted by the Board and final report was pending at that time.

The respondent further submitted that the complainant has submitted disability certificate no. 51068 issued by Assistant Professor, GMERS Medical College & Hospitals, Sola Ahmedabad on 08.03.2017 after 06 years of joining in the department. As per the certificate, the applicant having hearing impairment of 55% and likely to improve. The certificate is valid for 05 years till 07.03.2022. The issuing authority has recommended for reassessment of disability after 05 years which is due in March 2022. As per existing policy and guidelines issued by CBIC, Inter Commissionerate Transfer is banned and the same is policy matter. The officer was earlier posted at Palanpur Division which is nearest place to the complainant native place. The officer is now posted in Directorate General of GST Intelligence, Ahmedabad Zonal Unit on the basis of his willingness and request accepted by the department.

4. In response, the complainant filed his rejoinder reply by e-mail dated 03.01.2022, submitted that he is not satisfied with the comments submitted by the respondent. The complainant had joined the respondent department as a Tax Assistant on 08.11.2010. After about a period of 4 years service as Tax Assistant in the year 2014, he was promoted as Senior Tax Assistant in the year 2014. He was promoted as Senior Tax Assistant, in the year 2017, he was promoted as Inspector. On 11.04.2017, he had submitted his application for ICT from Vadodara Zone to Jaipur Zone. In the year 2015, the posts of Dy. Office Superintendent and Senior Tax Assistant were re-designated as Executive Assistant. The posts of Executive Assistant and Inspector being to the same group i.e. group 'B' Non Gazetted. Therefore, as per OM No. dated 21.07.2014 issued by the Director (Establishment), DoPT, New Delhi, no probation is required in case of promotion from one grade to another but within the same group of posts. The complainant further submitted that while considering his case, respondent department has either ignored this OM or did not want to follow the same. In the past, respondents have accepted the ICT application in respect of promoted officers i.e. Shri Nilesh Bhatt and Shri Shailesh Kumar Modi to the post of Inspector within 2 years of their appointment on the feeder post (Sr. TA). This aspect can be seen from the draft seniority list of Inspector of combined cadre of GST & CE Gujarat Zone as on 1.1.2021.

The Complainant further submitted that respondent department has also accepted the fact that he is suffering from hearing issue and his hearing disability is 55%. Department has also accepted the fact that his old aged parents are residing at his native place. The department ignores is the fact that his native village is Mandawa, district Jhunjhunu and the distance between his native village and the present place of service is about 775 kms. The complainant further submitted that ICT is available to Tax Assistants, Executive Assistants and group A officers.



Respondents have stated in their reply that group 'A' officers under CBIC are all India transferable therefore, ICT is permissible and he cannot compare his case with group A officers. However, it is clear that Tax Assistant and Executive Assistants are group C and B employees respectively, and therefore, there is no all India transfer for them. The complainant further submitted that the respondent on 23.12.2021 in his reply stated that request for transfer on loan basis was not received in the Office of Chief Commissioner CGST Ahmedabad zone. On 17.05.2018, he had submitted an application praying for a transfer to Central Goods and Service Tax, Jaipur on loan basis through proper channel and thereafter he have again submitted the said request on 16.12.2021 on the principle Chief Commissioner, CGST, Ahmedabad Zone, Ahmedabad through proper channel. Therefore, the statement made by the Assistant Commissioner (PCCO) in the reply is not at all correct. The complainant once again requested CCPD Court to consider his request for transfer

Observations /Recommendations:

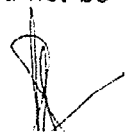
1. This Court is inundated with the Complaints related to the issue of transfer. Consequently, this Court has an opportunity to look into the issues and examine the arguments and objections filed by the Respondents in the past. This Court is seizing this opportunity to delineate laws, guidelines and case laws relating to the issue of transfer of divyang employees.
2. First legislation which was enacted by the Parliament related to Persons with Disabilities was Mental Health Act, 1987. The Act contained provisions related to guardianship of Persons with Intellectual Disabilities. It fell short of addressing issue of discrimination with Persons with Disabilities. Thereafter in 1995, Parliament enacted The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The 1995 Act was enacted to fulfill obligations which arose out of International Instrument. In 1992 Economic and Social Commission for Asia and Pacific Region adopted Proclamation on the Full and Effective Participation and Equality of People with Disabilities. India was signatory to the Proclamation and therefore, Act of 1995 was enacted. Some of the Objectives sought to be achieved by 1995 Act were
 - a. to fix responsibility of the state towards protection of rights, provision of medical care, education, training, employment and rehabilitation of Persons with Disabilities,
 - b. To create barrier free environment for Persons with Disabilities.
 - c. To remove any discrimination against Persons with Disabilities in the sharing of development benefits, vis-à-vis enabled persons
3. Thereafter, in year 2006, United Nations General Assembly adopted UN Convention on Rights of Persons with Disabilities ('CRPD'). India was one of the first countries to sign and ratify the treaty. With ratification of the CRPD, it became obligation of the state to enact new law in furtherance of the commitments under CRPD. In 2016, parliament enacted Rights of Persons with Disabilities Act, 2016. Some of the objectives sought to be achieved by this new Act are –
 - a. Respect for inherent dignity, individual autonomy including freedom to make one's own choices and independence of person;
 - b. non-discrimination;



- c. full and effective participation and inclusion in society;
 - d. respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
 - e. equality of opportunity;
 - f. accessibility;
 - g. equality between men and women;
 - h. respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.
4. Enacting statute is first step towards achieving the aforesaid objectives. To achieve these objectives in practical sense, executive formed certain guidelines from time to time relating to different aspects of employment, for instance, recruitment, nature of duties, work environment, promotion, transfer etc.
5. Since in this order this Court is concerned with issue of transfer only, hence it is important to list different types of issues and objections which are raised by the respondent from time to time and further to mention related provisions and case laws on the point.
6. Issues related to transfer and posting to divyang employees may be divided into three categories -:
- a. Posting of divyang employee at native place,
 - b. Exemption from routine transfer of divyang employee,
 - c. Posting of employee who serves as care giver of divyang dependant.

STATUTORY PROVISIONS AND GUIDELINES

7. a) ARTICLE 41 of INDIAN CONSTITUTION -- The state shall make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and **disablement**.
- b) SECTION 20 (5) OF RPWD ACT, 2016 -- Sub Section 5 of Section 20 provides that the appropriate government may frame policies for posting and transfer of employees with disability.
- c) SECTION 20 (2) OF RPWD ACT, 2016 -- Sub Section 2 of Section 20 lays down that government establishment shall provide reasonable accommodation, appropriate barrier free and conducive environment to divyang employees.
- d) O.M. No. 302/33/2/87 dated 15.02.1988 issued by Ministry of Finance - This O.M. provides guidelines related to posting of Divyang employees at their native place and exemption of such employees from routine transfer. This O.M. also provides that employees should not even be transferred on promotion if vacancy exists in the same branch or in the same town. Further, this O.M. provides that if it is not possible to retain Divyang employee at his place of posting, due to administrative exigences, even then he must be kept nearest to his original place and in any case he should not be transferred at far off or remote place of posting.



