



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. 14093/1032/2023

Complainant:

Shri Sandeep Kumar

F/o Shri Shridhar Krishna

Mobile No – 7033298268; 7992494315

Email – sandeep.rcf@gmail.com

LM 1565

Respondent:

The Director

National Institute for the Empowerment of Persons
with Intellectual Disabilities

Manovikas Nagar

Secunderabad - 500009

Email – nimh.director@gmail.com; dir@nimhindia.gov.in

LM 1566

Affected Person: Shri Shridhar Krishna, a person with disability

1. Gist of Complaint:

1.1 Shri Sandeep Kumar F/o Shri Shridhar Krishna, a person with disability filed a complaint dated 27.03.2023 and submitted that his son studying in K V Rail Wheel Plant Bela, Saran Bihar. His son's school is requested to National Institute for Empowerment of Persons with Intellectual Disabilities (NIEPID) for TLM kits for last 2-3 months at Regional Center Kolkata, CRC Patna and recently with NIEPID Head quarter on payment basis for proper Mental Education of low IQ child as per inclusive education and RPwD Act, 2016.

2. Submissions made by the Respondent:

2.1 Director (Offg.), NIEPID filed their reply dated 05.06.2023 inter-alia submitted that the Institute has taken immediate action on the email dated 27.03.2023 submitted by the complainant and sent a letter to Kendriya Vidhyalaya, Rail Wheel Plat Bela, Arvind Nagar, Bihar on 29.03.2023 along with details of Teaching Learning Material (TLM) Kits with price so as to submit an indent along with payment for supply of TLM Kits on payment basis.

2.2 In reply to this, the Kendriya Vidhyalaya, Rail Wheel Plant Bela, Arvind Nagar, Bihar vide letter dated 19.04.2023 submitted an indent for supply of 2 TLM Kits (1 Kit-2 & 1 Kit-3) and also transferred the amount to NIEPID account. Accordingly, the Institute has placed an order on 25.04.2023 with the authorized agency viz., M/s Vijayavani Printer, Chittore for supply of Kits and

the same are delivered at Kendriya Vidhyalaya, Rail Wheel Plant Bela, Arvind Nagar, Bihar on 02.05.2023.

3. Submissions made in Rejoinder:

3.1 The complainant file their rejoinder dated 09.06.2023 and submitted that he has contacted to the Principal of Kendriya Vidyalaya and he had verbally confirmed that he got the TLM Kit. Now his child will get proper study material.

4. Observations & Recommendations:

4.1 Since the necessary action has already been taken by the Respondent upto the satisfaction of the complainant, no further intervention is warranted in the matter.

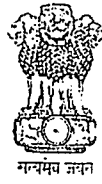
4.2 Accordingly, the case is disposed of.



(Upma Srivastava)

Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023



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. 13634/1011/2023/164175

In the matter of—

Shri Shailesh Shetty,
Ph.D. Scholar, Dept. of Psychology,
St. Agnes Research Centre,
Mangalore University, Mangalore,
Email: shaileshkrishna99@gmail.com

... Complainant

Versus

The Director,
National Council of Educational Research and Training,
Sri Aurobindo Marg,
New Delhi-110016;
Email: director.ncert@nic.in

... Respondent

Affected Person / Beneficiary: The complainant, a person with 80% Hearing Impairment

1. Gist of Complaint:

1.1 Shri Shailesh Shetty, a person with 80% Hearing Impairment, filed a complaint vide email dated 12.10.2023 regarding not providing reservation to candidates with hearing impairment in the Adv. No.172/2022 published by NCERT for filling of 292 various academic positions under direct recruitment through interview.

1.2 The Complainant further submitted that in the said advertisement seats are reserved for persons with Blindness and OH categories only; not a single seat has been reserved for persons with Hearing Impairment. In Advertisement No.171/2020, which was cancelled by NCERT, certain posts were reserved for persons with Hearing Impairment. The Complainant alleged that it is a great injustice for persons with hearing impairment like him.

2. Submissions made by the Respondent:

The Respondent filed their reply on affidavit dated 22.02.2023 and submitted that NCERT had issued a Notification for cancellation of Advertisement No.171/2020 as well as for fresh Advertisement No.172/2022 for filling up 292 academic vacancies. The posts earmarked for the PwD-HH Category under Advt. No.171/2020 has been restored in the Advt. No.172/2022

by issuing a Corrigendum dated 18.10.2022. In view, there is no merit in the complaint filed by the Complainant.

3. Submissions made in Rejoinder:

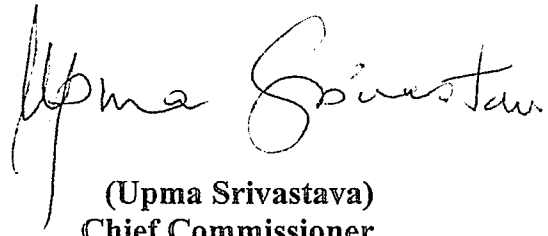
No rejoinder was received from the Complainant to the reply filed by the Respondent.

4. Observations & Recommendations:

4.1 NCERT has issued a notification for cancellation of Advertisement No.171/2020 as well as for fresh Advertisement No.172/2022 for filling up 292 academic vacancies. The posts earmarked for the PwD-HH Category under Advt. No.171/2020 has been restored in the Advt. No.172/2022 by issuing a Corrigendum dated 18.10.2022. Reply filed by the respondent is satisfactory as the grievance has been redressed. No further action is warranted in this matter.

4.2 Accordingly the case is disposed of.

Dated: 03.07.2023


(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. 13622/1101/2023/174524

In the matter of---

Shri Jethanand Bhatia,
R/o J-404, Orchard, Godrej City,
Jatatpur, Ahmedabad-382470
Email: jlbhatia2011@gmail.com
Cell Phone: 9408792106

RM1560

... Complainant

Versus

(1) The General Manager,
Western Railway,
1st Floor, GLO Building,
Western Railway
HQ Office, Churchgate, Mumbai – 400020
Email: gm@wr.railanet.gov.in

RM1561

... Respondent No.1

(2) The Chairman,
Railway Board,
Rail Bhavan, Raisina Road,
New Delhi – 110001
Email: crb@rb.railnet.gov.in

RM1562

... Respondent No.2

Affected Person/Beneficiary: The complainant, a person with 50%
Locomotor disability

1. Gist of Complaint:

1.1 Shri Jethanand Bhatia, a person with 50% locomotor disability filed a complaint dated 11.12.2022, against Railway Board for not providing barrier free accessibility at Chandkheda (CKD) and Chandlodiya (CKLD) Railway Stations under DRM, Ahmedabad.

1.2 He submitted that he is writing to different Railway Authorities on the same issue from the last 06 months and he sent a last letter dated 01.11.2022 along with photographs of Railway Stations to Chairman, Railway Board by speed post followed by two reminder emails. Despite his best efforts the Board has even not cared to acknowledge the complaint and leave aside the solution. He has requested for intervention of this Court in the matter.

1 | Page

2. Submissions made by the Respondents:

2.1 Divisional Commercial Manager, Western Railway filed reply on affidavit dated 23.01.2023 on behalf of both the Respondents and inter-alia submitted that the Complaint is based on assumption and presumption and hence, the same is not maintainable under the provisions of Law.

2.2 He has clarified that Chandkheda Railway Station is in NSG (Non-Suburban Grade) 6 category and Standard Ramp with SS railing at Platform No.1 has already been provided for use of divyang persons. Moreover, work of providing SS railing at Platform No.2 is approved in zone work 2022-23 and would be provided in short period as per available relevant record with the concerned department.

2.3 As regards Chandlodiya Railway Station, SS railing and Standard Ramp have already been provided at Chandlodiya-B Railway Station which are in good conditions. The photos enclosed by Complainant are of Chandlodiya-A Station where SS railing was earlier provided at entry ramp which was damaged by stray cattle. The work for provision of SS railing along ramp at entry and laong ramp from waiting hall to platform at Chandlodiya – A Station is sanctioned in Zone work 2022-23. It would be provided in short period as per available relevant record with the concerned department.

2.4 In the light of above, he has submitted that the grievances raised in the Complainant are likely to be resolved.

3. Submissions made in Rejoinder:

3.1 The Complainant filed his rejoinder dated 07.03.2023 and submitted that he totally disagrees with the reply filed by the respondents. He also submitted that the respondents has not furnished point wise reply to his complaint dated 11.12.2022 in fear of being caught for false replies given to him till date. The Complainant prayed that the complaint may not be closed until the opponent furnishes clear and actual photographs of the required work done as the work order is still pending/incomplete.

4. Observations & Recommendations:

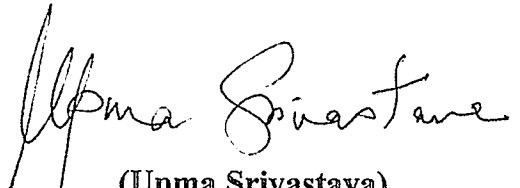
4.1 It appears that the Respondent has started action on the matter. However, a date by which the grievance will be redressed has not been indicated in the reply of Respondent. The Respondent is advised to ensure that both the Railway

Stations Chandkheda (CKD) and Chandlodiya (CKLD) under DRM, Ahmedabad are made accessible and barrier free for persons with disabilities in terms of Chapter VIII of the Rights of Persons with Disabilities Act, 2016 read with Rule 15 of the Rights of Persons with Disabilities Rules, 2017.

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

4.3 Accordingly the case is disposed of.

Dated: 03.07.2023


(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. 13772/1021/2023

Complainant:

Shri Babulal Sen
 79-80, Maharana Pratap,
 Residency, Canal Road
 Borkheda Kota, Rajasthan – 324002
 Mobile No – 9694435166
 Email – senbabulal66@gmail.com

Respondent:

- (1) Chairman and Chief Executive Officer
 Railway Board,
 256-A, Raisina Road, Rajpath Area,
 Central Secretariat, Delhi -110001
 Email – crb@rb.railnet.gov.in; rb-eoffice@gov.in
- (2) General Manager,
 West Central Railway, Jabalpur
 35, South Civil Lines, Jabalpur
 Madhya Pradesh 482001
 Email – gm@wrc.railnet.gov.in
- (3) Divisional Railway Manager,
 West Central Railway,
 Kota Division
 New Railway Colony, Railway Station Area
 Kota, Rajasthan 324002
 Email – drm@ktt.railnet.gov.in

Affected Person: The complainant, a person with 41% Locomotor Disability

1. GIST OF COMPLAINT:

1.1 Shri Babulal Sen, a person with 41% locomotor disability filed a complaint dated 11.01.2023 regarding non-inclusion of provisions of reservation for employees with disabilities on the posts identified for

employees with disabilities in the current promotion case of Staff Welfare Inspector (35% LDCE Quota) by West Central Railway, Kota Division. He further submitted that in the panel issued on 06.01.2023, reservation can be implemented by the Railway Administration in promotion to the post of Staff Welfare Inspector by amending the rules for disabled railway employees according to the roster point.

2. SUBMISSIONS MADE BY THE RESPONDENT:

2.1 Dy. Director/Estt., Railway Board, Respondent No 01, vide letter dated 14.03.2023 has informed the General Manager (P), West Central Railway, Jabalpur that the issue of reservation in promotion for Persons with Benchmark Disabilities (PwBD) was under litigation before various courts of law for quite some time. The matter was considered by the Board and it has been decided that instructions issued by DoP&T vide their O.M. dated 17.05.2022 may be made applicable mutatis mutandis for grant of reservation in promotion to PwBD in the non-gazette posts of Indian Railways as identified vide Ministry of Social Justice and Empowerment's notification dated 04.01.2021 and Board's letter No. E(NG)II/2017/RC-2/1/Policy dated 27.02.2019.

2.2 Divisional Personnel Officer, West Central Railway, Kota filed reply dated 24.03.2023 on behalf of Respondent Nos 02 & 03, and inter alia submitted that the Complainant filed the complaint totally on the basis of false and misleading facts have no iota of truth. Moreover, the Complainant has not approached this Court with clean hands and suppressed the material facts from the Court. The actual facts are that the Complainant is currently working as Office Superintendent in West Central Railway and posted at Personnel Branch, Kota Division, West Central Railway.



- 2.3 As regards Complainant's grievance of non-inclusion of provisions of reservation for employees with disabilities on the posts identified for employees with disabilities in the current promotion case of Staff Welfare Inspector (35% LDCE Quota) by West Central Railway, Kota Division, he has submitted that after the D/oP&T's O.M. dated 17.05.2022, the Railway Board, Ministry of Railways issued instructions vide their Circular No. 74/2022 dated 01.07.2022. The said Circular was given effect to by policy circular dated 20.07.2022. He further submitted that the recruitment process of 35% LDCE quota in promotion was initiated on 02.05.2022 by issuing a notification.
- 2.4 The above position was duly conveyed to the Complainant vide letter dated 02.01.2023. The reservation as per roster cannot be given retrospectively and that in all related recruitment's after 01.07.2022 about 4% reservation for the PwBDs in 35% in LDCE quota shall be implemented in future. Hence, the Complaint lacks merit and has no basis.

3. SUBMISSIONS MADE IN REJOINDER:

- 3.1 The Complainant filed his rejoinder dated 11.04.2023 and prayed that appropriate action may be taken against the discriminatory, flawed and arbitrary policy of the administration. He also prayed for issuing necessary orders to the Department/Respondent to implement the D/oP&T's order dated 17.05.2022 as well as RBE's Circular No. 74/2022 in the said selection process by issuing necessary corrigendum and for the said promotion order be issued in his name or kindly cancel all the selection process and issue a fresh notification or any other direction as may be deemed fit by Hon'ble Court.
4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **06.06.2023**. The following persons were present during the hearing:

Complainant : Shri Babu Lal Sen

Respondents

Chairman and Chief Executive Officer Railway Board –

Shri Sanjay Kumar : Respondent No. 1

General Manager, West Central Railway –

Adv. Shamindra Kadian : Respondent No. 2

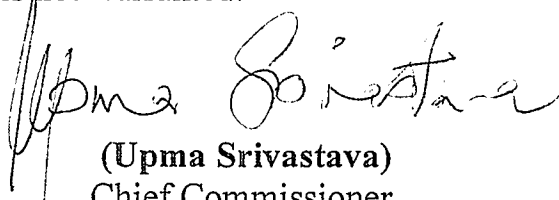
Divisional Railway Manager, West Central Railway –

Sri Suprakash, Sr. DPO : Respondent No. 3

5. OBSERVATIONS & RECOMMENDATIONS :

The O.M. issued by DoPT relied upon by the Complainant was issued on 17.05.2022 whereas the impugned notification was issued on 02.05.2022. The O.M. cannot be given retrospective effect. Intervention of this Court in the present complaint is not warranted.