- e) O.M. No. 14017/41/90 dated 10.05.1990 issued by DoP&T – This O.M. provides that employees belonging to Group C and D must be posted near to their native place.
- f) O.M. No. 14017/16/2002 dated 13.03.2002 issued by DoP&T – This O.M. clarifies rule laid down in O.M. dated 10.05.1990. The said O.M. laid down that Government employees belonging to Group C and Group D must be posted near to their native place. O.M. of year 2002 further extended this rule for employees belonging to group A and B as well.
- g) O.M. No. 36035/3/2013, dated 31.03.2014 issued by DoP&T – This O.M. lays down certain guidelines for providing facilities to divyang employees of government establishments. Under heading 'H' of the O.M. two guidelines with respect to transfer and posting of divyang employees are laid down. Firstly, it is laid down that divyang employees may be exempted from rotational transfer and allowed to continue in the same job where they would have achieved the desired performance. Secondly, the O.M. provides that at the time of transfer/promotion, preference in place of posting may be given to the Persons with Disabilities subject to the administrative constraints.
- h) O.M. No. 42011/3/2014, dated 06.06.2014 issued by DoP&T – This O.M. is related to posting of government employees who is care giver of Divyang child. Considering challenges which are faced by care giver of divyang child, this O.M. provides that care giver of divyang child may be exempted from routine transfer/rotational transfer.
- i) O.M. No. 42011/3/2014, dated 08.10.2018 issued by DoP&T – This O.M. extended the scope of O.M. dated 06.06.2014. This O.M. lays down that government employee who serves as main care giver of dependant daughter/son/parents/spouse/brother/sister may be exempted from exercise of routine transfer.

ANALYSIS OF THE PROVISIONS & GUIDELINES

8. It is noteworthy that even before Section 20(5) was conceptualised, DoP&T and other departments of the government framed policies relating to exemption of divyang employees from routine transfer and transfer at native place. As rightly laid down in DoP&T O.M. dated 31.03.2014, focus behind exempting from routine transfer or behind giving preference in transfer and posting is to provide an environment to divyang employee in which he can achieve the desired performance and where their services can be optimally utilised. Combined reading of all the guidelines further makes it clear that government's approach on the issue of transfer is progressive and forward looking. In 1990 DoP&T issued O.M. exempting Group C and D divyang employees from routine transfer. This was extended to Group A and B divyang employees in year 2002. Similarly, Ministry of Finance (MoF in short) created an exception for divyang employees in year 1988, long before 2016 Act was enacted. MoF in O.M. dated 15.02.1988 went on to exempt divyang employees from routine transfer even in case of promotion of such employee.

9. Even in case of employee who serves as care giver of divyang dependant, approach is progressive. Till 2018, care giver of divyang dependent child was exempted from routine



transfer. By DoP&T OM dated 08.10.2018, divyang dependent spouse/brother/sister/parents were also added.

10. Objective behind exempting care giver must also be understood. DoP&T O.M. dated 06.06.2014, rightly lays down that rehabilitation of divyang dependant is indispensable process which enables divyang person to reach and maintain physical, sensory, intellectual, psychiatric and social functional levels. If care giver of such person would be subjected to routine periodic transfer, it will have adverse impact on the rehabilitation process of divyang dependent. It is certain that it is utmost duty of the government employee to serve with utmost dedication, however, this fact does not take away his right to take care of his divyang dependent. Hence, objective behind DoP&T guidelines is to strike balance between the two aspects.

OBJECTIONS AND ISSUES RAISED BY RESPONDENTS IN PREVIOUS SIMILAR COMPLAINTS BEFORE THIS COURT AND CASES BEFORE HON'BLE HIGH COURTS, CENTRAL ADMINISTRATIVE TRIBUNALS

11. ISSUE – Exempting divyang employee from transfer if Service Rules prescribe for mandatory transfer.

12. A case was filed before Hon'ble Delhi High Court in which Respondent Bank submitted that divyang employee cannot be exempted from routine transfer at remote rural branch because as per Service Rules for promotion every employee has to serve for fixed period at rural branch. ANJU MEHRA v. CANARA BANK, W.P. (C) 7927/2020, judgment dated 05.11.2020

13. Court did not accept the contentions forwarded by the Respondent Bank and held that divyang employee must be exempted from routine transfer and posting at rural location. Court relied upon DoP&T O.M. dated 31.03.2014 and held that divyang employee must be exempted from routine transfer. Court also relied upon O.M. No. 69/2018 dated 13.12.2018 issued by Canara Bank, whereby divyang employees with disability percentage of 65% or above are exempted from mandatory service at rural location.

14. ISSUE – Since, transfer is an incidence of service should employee follow transfer Orders without exception?

15. This issue is often raised by the Respondents. Hon'ble Delhi High Court answered this issue in ANJU MEHRA v. CANARA BANK, W.P. (C) 7927/2020, judgment dated 05.11.2020. Court held that this principle is not applicable in cases pertaining to transfer of divyang employees. Court held that when employee is agitating his rights under RPwD Act, 2016 or PwD Act, 1995, principles of general nature are not applicable in such cases because both Acts are enacted in furtherance of international commitments and to ensure equal treatment to Persons with Disabilities.

16. ISSUE – Can an employee be exempted if he was intimated about transferable nature of the job at the stage of joining?

17. Respondents often submit that the employee was intimated at the time of initial recruitment about transferable nature of the job hence, he cannot be exempted from transfer. To support this contention Respondents, rely upon case laws of Hon'ble Supreme Court. Hon'ble Court in UNION OF INDIA v. S.L. ABBAS (AIR 1993 SC 2444) and in B.VARDHA RAO v. STATE OF KARNATAKA (AIR 1989 SC 1955) held that transfer is incidence of service and

Courts must not interfere in transfer issues unless such transfer is vitiated by *mala fides* or is made in violation of transfer policy.