6. The case is disposed of.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023

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

भारत सरकार / Government of India

Case No. 13703/1021/2023

Complainant:

Shri A Ramamoorthy

Co-Ordinator,

Arumugam – Meenachi Disabled Association,

1/266, Middle Street, Vandiyar Post,

Madurai – 625020 Tamil Nadu

Email – Priya_shinil@rediffmail.com**Respondent:**

The Chairman

Department of Atomic Energy

Anushakti Bhawan,

Chhatrapati Shivaji Maharaj Marg,

Mumbai – 400001

Email ID : sectcord@dae.gov.in**1. GIST OF COMPLAINT :**

1.1 Shri A Ramamoorthy on behalf of Arumugam Meenachi Disabled Association, has filed a complaint dated 23.12.2022 alleging that the Department of Atomic Energy has not implemented the DoP&T's OM dated 17.05.2022. He further submitted that in the promotional examination employees with disabilities were not given any concession in marks and no separate panel was formed.

2. SUBMISSIONS MADE BY THE RESPONDENT:

2.1 The Under Secretary, DAE filed their reply dated 27.02.2023 and inter alia submitted that the Complainant has no locus-standi and hence, the complaint filed by the Complainant is not maintainable on this ground alone and is liable to be dismissed in limine.

2.2 He further submitted that in point No. 7 of circular inviting application for the post of Assistant from the eligible candidates dated 20.04.2022, the standard of passing and exemption was mentioned. He further submitted that the Circular for the Assistant Exam was issued on 20.04.2022 i.e. well before the issue of DOPT OM dated 17.05.2022, therefore, the applicability of the said OM for the said examination does not arise.

2.3 In view of the above, the Complainant is not entitled for any relief/interim relief and the complaint is devoid of any merit and is liable to be dismissed.

3. SUBMISSIONS MADE IN REJOINDER:

3.1 The Complainant filed his rejoinder dated 13.03.2023 and reiterated his complaint. He prayed to (i) dismiss all the arguments made by the Respondent and consider the genuine request as a persons with benchmark disabilities for the post of Assistant on relaxed standards and to order the Respondent to give 4% reservation, (ii) form separate panel for the Persons with Benchmark Disabilities and to protect their rights and career.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 06.06.2023. The following were present during the hearing:

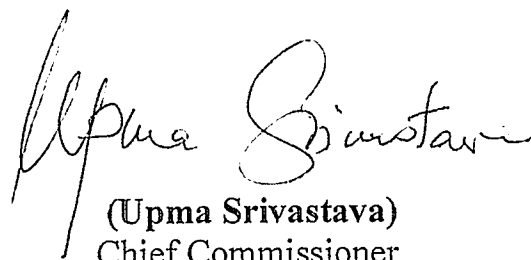
Complainant : Shri A Ramamoorthy

Respondent : Shri E.Ravindran, Director DAE

5. OBSERVATIONS & RECOMMENDATIONS:

After perusal of the submissions and supporting documents filed by the Complainant and the Respondent, this Court concludes that the reply of the Respondent is satisfactory. The executive instructions can not be assumed to take effect retrospectively in the absence of clear stipulation for the same in the instruction itself. In the instant case the relied upon instruction of DoPT of 17.05.2022 is silent about it having any retrospective effect. Hence, it is clear that the Complainant has failed to show any valid basis for his grievance. Further intervention of this Court in the present Complaint is not warranted.

6. Accordingly, the case is disposed of.



(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023

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

भारत सरकार / Government of India

Case No. 13880/1024/2023/188454

Complainant:

Shri Sonoo Priyadarshi
 Village and Post: Dumraon,
 Dist. Mau UP- 275101
 Mobile: 9540703429
 Email: spriyadarshifra@gmail.com

1552

Respondent:

The Commissioner,
 Kenriya Vidyalaya Sangathan
 Head Quarter
 18, Institutional Area, Shaheed Jeet Singh Marg,
 Katwaria Sarai, New Delhi- 110016
 Phone: 011-26858570
 Email: commissioiner-kvs@gov.in

1553

1. Gist of Complaint:

1.1 शिकायतकर्ता, श्री सोनू प्रियदर्शी, एक 100% दृष्टिबाधित व्यक्ति ने दिनांक 11.02.2023 को दर्ज अपनी शिकायत में केंद्रीय विद्यालय संगठन द्वारा (i) कोविड-19 के दौरान 21.06.2020 से 22.07.2020 तक असाधारण छुट्टी रद्द करने और भुगतान जारी करने के सम्बन्ध में और (ii) 30.06.2018 से 09.11.2020 तक दोहरे परिवहन भत्ते का भुगतान न करने का आरोप लगाया है।

1.2 शिकायतकर्ता ने कहा वह प्रशिक्षक स्नातक शिक्षक हिंदी (TGT) के पद पर केंद्रीय विद्यालय अपर शिलांग में 30.06.2018 से 28.11.2022 तक नियुक्त था। वह COVID-19 के दौरान दिनांक 21.06.2020 से दिनांक 22.07.2020 तक स्वास्थ्य कारणों से अवकाश पर था। शिकायतकर्ता को केंद्रीय विद्यालय अपर शिलांग के प्राचार्य महोदय द्वारा 32 दिन का EOL (extra ordinary leave) आवेदन कराया गया। जबकि केंद्रीय विद्यालय संगठन ने covid-19 में अनुपस्थिति से छुट देने के सन्दर्भ में 23-12-2020 को एक सर्कुलर जारी

155

किया था जिसके 12वें बिंदु के तहत उन्हें covid 19 में अनुपस्थिति से छुट मिलनी चाहिए। इस सन्दर्भ में केंद्रीय विद्यालय संभाग को बहुत बार पत्र लिखा है। किन्तु उसे नजर अंदाज कर दिया गया है। शिकायतकर्ता चाहता है कि उसका EOL (extra ordinary leave) समाप्त कर दिया जाये। साथ ही दिनांक 01-07-2020 से दिनांक 22-07-2020 तक वेतन का भुगतान किया जाये। इस समय शिकायतकर्ता केंद्रीय विद्यालय से त्याग पत्र दे चुका है।

2. Submissions made by the respondent:

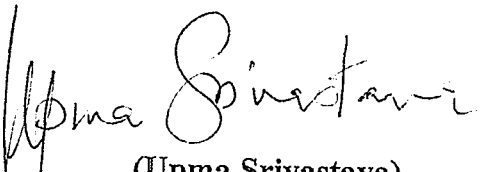
2.1 इसके जवाब में उपायुक्त (प्रशासन), केंद्रीय विद्यालय संगठन, ने कहा की श्री सोनू प्रियदर्शी, पूर्व TGT (हिंदी), केंद्रीय विद्यालय, अपर शिलांग को covid-19 महामारी के दौरान 21.06.2020 से 22.07.2020 तक के चिकित्सा आधार पर अवैतनिक अवकाश का नियमितीकरण कर उक्त अवधि के वेतन का तथा दिनांक 30.06.2018 से 09.11.2020 तक देय दोहरा यातायात भत्ता के लिए नियमानुसार मान्य राशी का भुगतान 07 दिवस के अन्दर करने का निर्देश प्रभारी सहायक आयुक्त, केविंस, क्षेत्रीय कार्यालय, सिलचर संभाग द्वारा प्राचार्य, केंद्रीय विद्यालय, अपर शिलांग को दिया गया है।

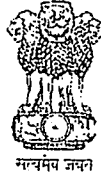
3. Observations & Recommendations:

3.1 From the perusal of the reply filed by the Respondent it is evident that the grievances raised by the Complainant relating to regularisation of his leaves and payment of Double Transportation Allowance have been resolved. Cause of the complaint is now settled. Further intervention of this Court in the present Complaint is not warranted.

4. This Case is disposed of accordingly.

Dated: 03.07.2023


(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.13750/1023/2023

Complainant:

Shri Kanhaiya Lal Jha
 Ex erstwhile Corporation Bank Employee
 Email ID: jhakanhaiyalal73@gmail.com
 Mobile No: 9821070367

13750

Respondent:

The General Manager
 Union Bank of India
 Human Resource Department, Central Office
 239, Union Bank Bhavan, Vidhan Bhavan Marg
 Nariman Point Mumbai-400021
 E-mail: gm.hrm@unionbankofindia.com

13750

1. Gist of Complaint:

1.1 The Complainant Shri Kanhaiya Lal Jha, a person with 45% Locomotor Disability filed a complaint dated 06.02.2023, regarding beneficiary claims post discharge from bank.

1.2 The Complainant submitted that he is a retired disabled Air Force veteran who was injured in line of active Air force duty. He joined the Erstwhile Corporation bank (Presently Union Bank of India) on 23.08.2013 as SWO-A under Disabled Ex-Serviceman Category. His disability was caused due to an accident while he was servicing Indian Air Force Aeroplane. Subsequently, he had to undergo a major total HIP Replacement on his right side. The whole artificial implant is fixed to his upper limb of body (Pelvis) with the help of one screw only, as shown in the X-Ray. The hip forms the joint of upper limb and lower limb of body and it being a mechanical item and is subject to wear and tear and there is certain restriction on bending and swift movements. There are certain precautions to be observed like restricted body movements, swift movements, lifting of heavy loads, climbing on stairs and sitting postures as advised by the Orthopaedic surgeon. The Complainant submitted that he was very keen and enthusiastic to perform his duty with sincere efforts. Accordingly, he requested to his branch management to deploy him for the position suiting to his physical disability. He

used to request his branch management not to deploy him for cash duties which involved sudden, jerky and bending movements causing him heavy pain.

1.3 The Complainant further submitted that instead of paying any heed to his genuine requests for suitable deployments suiting to his physical disability, he was subjected to mental harassment as well as physical harassment by the branch management. The Complainant had been suffering from jaundice from 23.08.2014 to 20.09.2014. He was treated in District Hospital, Agra and submitted the required medical certificates to the Branch Administrator, Corporation Bank, Sanjay Place, Agra Branch. The Complainant was declared loss of pay for the future period of 12.08.2016-20.09.2016, in advance, for future time, which was yet to come. The Complainant was denied the payments for petrol and telephone expenses from August 2014 to October 2014, on the biased considerations. After the declaration of 10th Bank Bipartite Settlements in 2015, difference of new and old salary (23 August 13-31 May 2015) was Rs. 227368/-. The arrears amount of Rs. 190591.52 was credited to his salary account on 02.07.2015, but Rs.106917.80 was deducted without any valid and known reasons.

1.4 The Complainant further submitted that due to his physical disability, he requested the Branch Management for exemption from certain duties which would cause him great discomfort and were contrary to medical advice such as those involving lifting heavy objects, cash boxes, standing for long duration and climbing stairs. He used to request branch management to deploy him at any place except cash duties, during his hip ache. But all these fell onto deaf ears. He was intentionally deployed for cash duties which caused him severe pain at his operated hip, which upset him physically and mentally, repeatedly issued duty orders, dated 05.01.2016, 11.01.2016, 12.01.2016, & 04.04.2018.

1.5 The Complainant further submitted that the bank has been putting on records false and deliberate statements, time and again, in response to PGRS complaint, deliberate delay in issuing NOC and relieving order, as per the direction of Honorable Court, New Delhi, in transferring as per the direction, dated 19.04.2018 of the Court of the Chief Commissioner for PwD.

1.6 The Complainant has requested to this Court to issue suitable instructions to the Bank for reliefs such as compensation as deemed fit, for mental harassment caused by the Bank, reinstatement in the now Union Bank of India with seniority, applicable benefits, disbursement of loan amount as per the Court Receiver/NBCC



payment schedule, to the UCO Bank, Supreme Court Branch, release arrears of Rs. 106917/-, with applicable interest, as a result of 10 BPS, which was deducted illegally; Fixation of pay with effect from 01.11.2017 as per the 11 BPS (Bipartite Settlement) and payment of arrears thereof and payment of remaining amount of Gratuity with interest as applicable.

2. The matter was taken up with the Respondent vide letter dated 17.02.2023 under Section 75 of the RPwD Act, 2016.

3. Submissions made by the Respondent

3.1 In response, Dy. General Manager, Union Bank of India, vide letter dated 15.03.2023 submitted that the Complainant is ex-staff of e-Corporation Bank. Corporation bank was merged with Union Bank of India from 01.04.2020. Since the above said complaint is before the merger of the banks hence it takes time to retrieve the data from his sub-ordinate offices/branches which are located at distant places. Therefore, they requested to this Court to give suitable extension of time i.e. (one-month extra time) in the matter to file a complete comment. However, no comments were received from the Respondent even after reminder letter dated 21.03.2023.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 23.05.2023. The following were present:

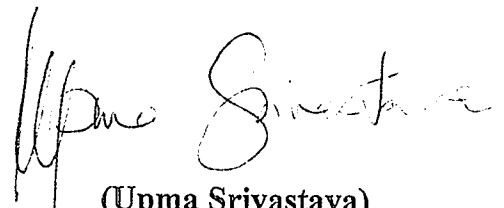
i) Shri Kanhaiya Lal Jha, Complainant

ii) Shri Ambresh, DGM (HR)- Respondent

5. Observations & Recommendations

5.1 The documents submitted by the Complainant and the submissions made by the parties during online hearing, this Court concludes that the Reply given by the Respondent is satisfactory. However, in order to remove the doubts, both the parties shall conduct meeting to settle the issues. Further intervention of this Court in the present Complaint is not warranted.

5.2. The Case is disposed of.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 03.07.2023



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.13535/1024/2022

Complainant:

Ms. Kanchan

N62/111, Patrachar Timarpur

New Delhi- 110054

Email:ksksingh2017@gmail.com

Respondent:

The Chairman

Bank of India

Ghaziabad Zonal Office, "Sandipani"

STC Building, B-32, Sector- 62, Noida- 201307

1. Gist of Complaint:

1.1 Ms. Kanchan, a person with 80% visual impairment filed a complaint dated 17.10.2022 regarding release of her salary and 50% PL encashment as per rules.

1.2 The Complainant submitted that she had worked as a Clerk in Bank of India for the last one year. She submitted that in terms of her appointment letter, she was required to give the Bank of India about notice period of 14 days during probation period of 6 months. Since her probation was completed she was not required to serve notice period and since she had not served for 3 years she had also forfeited Rs 30,000/- security money. Still she had been discriminated without any rule. She has been informed that her last month salary deducted because she failed to serve the notice period. Further she has not been paid 50% PL encashment upon her relieving from Bank of India even after repeated requests.