18. The contention has been rejected by various High Courts. Hon'ble High Court of Madhya Pradesh in SUDHANSHU TRIPATHI v. BANK OF INDIA; W.P. No. 148/2017; judgment dated 27.04.2018, hon'ble High Court of Delhi in V.K. BHASIN v. STATE BANK OF PATIALA; LPA No. 74/2005, judgment dated 03.08.2005 and Hon'ble Central Administrative Tribunal in PRADEEP KUMAR SRIVASTAVA v. CENTRAL BUREAU OF INVESTIGATION; OA No 2233/2017, Order dated 08.02.2018 held that law laid down in S.L. ABBAS and B. VARDHA RAO is not applicable in the cases related to transfer of Divyang employees. Courts held that transfer policies framed by various government establishments are framed to cover normal circumstances. When divyang employee is challenging his transfer under RPwD Act, 2016 or PwD Act 1995 or various guidelines which are passed from time to time, such challenge is under special statutes which are enacted in furtherance of international commitments. Further, Courts also laid down that when transfer policy is silent on some issue, then government establishment is bound to follow statutory provisions and government guidelines on such issue. Court further laid down that when transfer is not challenged under transfer policy, government establishment is bound to consider the exclusive/special circumstances prevailing at the time of effecting the transfer of the government employee.

19. In V.K. BHASIN judgment, Delhi High Court also held that through in transfer matters Court does not sit as Court of appeal, but Court cannot also lose sight of special legislation, rules and O.Ms. enacted for Divyangjan because objective of these provisions and O.Ms. is to fulfil the international commitments and give equal treatment to Persons with Divyangjan.

20. **ISSUE** – Various O.Ms. related to transfer & posting of divyang employees are of recommending nature and are not binding on the government establishments.

21. Central Administrative Tribunal in PRADEEP KUMAR SRIVASTAVA Case, while relying upon the judgments of Hon'ble Supreme Court in judgments of Hon'ble Supreme Court delivered in SWARAN SINGH CHAND v. PUNJAB STATE ELECTRICITY BOARD; (2009) held that when executive instructions confer special privileges with respect to special circumstances, such guidelines will have to be adhered to and followed by the government establishment as a model employer. Needless to say that all these guidelines are also framed in furtherance of Article 41 of Indian Constitution.

22. **ISSUE** – In case if employee who is care giver of divyang dependent is transferred at any place which has good medical facilities, whether exemption guidelines would not be applicable?

23. O.Ms. dated 06.06.2014 and dated 08.10.2018 and hon'ble CAT Order in PRADEEP KUMAR SRIVASTAVA provide guiding principles on this issue. In this judgment tribunal analysed O.M. dated 06.06.2014 and distinguished between 'medical facilities' and 'support system'. In O.M. dated 06.06.2014 and 08.10.2018 availability of medical facilities is not the criterion for determining issue of exemption of transfer. As per the two O.Ms. criterion or point of focus is 'rehabilitation process' of the divyang child. Support system and rehabilitation are indispensable process which help divyang to maintain physical, psychological and social levels. Support system does not only mean availability of doctors and medicines, O.M. dated 06.06.2014 provides meaning of 'support system' as a system which comprises of preferred



linguistic zones, school/academic levels, administration, neighbours, tutors, special educators, friends and medical facilities. It is certain from the plain reading of the O.M. that medical facilities are just one component of 'support system'. Reason for exempting care giver of divyang dependent is to provide conducive and caring environment and not just medical facilities. Needless to say that when care giver would be subjected to exercise of routine transfer, it will cause displacement of the divyang dependent as well. Hence, O.M. provides for exemption from routine transfer.

24. It is also to be noted that O.M. dated 06.06.2014 has now been replaced by O.M. dated 08.10.2018. However, O.M. of 06.06.2014 is still relevant to understand the reason for exempting care giver from routine transfer. Moreover, in 08.10.2018 O.M. criterion for exemption has been kept the same, i.e. rehabilitation. Change is only made in persons who can be considered as 'dependant'.

25. Other provisions which are helpful in understanding the intent of Rights of Persons with Disabilities Act, 2016 are :-

4. Women and children with disabilities.—(1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others. (2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability."

16. Duty of educational institutions.—The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognized by them provide inclusive education to the children with disabilities

24. Social security.—(1) The appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community: Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five percent higher than the similar schemes applicable to others.

27. Rehabilitation.—(1) The appropriate Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.

38. Special provisions for persons with disabilities with high support.—(1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her behalf, may apply to an authority, to be notified by the appropriate Government, requesting to provide high support.

2(d) - "care-giver" means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability.

26. Intention of RPwD Act, 2016 is reflected in above mentioned provisions of the Act. These provisions makes it clear that legislature intended to provide supporting environment in terms of health, education, social and psychological support. Hence, O.M. dated 08.10.2018,



which provides for exemption of care giver of divyang dependent is framed to achieve intentions and objectives of Rights of Persons with Disabilities Act, 2016 and hence these guidelines are binding on the government establishments.

SOME OTHER CASE LAWS ON THE ISSUE OF TRANSFER OF DIVYANG EMPLOYEE

27. Indian Overseas Bank v. The Chief Commissioner for Persons with Disabilities; Civil Writ Petition No. 14118/2014; judgment of Hon'ble High Court of Rajasthan, dated 24.04.2017 – In this case divyang employee of the Bank was initially posted in Jaipur. Later he was promoted and posted to Mumbai. He approached Chief Commissioner for Persons with Disabilities ('CCPD' in short) for retention in Jaipur. CCPD by its Order dated 01.04.2014 recommended for retention of the employee in Jaipur. Bank failed to implement the Order of CCPD. Employee approached Hon'ble High Court for implementation of CCPD Order. Bank challenged CCPD Order and opposed the petition and contended that promotion policy provides for transfer on promotion of the employees. Court rejected the bank's contention and held that grievance of divyang employees must be considered with compassion, understanding and expediency. Hon'ble Court held that the employee must be retained in Jaipur branch even after promotion.


28. Samrendra Kumar Singh v. State Bank of India; Writ Petition No. 5695/2013; judgment dated 17.01.2014 – In this case Petitioner, a divyang employee of the Respondent bank, was posted in Ranchi. Thereafter, he was promoted and was posted in Daltonganj, Jharkhand. Petitioner approached hon'ble High Court for quashing of transfer orders and retention in Ranchi. Respondent bank relied upon its transfer policy and contended that at the time of promotion employees are transferred. Further it was contended that O.Ms. issued by various ministries and departments are of directory nature and are not binding. Hon'ble High Court rejected Respondent bank's contentions and relied upon Ministry of Finance O.M. dated 15.02.1998 and DoP&T O.Ms. dated 10.05.1990 and 13.03.2002. Hon'ble Court quashed transfer Orders issued by the Respondent bank and directed for employee's retention in Ranchi.

PRESENT CASE

29. Complaint is filed by the employee of the Respondent establishment who is presently posted at Ahmedabad and seeks Inter Commissionerate Transfer to Jaipur Zone where native place of the Respondent is situated. Respondent has submitted that the Complainants cannot be transferred to Jaipur Zone because in Respondent establishment Inter Commissionerate Transfer is banned. Native place of the Complainants is situated in zone of different cadre controlling authority. Transfer of Complainants will amount to Inter Commissionerate Transfer (ICT).