2. Submissions made by the Respondent

2.1 Zonal Manager, Bank of India, Zonal Office Ghaziabad vide letter dated 01.12.2022 has submitted the comments on behalf of Respondent. Shri Dinesh

Singh, Chief Manager vide his affidavit has submitted that Ms. Kanchan was supposed to give one month notice period and she requested for early relieving i.e. on 30.09.2022 vide her letter dated 26.09.2022. She has served only 5 days in lieu of 30 days notice period. The Bank had recovered Rs. 30,206.83/- towards the salary for 25 days. He further submitted that as per Bank's norm 50% privilege leave encashment amounting to Rs. 16,915.82/- was credited to Ms. Kanchan in her account on 17.10.2022.

3. Submissions made in Rejoinder

3.1 The complainant filed rejoinder dated 02.02.2022 reiterating her complaint and refuted the reply filed by the respondent.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 02.05.2023. The following were present in the hearing:

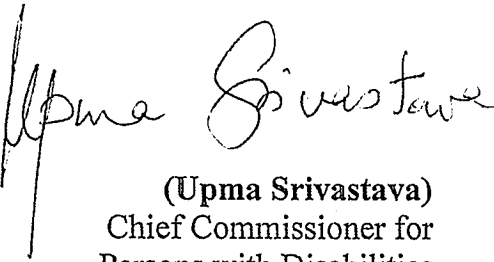
- Ms. Kanchan -**Complainant**
- Shri Dinesh Singh, Chief Manager Law -**Respondent**

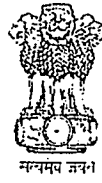
5. Observations & Recommendations:

5.1 After perusing the submissions made by the parties, this Court concludes that the Complainant has not disclosed any discrimination on the basis of disability. Further intervention of this Court in the present Complaint is not warranted.

6. The case is disposed of accordingly.

Dated: 03.07.2023


(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. 13801/1041/2023/184772

Complainant:

Shri Shreeneel Sanjay Mangaonkar

Mobile No – 9820467729

Email – sgmtsm@rediffmail.com

Respondent:

General Manager

State Bank of India

Central Recruitment and Promotion Department

Corporate Centre, Mumbai – 400021

Phone – 022-2282 0427; Fax – 022-2282 0411

Email – crpd@sbi.co.in

Affected Person: The complainant, a person with 68% Multiple Disabilities

1. Gist of Complaint:

1.1 Shri Shreeneel Sanjay Mangaonkar, a person with 68% multiple disabilities filed a complaint dated 10.01.2023 stating that he was not allowed extra time of 20 minutes in the preliminary examination held on 19th November, 2022 by the State Bank of India despite submitting his disability certificate.

2. Submissions made by the Respondent:

2.1 The General Manager (RP&PM), SBI filed reply vide letter dated 31.03.2023 and submitted inter-alia that in his online application, the complainant (registration No – 2151151443) has filled his response as under:

- Whether your dominant (Writing) hand is affected: NO
- Are you suffering from cerebral palsy and your writing speed is affected: NO
- Do You intend to use the services of a scribe: NO

2.2 The respondent further submitted that as per the online application submitted, the dominant (writing) hand or writing speed of the Complainant is not affected, therefore, he was not allowed the compensatory time in the Preliminary Exam for recruitment of Junior Associates-2022 in State Bank of India.

3. Submissions made in Rejoinder:

3.1 The Complainant vide his rejoinder dated 17.04.2023 submitted that in the new Act, there are 21 diseases included for rights/facilities (Physical as well as mental) and he is one of them suffering from multiple disabilities – Autism

Spectrum Disorder with 50%, Specific Learning Disabilities (Dyslexia & Dysgraphia) with 40%, overall 68% multiple disability. Due to these mental disabilities, he has limitation in thinking and writing. He further states that he had mentioned about his disabilities clearly in the application form, the SBI provided "Compensatory Time" only to persons who are suffering from cerebral palsy and whose writing hand is affected. Other types of disabilities have not been taken into consideration. As such, the SBI has violated the provisions of Act.

4. Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **Tuesday, the 16.05.2023**. The following were present:

Complainant: Shri Shreeneel Sanjay Mangaonkar
Respondent: Shri Sashi Bhushan Chowdhary, DGM – State Bank of India

5. Observations & Recommendations:


5.1 During online hearing, the Respondent submitted that recruitment process is now complete. Result has been declared and vacancy which was reserved for Persons with Benchmark Disabilities has now been filled.

5.2 Relevant guidelines on this issue are prescribed in O.M. No. 35-02/2015-D-III, dated 28.08.2018 issued by Department of Empowerment of Persons with Disabilities. As per the O.M. scribe can be provided to divyangjan with **blindness, both arms affected or cerebral palsy** on their choice. These categories of divyangjan need not to prove their inability to write. Other categories of divyangjan can be provided scribe facility only if they can prove that they are not able to write. Further the O.M. also provides that all those divyang candidates who are not using facility of scribe may be allowed extra time of minimum of 1 hour for duration of 3 hours of examination.

5.3 In present case, the Complainant's disability is neither 'Blindness', nor 'Both arms affected' and also not 'cerebral palsy' hence he had to submit 'inability to write' certificate.

5.4 This Court recommends that the Respondent shall implement the above-mentioned guidelines in letter and spirit in all examinations conducted for direct recruitment and promotion in future. Further intervention of this Court in the present Complaint is not warranted.

5.5 Accordingly, the case is disposed of.


 (Upma Srivastava)
 Chief Commissioner
 for Persons with Disabilities

Dated: 03.07.2023



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. 13842/1031/2023/188460

Complainant:

Shri Om Yadav
S/o Shri Manoj Kumar Yadav
Madanpur Khadar, Near Shiv Mandir,
Chauhan Mohalla, Sarita Vihar, South East,
New Delhi – 110076
Mobile No – 7417297440
Email – manojkbc11@gmail.com

Manoj

Respondent:

The Principal
The Blind Relief Association,
Lala Lajpat Rai Road
(Lal Bahadur Shastri Marg)
Near The Oberoi Hotel
New Delhi - 110003

Manoj

Affected Person: The complainant, a person with 90% Visual Impairment

1. Gist of Complaint:

1.1 शिकायतकर्ता ने दिनांक 12.02.2023 को एक शिकायत दर्ज की जिसमें उनका कहना है कि प्रतिवादी स्कूल द्वारा उनका प्रवेश नहीं किया जा रहा है। पिछले वर्ष भी उक्त स्कूल के प्राचार्य ने सभी कागजात अपने व्हात्सप पर उनसे ले लिए एवं तुरंत ही उनसे कहा की प्रवेश नहीं होगा सीट फुल हो गयी है। जबकि नए प्रवेश की तिथि 05.04.2022 से शुरू होनी थी और उन्हें 01/04/2022 को स्कूल से मना कर दिया। उनका कहना है कि अगर उनका कक्षा 7 में प्रवेश नहीं हुआ तो उनका जीवन अंधकारमय हो जाएगा। शिकायतकर्ता ने अनुरोध किया है कि उनका प्रवेश कक्षा 7 में करने के लिए स्कूल को निर्देश दिए जाए।

2. Submissions made by the Respondent:

2.1 The Principal, J P M Senior Secondary School filed their reply dated 01.04.2023 and inter-alia submitted that being a special school the student teacher ratio is 8 to 10 students per class/teacher. There is only one section in class 7 and there are 20 students studying in class 7 as against the prescribed ratio of 8 to 10 students per class/teacher. There are no drop-outs to facilitate new admissions and seats do not fall vacant in the middle,

[Signature]

Secondary and Senior Secondary classes because of which they are unable to accommodate new students.

2.2 He further submitted that the class rooms are physically designed accordingly and practically there is not any room/space to accommodate additional student in the class room or in the school hostel, hence, the inability to admit more students.

2.3 That Government of NCT of Delhi encourages inclusive education expecting admissions in the neighbourhood schools. Special educators are employed in those school under the Directorate of Education. These schools ensure facilities to CWSN and hence, the applicant may be advised to seek admission in any schools in his neighbourhood as they are unable to accept the request of the Complainant.

3. Submissions made in Rejoinder:

3.1 शिकायतकर्ता ने अपनी शिकायत को दोहराते हुए अपना प्रत्युत्तर दिनांक 10.04.2023 को दायर किया।

4. Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **Tuesday, the 23.05.2023 between 04.00 p.m. to 05.30 p.m.** The following were present:

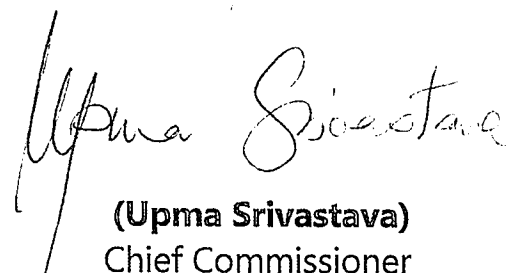
Complainant: Shri Om Yadav

Respondent: Shri Kamal Beer Singh Jaggi, Manager

5. Observations & Recommendations:

5.1 After perusal of the submissions and supporting documents filed by the Complainant and the Respondent, this Court concludes that the Reply of the Respondent is satisfactory. Though the Respondent agreed to assist the child in getting admission in other nearby special school. Further intervention of this Court in the present Complaint is not warranted.

5.2 Accordingly, the case is disposed of.



(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023



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. 13705/1041/2023/177088

Complainant:

Dr. Renu Joshee,

R/o 315, Pocket 6, Sector-2,

Rohini, Delhi - 110085

Email: renusinghbhu85@gmail.com

Respondent:

The General Manager,

Northern Railway

Baroda House

New Delhi-110001

Email: gm@nr.railnet.gov.in

Affected Person: The complainant, a person with 100% Visual Impairment

1. Gist of Complaint:

1.1 Dr. Renu Joshee, a person with 100% visual impairment filed a complaint dated 15.12.2022 regarding violation of guidelines for conducting written examination by the DRM, Northern Railway.

1.2 The Complainant submitted that her late husband Shri Dinesh Kumar Joshee was an employee in DRM Office in Delhi who passed away on 02.08.2022. She was assured a job in DRM Office in Northern Railway. She alleged that on 12.12.2022, she went to give the examination with her scribe about whom she had informed on phone and was allowed to bring. She was, however, not allowed to sit in the Examination with her scribe. The scribe was provided by the Department who was not good in writing skill and she was not comfortable in writing examination with the scribe. She fears that the scribe may had made mistakes in the examination for which she will have to suffer.

1.3 She further submitted that her own scribe was well within the rules of guidelines for conducting written examination but the officers did not allow her to use own scribe. She contacted the DPO over phone as well as through whatsapp but no action was taken by him.

1.4 She submitted that by denying her the right of having its own scribe as per the guidelines for conducting written examination the officers of DRM, Northern Railways have not only violated the guidelines for conducting written

examination but also the Article 4 of the RPwD Act, 2016. Hence, this is a case of harassment of a candidate with visual impairment.

2. Submissions made by the Respondent:

2.1 Assistant Personnel Officer/T, DRM Office filed their reply dated 22.02.2023 and inter alia submitted that Late Shri Dinesh Joshi, who died a natural death on 02.08.2022, was working as Assistant Works in pay level 1 and posted at Transit Camp, Northern Railway, New Delhi. His widow, Dr Renu Joshee requested for appointment on compassionate ground for herself. On fulfillment of procedure, she was asked to appear in the written test on 12.12.2022.

2.2 The Respondent further submitted that no any prior information was received from her regarding scribe, hence department scribe provided. She appeared in written examination for compassionate ground appointment. The scribe, namely Shri Gaurav Malik was given to her who is BBA passed and well-versed with office process. The examination was objective with multiple answer and the answer was to be marked by a dot in the answer sheet and no writing was required. If she brings her own scribe, she has to fulfill the conditions as mentioned in RBE No. 62/2017 dated 28.06.2017. The above facts reveal that the scribe was accepted by her. She may be asked to avail her next chance for the next CGA exam to be held every month. The Respondent has prayed for closing the complaint.

3. Submissions made in Rejoinder:

3.1 The complainant filed her rejoinder dated 13.03.2023 reiterated her complaint. She said that she has contacted Shri Ajay Rohila, DPO over the phone as he was in Chandigarh. She sent him the copy of the guidelines on whatapp but nothing has happened. Shri Chandan Pathani, concerned person conducting the examination told her that he only abides by Railways guidelines and not of Government of India. She has prayed for a strict action against the Respondent.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **Tuesday, the 02.05.2023**. The following were present:

Complainant: Dr. PS Bisht – on behalf of the Complainant
Respondent: Ms. Prachi, Divisional Personnel Officer, Delhi

5. Observations & Recommendations:

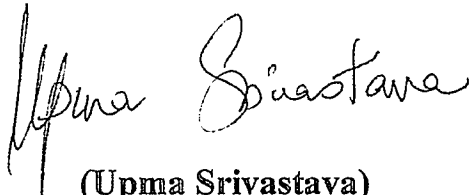
5.1 During online hearing the Respondent submitted that scribe was provided to the Complainant because the Complainant did not inform the Respondent about bringing his own scribe and did not adopt the procedure established to bring own scribe. Furthermore, the Complainant has failed to prove the allegation relating to mistakes committed by the scribe which was provided to him. Hence, this Court concludes that the Complainant has not



made any case related to discrimination on the basis of disability. In future, the Complainant may choose to take his own scribe subject to adoption of established procedure in this effect. Further intervention of this Court in the present Complaint is not warranted.

5.2 Accordingly, the case is disposed of.

Dated: 03.07.2023


(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: 13708/1141/2023

Complainant:

Shri Vishant S Nagvekar
C-49, Govt. Qtrs., Altinho Panaji
Goa - 403001
E-mail - vishant_babu@yahoo.co.in
Mobile - 9850930415; 9923343638

Respondent:

(1) Sony Pictures Networks India Pvt. Ltd.
Through The Director/CEO
4th Floor, Interface, Building No. 7,
Off Malad Link Road, Malad (W),
Mumbai - 400 064 India
E-mail: goc@setindia.com, wecare@setindia.com;

(2) Ministry of Information & Broadcasting,
Through the Secretary,
'A' Wing, Shastri Bhawan, New Delhi-110001
E-mail: secy.inb@nic.in

Affected Person: The Complainant, a person with 89% locomotor disability

1. Gist of the Complaint:

1.1 Complainant vide e-mail dated 25.10.2022 has submitted that in one of the episodes of a Hindi TV namely Crime Petrol broadcast on Sony Television / Entertainment on week days from 11.00 pm on 24.10.2022 a barred expression "Handicapped" was used for a Person with 100% Visual Impairment for around 5 times. The expression "Handicapped" have not been defined and used in any of the Disability related Act in India including in the Rights of Persons with Disabilities Act, 2016.

1.2 He further submitted that the Chief Commissioner for Persons with Disabilities, New Delhi, vide Ref No. 10-04/CCD/2012 dated 07.02.2012, have also barred the expression "Handicapped" in public usage. Using of such barred / banned expression has caused insult, offence, embarrassment, abuse, rudeness towards persons with disabilities.