30. Respondent further stated that In Group 'B' and 'C', ICT was taking place on the basis of board circular dated 27.10.2011. Above circular derived its force from Special Provisions of Recruitment Rules of Inspectors CBIC 2002. In year 2016 these Recruitment Rules were amended and thereafter notified. In 2016 Recruitment Rules special provision under which ICT was taking place got omitted

31. Under 2016 Recruitment Rules, new circular was issued on 20th September 2018. This circular expressly banned ICT and also laid down that all employees who got transferred under ICT from year 2011 till 2018, will be considered on loan till 31st March 2019 and thereafter they shall be relieved to their parent zones.



32. Respondent also contends that DoPT O Ms. which provide for PwD employees' transfer to their native place are not mandatory in nature. These O.Ms. do not impose binding obligations

33. It is noteworthy to mention that recently Hon'ble Supreme Court decided an identical case of transfer in case titled as **SK NAUSAD RAHMAN & ORS. v. UNION OF INDIA, Civil Appeal No. 1243 of 2022 (judgment dated 10.03.2022)**. In that case, hon'ble Supreme Court decided the validity of Order which banned the ICT. Hon'ble Court held that though Order which banned Inter Commissionerate Transfer is valid and constitutional, Union of India must revisit its policy and exception must be created in favour of a) posting of spouses, b) divyangjan and c) compassionate transfers. Court has held -

"Hence while we uphold the judgment of the Division Bench of the Kerala High Court, we leave it open to the respondents to revisit the policy to accommodate posting of spouses, the needs of the disabled and compassionate grounds. Such an exercise has to be left within the domain of the executive, ensuring in the process that constitutional values which underlie Articles 14, 15 and 16 and Article 21 of the Constitution are duly protected."

34. Case of the Complainant squarely falls under O.M. No. 14017/16/2002 dated 13.03.2002 issued by DoP&T. O.M. lays down that divyang employees may be posted near to their native place. The same guideline was reiterated in O.M. No. 36035/3/2013, dated 31.03.2014 issued by DoP&T. In this O.M. it is provided that at the time of transfer/posting divyang employee may be given preference in transfer/posting. Objective of these guidelines is to provide an environment to divyang employee where they can perform and achieve desired results.

35. This Court concludes that though the Respondent is not bound by the DoPT guidelines delineated above, It can very well take clue from these O.Ms. to modify their policy and create exceptions for divyangjan, as also recommended by the Hon'ble Supreme Court.

36. This Court recommends that the Respondent shall create exceptions for divyangjan in its policy and shall transfer the Complainant Jaipur Zone, where native place of the Complainant is situated.

37. 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.

38. This case is disposed off.


(Upma Srivastava)
Commissioner for
Persons with Disabilities

Dated: 29.04.2022



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: 13370/1024/2022

Complainant: Shri Chunnu Kumar
220/B, East Colony, Renigunta
Dist. - Chittoor, Andhra Pradesh - 517520
E-mail: <mrchunnukumar786786@gmail.com>

Respondent: The Divisional Railway Manager
South Central Railway
Guntakal Division, Dist. - Ananthpur, Andhra Pradesh
Email: <drmguntakal@gmail.com>

Complainant: 58% locomotor disability

GIST of the Complaint:

प्रार्थी श्री चुन्नू कुमार का अपनी शिकायत दिनांक 08.07.2022 में कहना है कि उनकी नियुक्ति दिव्यांग कोटे के तहत 2014 में दक्षिण मध्य रेलवे के गुंटकल मंडल में वाणिज्य विभाग में ग्रुप 'डी' के अन्तर्गत वेयरर के पद पर हुई थी। उनका पैत्रिक जिला बिहार राज्य में नालन्दा जिले के उसलामपुर प्रखंड के गाँव में है जो उनके कार्य स्थल से 2000 kms दूर है। प्रार्थी का आगे कहना है कि उनका सोनपुर मंडल, पूर्व मध्य रेलवे से एन.ओ.सी. दिनांक 19.04.2022 को गुंटकल मंडल, दक्षिण मध्य रेलवे को भेज दिया गया है जिसकी वैधता मात्र 06 माह की दी गई है तदोपरान्त वह अनापति प्रमाण पत्र स्वतः रद्द हो जायेगा। परन्तु उन्हें अभी तक रिलीव नहीं किया गया। उनके अनुसार शिकायत करने तक उनके अनापति प्रमाण पत्र को आये लगभग 03 माह बीतने वाले हैं।

2. The matter was taken up with the Respondent vide letter dated 28.07.2022 under Section 75 of the RPwD Act, 2016.

3. Sr. Divisional Personnel Officer, South Central Railway vide letter dated 16.08.2022 has inter-alia submitted that on the request of the complainant in the order of Division priority, Inter Railway request transfer of complainant was approved and accordingly, Shri Chunnu Kumar has been relieved to Sonapur Division, East Central Railway vide office letter dated 05.08.2022.

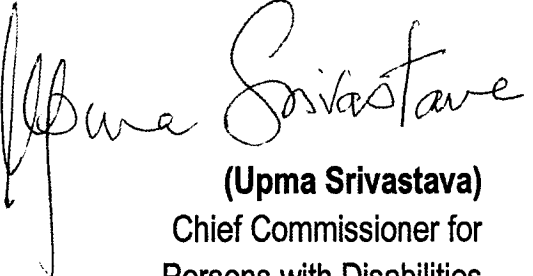
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4. The above reply was forwarded to the complainant on **29.08.2022** for submission of his comments/rejoinder but till date no response has been received.

Observation/Recommendations:

5. In view of the above, as the complainant's complaint has been redressed, no further intervention is required in the matter.

6. The Case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 23.11.2022



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: 13323/1023/2022

Complainant: Shri Rakesh Kumar
GS - 196074, Y Draughtsman
Head Office, 96 Road Construction Unit
C/o 56 Sena Post Office - 930096

Respondent: The Accounts Officer
Pay Accounts Office (GREF)
Dighi Cantonment Board, Pune - 411015
Email: <pao.gref.cgda@nic.in>
Tel: 020 - 29999112

Complainant: 75% locomotor disability

GIST of the Complaint:

Complainant Shri Rakesh Kumar vide complaint dated **07.06.2022** has submitted that he wants to know under which rule his double transport allowance has been stopped since February 2018. He alleged that he did get double transport allowance but after some time respondent withdrew all and then turned off.

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 **26.08.2022**, no response has been received from the respondent.