1.3 He has requested to take strong compliance against the body using such banned expression by levying appropriate penalty at the earliest and extend apology on their show for usage such expression.

2. Submissions made by the Respondent:

2.1 Respondent No. 02 vide e-mail dated 15.03.2023 has submitted that on the above cited subject, Ministry has taken up the matter with Sony TV channel vide letter dated 08.02.2023 who have intimated that they have already submitted their reply by way of affidavit dated 02.03.2023.

2.2 Respondent No. 01 vide affidavit dated 02.03.2023 has inter-alia submitted that the Show is a fictional recreation of crimes reported in the media. In the Episode, there is a scene wherein an elderly blind person is shown managing a telephone booth which is meant to depict a person with disability being an economically independent and proud member of our society. It highlights the independence and self-determination shown by persons with disability. As the depiction was of a person with disability, the expression "handicapped" was used in a conversational sense without intending or meaning any disrespect either to the individual or the community in any manner but rather to portray them in a positive light. In the said episode the impugned use was neither derogatory nor disrespectful and there was no attempt at their end to stigmatise a person with disability but rather to portray their commendable spirit and determination.

2.3 He further submitted that the Episode the word "handicapped," it is spoken by a police officer to state in generic terms that the culprit/accused has targeted PCO's owned or managed by persons with disabilities to avoid getting caught. Thus, the term is used incidentally where neither is the person with disability being personally addressed to as handicapped or victimized and does not represent any form of discrimination as alleged. The use of word in the episode was only to highlight the difficulties in solving the crime and was in no manner intended to insult or lower the dignity of persons with disabilities.

2.4 The Broadcasting Content Complaints Council (BCCC), the self-regulatory body for television in India, chaired by a retired Chief Justice, addresses viewer complaints regarding "inappropriate content" and sensitizes television channels on various issues. BCCC has so far issued 12 Advisories, one amongst which includes "Advisory on Portrayal of Persons with Disabilities in TV Programmes". As a responsible broadcaster they follow the advisory with regard to persons with disabilities and take utmost care to ensure there is no wrongful depiction of a person with disability

3. Submissions made in Rejoinder:

3.1 Complainant vide rejoinder dated 01.04.2023 has inter-alia submitted that the Respondent failed to understand the advisory of the Broadcasting Content Complaints Council (BCCC) and have falsely claimed that BCCC have advised to use the barred expression addressing the Persons with Disabilities as 'Handicapped'. The advisory has no reference proposing the


usage of the barred expression 'handicapped' as appropriate, suitable or proper in any contest.

4. Observation & Recommendations:

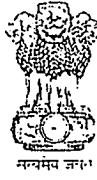
4.1 Right to freedom of expression is guaranteed as a fundamental right by Article 19 of Indian Constitution. However, it is not without reasonable restrictions. Also, right to life is yet another fundamental right, which includes in it a right to life with human dignity. Thus, it is also to be noted that it is collective responsibility of all individuals to use respectful language while referring to persons with disabilities in literary and artistic works.

4.2 Respondent No 1 is recommended to ensure that disrespectful language is not used while making reference to persons with disabilities in artistic works published on the platforms of Respondent No 1. Attention of the Respondent No. 01 is also invited to Section 92 (a) read with Section 90 of the Rights to Persons with Disability Act, 2016, which provides for imposition of penalty on companies for intentionally insulting persons with disabilities.

4.3 Accordingly, the case is disposed of.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 03.07.2023

**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. 13679/1040/2023/168149**Complainant:**

Shri Tapas Jadon
 House No – 282-a, Near Roadways Stand,
 Mehra Colony, Shikohabad,
 Firozabad, Uttar Pradesh - 205135
 Contact No – 8130952159, 9897212745
 Email – saytapasjadon@gmail.com

168

Respondent:

(1) The Director
 Institute of Banking Personnel Selection,
 IBPS House, Plot No. 166,
 90 Feet, D.P. Road, Behind Thakur Polytechnic,
 Thakur Complex, Kandivali (East), Mumbai – 400 101,
 State – Maharashtra.
 Email – Contact@ibps.in; dgm.legal@ibps.in.

169

(2) The Deputy Secretary,
 (By Name: Shri Surender Singh),
 Department of Financial Services, Ministry of Finance,
 3rd Floor, Jeevan Deep Building, Sansad Marg,
 New Delhi-110001

1690

Affected Person: The complainant, a person with 100% Visual Impairment

1. Gist of Complaint:

The complainant filed a complaint dated 15.10.2022 and submitted that he went to give IBPS PO Pre Exam 2022 with a scribe on 15th October, 2022 (2nd shift) at Kuberpur Center, Agra. In the very beginning he was strictly instructed not to write even any calculation or data about question and was not provided with any rough sheet. Exam started at that very moment when rough sheets were being distributed so he didn't argue with anyone and decided to attempt exam. After the exam, he inquired about this rule and found that there is no such rule that forbid him to use rough sheet. One of the staff members named Shri Shiv Pratap Singh came out from the room and even grabbed his escort's Arm and forced them to get out of the center. This man was misbehaving and shouting

continuously and was also sledging that do whatever you want to do. This man didn't even care about a candidate with visual impairment. This was totally disgusting and insulting behaviour and Shri Shiv Pratap Singh and some other staff members didn't even show courtesy to listen to him. Their mess-up and ignorance just wasted of his attempt for this exam.

2. Submissions made by the Respondent:

2.1 Under Secretary, Department of Financial Services, Respondent No. 2, filed their reply vide letter dated 03.03.2023 and inter-alia submitted that IBPS has informed that they took up the matter with their service provider who has informed that the scribe of the complainant was writing some formulas/calculations on the rough sheets before the start of the examination, which is against the examination rules. Therefore, the scribe was advised not to do so and was also advised to write only when the complainant asked him to do so after the exam starts. After completion of the exam, complainant asked invigilator to return his rough sheets, which was denied in accordance with examination rules. Further, as per the logs, the complainant completed his examination without any time loss and all his responses were saved Successfully.

2.2 Division Head (Administration), IBPS, Respondent No. 1 filed reply affidavit dated 13.03.2023 and inter-alia submitted that the matter was taken up with their service provider for examining. The service provider informed that the rough sheets were provided to all the candidates before the start of the examination and all the candidates were given instructions that they should not write any formula/calculations/data etc. on the rough sheets before the start of the examination. The Invigilator found that despite clear instructions, the Scribe of the Complainant was writing some formulas/calculations etc., on the rough sheets before the start of the examination. Therefore, the scribe was asked/instructed not to write anything on the rough sheets before the start of the examination and he was also advised that he should not write on the given rough sheets on his own except what the complainant says to write after the examination starts. After examination the Complainant along with his scribe went to the Invigilator and asked him to return the rough sheets used by him. The invigilator denied to give back the used rough sheets to the Complainant in accordance with the examination rules.

3. Submissions made in Rejoinder:

The respondent's reply was forwarded to the Complainant vide letter dated 14.03.2023 for submission of rejoinder. However, no response has been received from the complainant.

4. **Hearing:** The case was heard via Video Conferencing by Commissioner for Persons with Disabilities on Thursday, the 01.06.2023. The following were present:

Complainant: Shri Tapas Jadon

Respondent No 1: Shri Mohan Nair, DGM – Director Institute of Banking Personnel Selection.