3. After considering the complainant's complaint dated **07.06.2022**, it was decided to hold a personal hearing in the matter and therefore, the case was listed for hearing on **27.09.2022**.

Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **27.09.2022**. The following were present in the hearing:

- Shri Rakesh Kumar – complainant
- Sri G.P. Kumar, Sr. Accounts Officer on behalf of respondent.

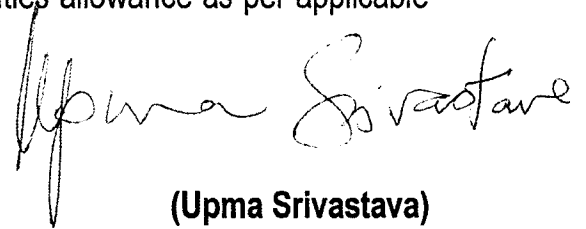
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Observation/Recommendations:

4. The Complainant submits that from 01.06.2020 till 19.09.2020 he was posted in Sikkim. Due to lockdown, he could not attend the office. For this period, he was marked absent and salary amounting to Rs. 1.5 lakhs were deducted.

5. During online hearing respondent submitted that while calculating the dues some error occurred. Thereafter, complainant's unit was asked to rectify the error and hence payment of 1, 57,028 have been made in favour of the complainant. Complainant submitted that special duties allowance has not been paid to him. This court recommends that the respondent shall compute and make payment of special duties allowance as per applicable rules.

6. The Case is disposed off.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 23.11.2022



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: 13418/1024/2022

Complainant: Ms. Poonam Lakra

E-mail: <poonamlakra154@gmail.com>

Mob: 9013005172

Respondent: The Director

Centre for Fire, Explosive & Environment Safety (CFEES)

Ministry of Finance, Brig. S.K. Mazumdar Marg

Timarpur, Delhi – 110054

Complainant: 100% visual impairment

GIST of the Complaint:

Complainant Ms. Poonam Lakra vide complaint dated **29.07.2022** has submitted that she is working in CFEES as Admin Assistant (B) since 2009 and recently she has been selected for regular Ph.D. Programme in Bhimrao Ambedkar University, Lucknow. As per her when she has requested to her Department to issue NOC but she was disappointed as she has not received NOC nor any satisfactory answer.

2. The matter was taken up with the Respondent vide letter dated **01.09.2022** under Section 75 of the RPwD Act, 2016.

3. In response, Sr. Admin Officer – II in CFEES file reply dated **01.10.2022** and submitted that Ms. Poonam Lakra has submitted an application on 14.06.2022 seeking NOC for appearing in an interview at Babasaheb Bhimrao Ambedkar University, Lucknow for pursuing Ph.D. She told verbally that she needs NOC today itself as she is leaving for Lucknow by the evening train. Though the applicant had not taken the required prior permission before applying for the said Ph.D and also insisted for issue of immediate NOC, her application was processed immediately. The Competent authority has condoned the omission and NOC was issued to her on the same day i.e. 14.06.2022. Thereafter, she

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intimated vide application dated 19.07.2022 that she has been selected in the admission process of part time Ph. D. In BBAU for session 2022-23 and requested for another NOC for pursuing part time Ph.D. The requested NOC was again provided to her promptly after approval from Competent Authority on 21.07.2022. She again vide her application dated 26.07.2022, asked the office to provide another NOC to her for admission in BBAU for the said course. However, this time the applicant sought such NOC for pursuing Ph.D. on regular i.e. full time basis.

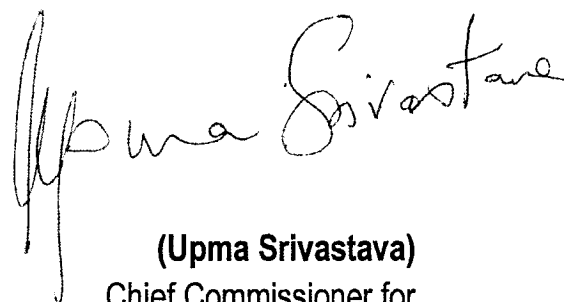
4. Since third time she sought permission to pursue a study course on full time basis which require absence from regular office hours for a long period of time, as such advice was sought from DRDO HQs. After discussion and advice of HQrs, she was issued another NOC/permission for pursuing higher studies i.e. Ph. D in her case on 16.08.2022. Therefore, it can be seen from the above that there was no delay in providing either NOC or permission to pursue higher studies in case of Ms. Poonam Lakra, Admin Assistant 'B' of this Establishment and her complaint may be disposed off accordingly.

5. A copy of the reply was forwarded to the complainant on 19.10.2022 for submission of her comments but no response has been received.

Observation/Recommendations:

6. In view of the above, the reply filed by the respondent is satisfactory. No discrimination on the ground of disability is made out in the present complaint. Hence, no further intervention is required in the matter.

7. The case is disposed off accordingly.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 23.11.2022



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: 13311/1023/2022

Complainant: Shri Braj Bhushan Vibhuti
Village – Bangari, Post Office – Birahima Bazar
Muzaffarpur, Bihar – 843127
E-mail: brajbhushanvibhuti.1030@rediffmail.com
Mob: 6201346848

1235791

Respondent: The Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area, Shaheed Jeet Singh Marg
New Delhi – 110016
Email: <kvse2section@gmail.com> <kvropatna@yahoo.com>
Tel: 011 – 26858570

1235792

Complainant: 50% locomotor disability

GIST of the Complaint:

Shri Braj Bhushan, Complainant vide complaint dated **01.06.2022** has submitted that after passing competitive examination held by KVS in 2009 and after interview KVS, HO selected him as PGT Hindi in at K.V.S. in March, 2011. The KVS issued him appointment letter to join at Bijapur. As per complainant the Principal of that time did not allow him to join arbitrarily with malafied and insulted him. The complainant filed a complaint before the CCPD against this action the KVS issued him a second joining letter after the gap of six months. On the basis of second appointment letter he joined at KV Bijapur on 16.08.2011. He claimed TA & DA bill but the Principal didn't pass the bill violating the Rules of KVS and not paid salary to him. He has requested that:

- TA & DA bill of joining at Bijapur for both times should be passed as per rule.
- The salary of six month gap at the time of initial joining should be paid as per law and seniority should be maintained from initial joining letter.
- HTC bill should be passed by the Principal, KV Tinsukia and his forcefully debited leave and deducted salary should be refunded.

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- Double transport allowance from initial joining time to today should be paid by the KV, Muzaffarpur
- Dismissal order must be quashed with backwages and the complainant should be reinstated in the service from the date of dismissal with back wages & all benefits.

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

3. Dy. Commissioner, KVS vide letter dated 19.08.2022 has submitted that the present complaint may not be entertained as the applicant has raised certain service dispute viz salary, transportation allowance etc in his complaint and the appropriate forum available to the complainant is before the Hon'ble Central Administrative Tribunal, Patna Bench, Patna as KVS is a notified body under section 14 of the Administrative Tribunals Act, 1985. He further submitted that Shri Braj Bhushan Vibhuti was offered appointment to join KV, Bijapur vide letter dated 28.01.2011 issued by Dy. Commissioner, KVS RO Bangalore with certain terms and conditions laid down in the Offer of appointment. He joined KV Bijapur on 16.08.2011 to the Post of PGT (Hindi) Sri Vibhuti joined KV Tinsukia on 15.07.2015 after getting transfer from KV Bijapur (Bangalore Region) to KV Tinsukia (Assam). A fact – finding Committee was constituted due to discrepancies/variations in educational qualification certificate, Date of Birth at KVS RO Tinsukia vide order dated 29.01.2016. Further, Sri Brajbhushan Vibhuti joined KV Muzaffarpur, Bihar on transfer from KV Tinsukia on 03.10.2017. The Disciplinary file was received to KVS RO Patna for further action from KVS RO Tinsukia vide letter dated 14.08.2020. Thus the further action was carried out in Patna Region. The Competent Authority after perusal of the records and after examining the materials dismissed the complainant from service vide order dated 29.11.2021. This order has not been assailed by filing any original application before the Hon'ble CAT, Patna Bench.

4. The respondent also submitted that as there are some doubts about Shri Braj Bhushan Vibhuti's date of birth, educational qualification which was not chronological rather conflicting and contradictory. Principal KV Bijapur sought clarification vide letter dated 14.02.2011 from his higher authority i.e. from Assistant Commissioner, KVS, RO, Bangalore. The date of birth shown in different documents and the educational qualification showing year of pass is as under:



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Sl.	Documents	DOB
1	PAN Card	21.01.1964
2	Election Identity Card	1969
3	Secondary Certificates	01.01.1983

And Sri Brij Bhushan Vibhuti has possessed Educational qualifications in the following order:

Sl.	Name of Examination	Year of Passing
1	Graduation	2005
2	Secondary	2006
3	MA (Hindi)	2007
4	Intermediate	2009

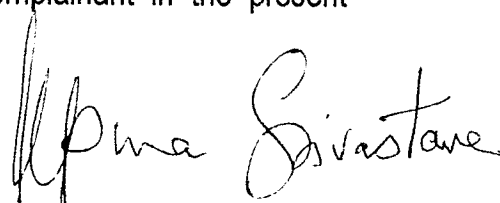
5. Accordingly, a charge sheet was issued to complainant on 03.09.2020. An opportunity was given to the complainant during the Departmental Enquiry. Being Disciplinary Authority, the Dy. Commissioner, KVS, RO, Patna also gave personal hearing before taking the final decision. Shri Braj Bhushan Vibhuti could not controvert the materials adduced against him. The Appeal filed by Shri Braj Bhushan Vibhuti is under consideration with the Appellate Authority i.e. KVS, HQ, New Delhi.

6. Complainant vide rejoinder dated 09.09.2022 reiterated his grievance and has inter-alia submitted that dismissal should be abolished and he should be reinstated in service from the date of dismissal with all backwages and all matter should be considered according to law of KV for abolition of dismissal.

Observation/Recommendations:

7. After perusal of the complaint and reply this Court is inclined to note that no case of discrimination on grounds of disability is made out by the complainant in the present complaint. Intervention of this Court is not warranted.

8. The case is disposed off.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 23.11.2022



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: 13368/1024/2022

Complainant: Shri Nishant Upadhyaya
Section Officer
SL 2013, Rank – 88
DG : AIR, Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi
E-mail: <nishant.upadhyaya34@nic.in>
Mob: 9711244919

Respondent: The Dy. Secretary
CS.I Division
Department of Personnel & Training
Khan Market, New Delhi
Email: <diradmin@nic.in>
Tel: 011- 23094579

Complainant: 80% locomotor disability

GIST of the Complaint:

Complainant Shri Nishant Upadhyay vide complaint dated **04.07.2022** has submitted that as per DoP&T's Order No. 6/12/2022-CS.I (S) dated 30.06.2022 in which the promotion benefits to Persons with Disability were granted w.e.f. 01.07.2021 and in their zone of consideration OM No. 6/12/2022-CS.I (S) dated 07.06.2022 stated as under:

"PwBD all the ASOS (both DR and Promotee) belonging to the A50 CSL upto 2012, who were in service as on 01.07.2021 and who have completed 08 years of approved service as on 01.07.2021 as well as other prescribed eligibility conditions as stated....."

2. He further submitted that names of all the eligible officials who have completed 08 years approved service as on 01.07.2021 in the Section Officer's Grade were not considered in the zone of promotion, under PwBD category and has requested to consider his request for inclusion of his name in Select List of 2021 of Under Secretary under PwBD category.

3. The matter was taken up with the Respondent vide letter dated **27.07.2022** under Section 75 of the RPwD Act, 2016.

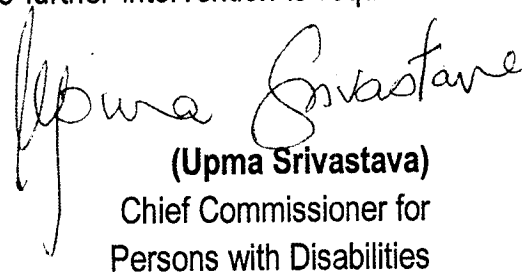
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4. Under Secretary, DoP&T vide letter dated **29.08.2022** has submitted that Shri Nishant Upadhyaya has been included in the Select List of Under Secretary for the year 2022 vide OM dated 21.07.2022 and his promotion as Under Secretary has been notified by Ministry of Information & Broadcasting vide Notification dated 01.08.2022. The matter of review of Select Lists of Under Secretaries for the years 2012 to 2022 is under consideration in Department. All the eligible PwBD candidates, including Shri Nishant Upadhyaya will be considered for their inclusion in USSLS 2021 and onwards by Review DPC.

5. The above reply was forwarded to the complainant through e-mail on **29.09.2022** for submission of his comments/rejoinder but till date no response has been received.

Observation/Recommendations:

6. In view of the above, it is observed that the complainant's complaint has been redressed and his promotion order has been issued by the Ministry of Information and Broadcasting vide Notification dated 01.08.2022. Hence, no further intervention is required in the matter and the case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 23.11.2022



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: 13169/1023/2022

Complainant: Dr. Vinod Kumar Jain
Sr. CMO (HAG)
Department of Paediatrics
Dr. R.M.L. Hospital, New Delhi – 110001
E-mail: <dgdrvjkain@gmail.com>

Respondent: The Medical Superintendent
Dr. Ram Manohar Lohia Hospital
Baba Kharak Singh Marg, New Delhi – 110001
E-mail: <deputy.director@rmlh.nic.in>

Complainant: 46% locomotor disability

GIST of the Complaint:

Complainant Dr. Vinod Kumar Jain, Sr. CMO (HAG) vide complaint dated 28.03.2022 submitted that after sanctioning of the Double Transport Allowance, it was stopped w.e.f. 01.01.2020 without any legitimate reasons and has not been given payment of arrears.

2. The matter was taken up with the Respondent vide letter dated 29.03.2022 under Section 75 of the RPwD Act, 2016 but despite reminder dated 19.04.2022, no response has been received from the respondent. Therefore, hearing scheduled on 07.06.2022.

3. Both the parties were heard. Complainant submits that his Double Transport Allowance has been stopped w.e.f. 01.01.2020. Respondent asks him to get re-evaluated for disability on regular intervals.

4. During online hearing, Respondent submitted that the issue relates to Ministry of Health and further submitted that Complaint was not received by the Respondent hence written reply was also not filed. Considering the principles of natural justice, this Court granted 15 days time to the Respondent to file its Reply against the facts submitted in the Complaint. The hearing re-scheduled on 06.09.2022.

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Hearing: The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on **06.09.2022**. The following were present:

- Dr. Vinod Kumar Jain on behalf of complainant
- Adv. Harbir Singh on behalf of respondent

Observation/Recommendations:

5. Complainant submits that his Double Transport Allowance has been stopped w.e.f. 01.01.2020. He is regularly asked by the Respondent to get himself re-examined. He has superannuated on 30.04.2022.
6. Respondent filed its reply and submits that the complainant applied on 24.01.2019 for Double Transport Allowance on the basis of disability certificate dated 26.08.2001. Respondent sent a letter dated 01.10.2019 to DGHS for clarification regarding entitlement of grant of Double Transport Allowance. DGHS replied that the given disability certificate is old and therefore complainant's disability should be reassessed.
7. Thereafter, the complainant was sent to Safdarjung Hospital for reassessment of his disability. Safdarjung Hospital issued a disability certificate dated 06.04.2021 declaring him 43% disabled. Respondent informed DGHS about latest reassessment report, however till date no reply has been received from DGHS. Thereafter, considering the Ministry of Finance OM dated 31.08.1978 respondent has decided to grant Double Transport Allowance to the complainant with effect from date of latest disability certificate, i.e. 06.04.2021.
8. As submitted by the Complainant, his Double Transport Allowance was stopped w.e.f. 01.01.2020. Now the respondent has granted Double Transport Allowance with effect from 06.04.2021. Complainant applied for Double Transport Allowance on 24.01.2019. His case was kept pending by the Respondent. The Respondent sought clarifications from number of departments and finally issued Double Transport Allowance (DTA) w.e.f. 06.04.2021. Respondent failed to provide any effective reason for delaying the case of the Complainant. Furthermore, if the Complainant was in continuation of DTA and it was



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stopped w.e.f. 01.01.2020 because disability certificate was old, Respondent could have continued to allocate DTA till receiving the contrary report relating to Complainant's disability.

9. This Court recommends that the Respondent shall issue DTA in favour of the Complainant w.e.f. 01.01.2020.

10. The case is disposed off.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 24.11.2022



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: 13403/1022/2022

Complainant:

Swati Sudha
 W/o Shri Dheeraj Kumar
 Flat No. C-301, Om Vihar Apartment
 Amethia Nagar, Namkunch, Ranchi, Jharkhand-834010
 Mobile No: 834010
 Mobile No: 9852026370
 Email: sudha09swati@gmail.com

Versus

Respondent

The General Manager : Respondent -1
 Canara Bank
 Personal Management Section
 Human Resources Wing
 3rd Floor, 112, J.C. Road, Bangalore-560002
 E-mail: hopm@canarabank.com

The General Manager : Respondent-2
 Canara Bank
 Achal Office, Ranchi
 Kaushalya Chambers, PP Compound
 Main Road Ranchi, Jharkhand-834001
 Email: hrmranchico@canarabank.com ranchico@canarabank.com
 Phone no: 0651-2331752

GIST OF COMPLAINT

शिकायतकर्ता, 45 प्रतिशत अस्थि बाधित का अपनी शिकायत दिनांक 30.07.2022 में कहना है कि वह झारखण्ड राज्य सरकार के अंतर्गत झारखंड बिजली वितरण निगम लिमिटेड रांची में कार्यरत है। उनकी 70 वर्षीय सास श्रीमती चंद्रावती देवी 100% दृष्टि बाधित है। उनका कहना है कि उनके पति केनरा बैंक में स्केल 1 अधिकारी के पद पर कार्यरत है। वह अपने माता पिता के एक मात्र पुत्र है और उन दोनों के एकमात्र देखभाल कर्ता है। उनकी सास वृद्ध महिला है जो अपने सभी नित्य कार्यों के लिए अपने पुत्र धीरज कुमार पर पूर्णतः आश्रित है। वृद्धावस्था और दिव्यांगता होने के साथ साथ वह डायबिटीज, हाई ब्लड प्रेशर से ग्रसित है। कुल्हे की हड्डी टूट जाने के उपरांत उनके कुल्हे में राइ लगा है, जिससे वह बिना किसी सहारे के अपने नित्य कर्म में भी असमर्थ है तथा बिस्तर पर ही रहती है।

2. शिकायतकर्ता का कहना है कि वह भी अपने दैनिक दिनचर्या के कार्यों में अपने पति श्री धीरज कुमार पर ही आश्रित है। अपने पति के सहयोग से ही वह समाज में आर्थिक स्वतंत्रता और आत्मसम्मान प्राप्त

करने में सक्षम है। इसके आलावा उनके विवाहित जीवन में कोई भी संतान नहीं होने के कारण दोनों पति पत्नी रांची शहर में अपना इलाज चिकित्सक के परामर्श से करा रहे हैं। शिकायतकर्ता की पारिवारिक स्थिति को देखते हुए तथा उनकी सास और उनकी दिव्यांगता के कारण उनके पति का उनके साथ रहना अपरिहार्य है। उनके पति केनरा बैंक सीपीएच रांची में कार्यरत थे । दिनांक 13 मई 2022 को उनके पति का स्थानांतरण बैंगलोर के जे.पी.नगर शाखा में पत्र संख्या 7175 एचआरएम 98800:0F1 के माध्यम से किया गया जिसने उनके आत्मविश्वास को हिला दिया है और वे आत्यधिक परेशान और निराश महसूस कर रहे हैं। शिकायतकर्ता का कहना है कि उनके पति उनका एवं उनकी सास दोनों के एक मात्र देखभालकर्ता है इसलिए वह बैंगलोर के शाखा में अपना योगदान देने में असमर्थ है। उन्होंने अनुरोध किया है कि उनकी वृद्ध सास, उनकी दिव्यांगता एवं उनकी पारिवारिक कठिनाई को ध्यान में रखते हुए उनके पति का स्थानांतरण रांची शहर के किसी भी शाखा कार्यालय में पदस्थापित कराने की कृपा की जाए ताकि उनके पति उनकी तथा उनकी सास (दोनों दिव्यांग महिलाओं) की देखभाल कर सकें।

3. The matter was taken up with the Respondent vide letter dated 23.08.2022 under Section 75 of the RPwD Act, 2016.

4. In response, Senior Manager, HRM Section, Circle Office, Canara Bank, Jharkhand, vide email dated 27.09.2022, has submitted that Shri Dheeraj Kumar, Officer, has been working in various branches/offices within Circle Office, Ranchi from 06.11.2016 till 27.05.2022 i.e. for more than 5 years. While so working, he has never mentioned that his wife, the complainant herein and his mother are physically challenged. He was transferred from CPH, Ranchi to J P Nagar Branch under Bengaluru Circle, vide proceedings dated 13.05.2022, which is as per the transfer policy of the Bank and keeping in view its administrative requirements. Being an Officer employee of the bank bound by the Canara Bank Officers regulations, 1979, he was bound to report to the transfer place expeditiously in terms of the transfer proceedings and work there until further orders. However, he failed to do so.

5. The respondent further submitted that considering the facts and circumstances of the case, including the contents of the representation dated 30.07.2022 made by his wife Smt. Swati Sudha, the competent authority of the Bank has favorably considered his request for retention at any of the Branches/Offices within Ranchi Circle Office. Accordingly, in modification of the earlier transfer proceedings dated 13.05.2022, he has now been transferred to Churi Branch under Ranchi Circle Office vide proceedings dated 23.09.2022. As the grievance has been redressed he has requested this court to treat the complaint as examined and close the matter.

6. The complainant filed the rejoinder through the emails dated 26.09.2022 and 28.09.2022. She has submitted vide letter dated 26.09.2022 that the Respondent has sent the transfer order in respect of her husband on his email on 24.09.2022 and posted him at place in Ranchi which is 70-80 Km away and it is not possible to travel daily. She further vide letter dated 28.09.2022 has submitted that the Bank vide letters dated 03.06.2022 and 22.06.2022 had stopped her husband's salary and also informed him about disciplinary action. Her husband has not got salary from the last 04 months due to which they are facing the financial hardship.



7. **Hearing:** The case heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 07.11.2022. The following were present:

- i) Smt. Swati Sudha W/o Shri Dheeraj Kumar : **Complainant**
- ii) Shri Hitesh Goel, General Manager, Ranchi Circle Office,
Shri Manu Pandey, AGM, H.O., Bangalore : **Respondent**

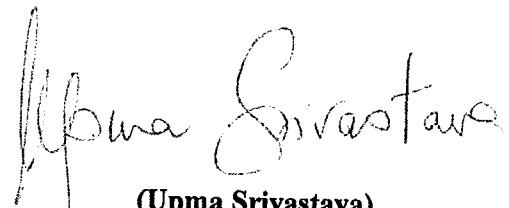
Observations /Recommendations:

8. Complaint is filed on behalf of the employee of the Respondent establishment. Employee is not Divyangjan but wife and mother of the employee are Divyangjan. Complainant submits that she is wife of the employee and is Divyangjan (Locomotor – 45%) and employee's mother is also Divyangjan (Visual Impairment – 100%).
9. Earlier Complainant was posted in Ranchi and was residing along with his wife and mother. Later in May 2022 the employee was transferred from Ranchi to Bangalore.
10. Complainant prays to cancel the transfer of the employee because the employee is care taker of the Complainant (wife) and his mother. Complainant further submits that she is employee of Jharkhand Bijli Vitran Nigam Limited, which is establishment of Jharkhand government hence, she cannot move along with her husband to Bangalore.
11. Respondent submits that Shri Dheeraj Kumar, Officer, has been working in various branches/offices within Circle Office, Ranchi from 06.11.2016 till 27.05.2022 i.e. for more than 5 years. While so working, he has never mentioned that his wife, the complainant herein and his mother are physically challenged. He was transferred from CPH, Ranchi to J P Nagar Branch under Bengaluru Circle, vide proceedings dated 13.05.2022.
12. Being an Officer employee of the bank bound by the Canara Bank Officers regulations, 1979, he was bound to report to the transfer place expeditiously in terms of the transfer proceedings and work there until further orders. However, he failed to do so.
13. The respondent further submits that considering the facts and circumstances of the case, including the contents of the representation dated 30.07.2022 made by his wife Smt. Swati Sudha, the competent authority of the Bank has favourably considered his request for retention at any of the Branches/Offices within Ranchi Circle Office. Accordingly, in modification of the earlier transfer proceedings dated 13.05.2022, he has now been transferred to Churi Branch under Ranchi Circle Office vide proceedings dated 23.09.2022. As the grievance has been redressed he has requested this court to treat the complaint as examined and close the matter.
14. The complainant filed the rejoinder and submits that the Respondent posted him at place in Ranchi which is 70-80 Km away and it is not possible to travel daily. She further submits that the Bank vide letters dated 03.06.2022 and 22.06.2022 had stopped her husband's salary and also informed him about disciplinary action. Her husband has not got salary from the last 04 months due to which they are facing the financial hardship.
15. During online hearing Respondent submitted that by Order dated 23.09.2022, Shri Dheeraj Kumar has been posted in branch situated in Ranchi circle. Further the Respondent informed that the Complainant never joined in Bangalore office. Complainant also informed this Court that salary of June,

July, August and September 2022 was not credited in favour of Shri Dheeraj Kumar and he was put on 'Loss of Pay'. Respondent also informed that new place of posting is only at distance of 40 K.Ms. away from Ranchi city.

16. This Court appreciates the fact that Respondent decided to post Shri Dheeraj Kumar at branch in Ranchi circle. Further, on the issue of 'loss of pay' this Court recommends that the Respondent must adopt compassionate view to consider the present Complaint because the situation of Shri Dheeraj Kumar was such that he could not leave divyang dependants behind. Hence, the Respondent shall opt to either cancel 'loss of pay' or adjust the 'loss of pay' against leaves of the Complainant. Further, this Court recommends that the Respondent shall find avenues to post Shri Dheeraj Kumar to any branch situated nearest to Ranchi.

17. The case is disposed off.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 25.11.2022