Respondent No 2: Shri Arun Kumar, Under Secretary, Department of Financial Services, Ministry of Finance.

5. **Observations & Recommendations:**

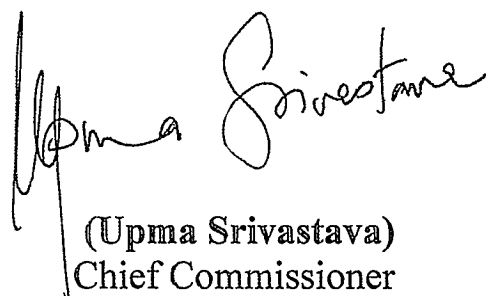
5.1 During online hearing the Complainant clarified that he was allowed to appear in the examination. The main issue he faced was that no one was present in the examination center to cooperate and resolve the issues faced by Persons with Benchmark Disabilities.

5.2 The present Complaint is not related to discrimination on the basis of disability. However, considering the larger interest, intervention of this Court is necessary.

5.3 It is utmost duty of the Respondent establishment to provide necessary accommodation to resolve the issues which are faced by PwBD candidates. Such issues may arise on the spot during continuation of the examination. It is the duty of the Respondent establishment to train their staff so as to equip them to deal with and resolve issues which PwBD candidates may face.

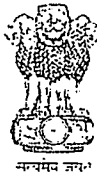
5.4 Hence, this Court recommends that the Respondent No.1 shall provide adequate training so as to sensitize the staff towards rights of Persons with Benchmark Disabilities, so that happening of similar instance in future may be avoided.

5.5 Accordingly, the case is disposed of.



(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023



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. 13751/1031/2023/157272

Complainant:

Shri Neeraj Kumar F/o Ms. Somya Srivastava *14/6/28*
 599A, Sector 32-A, Chandigarh - 160030
 Mobile No- 9983861133
 Email – nk040271@gmail.com; neeraj.kumar.soi@gov.in

Respondent:

The Director
 CSIR – Central Scientific Instruments Organization
 (Council of Scientific & Industrial Research) *14/6/29*
 Ministry of Science & Technology, Govt. of India
 Sector 30-C, Chandigarh – 160030
 Email – director@csio.res.in; nsjassal@csio.res.in;
 principalistc@csio.res.in

Affected Person: Ms. Somya Srivastava, a person with more than 40% Disability

1. Gist of Complaint:

1.1 Shri Neeraj Kumar F/o Ms. Somya Srivastava, filed a complaint dated 02.09.2022 regarding non-implementation of rules/instructions, particularly of the DoPT OM No- 36035/0212017 Estt (Res), dated 15.01.2018, in INDO-SWISS Training Centre (ISTC) Entrance Exam – 2022, conducted by the CSIR.

1.2 The complainant submitted that Ms. Somya Srivastava, Roll No – 220026 secured 336 ranks in Entrance Exam-2022 of INDO-SWISS Training Centre (ISTC), New Delhi. Despite the reserved seat for physically handicapped remaining vacant, her name could not appear in the first counselling list as published by ISTC, due to non-relaxation of cut-off marks. (Reference-3). In Para-6.3 of ISTC Information Brochure-2022, the cut-off mark for admission is mentioned as, for General/EWS 25%, OBC 22.5% for SC/ST 20%, Whereas it does not mention any relaxation of cut off given to the candidates with disabilities.

2. Submissions made by the Respondent:

2.1 On behalf of the respondent, the Senior Principal Scientist, CSIR vide their reply dated 10.04.2023 submitted *inter-alia* that the institute is providing horizontal type of reservation for disabled category.

2.2 He further submitted that the relaxations of cut off marks were decided by the Academic Council of Indo-Swiss Training Centre (ISTC), vide its notices dated 01 June, 2022. CSIR-CSIO recognizes that the general standards to fill the seats belonging to PwD category were not relaxed. To resolve this, the Academic Council vide its Minutes of the meeting dated 05 April, 2023, has decided that these general standards should be relaxed by 0.6 factor of the general category marks. i.e., $0.6 \times 25 \text{ marks} = 15 \text{ marks}$, so as to fill the vacant seats at ISTC.

2.3 By applying this relaxation in the case of Ms. Somya Srivastava D/o Sh. Neeraj Kumar, she has been allowed admission for the Academic year 2022-23. She will be afforded opportunities in the summer vacation time to make up for the lost time at least partially.

3. Submissions made in Rejoinder:

3.1 The complainant filed his rejoinder dated 17.04.2023 and submitted that the result of the entrance exam for the academic year 2022-23 was declared in August 2022, and the final admission offer letter was received after about 8 months, i.e., on 10.04.2023. During this time, his daughter obtained admission in CCET, Polytechnic College in Chandigarh and is currently in her first year, which will be completed in June 2023. Due to her disability, it is not feasible for her to begin her first year again at ISTC.

3.2 The complainant prayed that the ISTC be directed to grant her admission in the second year for the academic year 2023-24 by taking into account her completion of the first year at CCET. This will enable her to leverage her prior education and experience and pursue her studies in the most optimal manner.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 16.05.2023. The following persons were present during the hearing:

Complainant: Shri Neeraj Kumar F/o Ms. Somya Srivastava


Respondent: Shri Jaswant Rai, Sr. Controller (Admn.); Shri Sanjeev Verma, Principal - Central Scientific Instruments Organization

5. Observation & Recommendations:

5.1 During online hearing, the Complainant reiterated its submission made in written Complaint. Respondent admitted its mistake and submitted that Ms. Somya Srivastava (beneficiary on whose behalf Complaint is filed) shall be given exemption from entrance examination and will be admitted in session which will commence in 2023.

5.2 This Court is satisfied with the submission made by the Respondent. Furthermore, this Court cannot agree with the prayer of the Complainant for admitting the beneficiary directly in second year as it may result into loss of 1 year of education of the beneficiary.

5.3 This Court recommends that if the Complainant applies for the beneficiary's admission, the Respondent shall execute his own submission and thus exempt the beneficiary from entrance examination and admit her in first year of the session commencing in 2023.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023



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. 13746/1041/2023/181612

Complainant:

Shri Zeeshan Ali

Address – OTA 29, Zonal Office Campus, ECR,
Hajipur, Vishali, Bihar-844101

Mobile No. 6203648935

Email- a.zeeshan0088@gmail.com

141694

Respondent:

(1) General Manager (The Recruiter)

Central Recruitment & Promotion Department

State Bank of India, Corporate Centre, Atlanta Building,
3rd Floor, Nariman Point, Mumbai – 400021

Email – gm.crpdsbi.co.in crpd@sbi.co.in

Contact No. 022-22820547.....Respondent No 01

141695

(2) The Chairman,

The Institute of Banking Personnel Selection,

IBPS House, 90 feet D P Road, Near Thakur Polytechnic,

Off. Western Express Highways,

P.B. No.- 8587, Kandivali, Mumbai-400101

Email – contact@ibps.in.....Respondent No 02

141696

(3) ION Digital Zone IDZ 1

Patliputra UNO Digital Pvt Ltd

Gate No. 1 Road No. 2 Block 3 Patliputra Industrial Estate

Near P&M Mall Patna – 800013.....Respondent No 03

141692

Affected Person: The complainant, a person with 90% Multiple Disabilities

1. Gist of Complaint:

1.1 Shri Zeeshan Ali, a person with 90% multiple disabilities filed a complaint dated 22.12.2022 regarding denial to accessible means to appear in the Online Pre-Exam of SBI PO 2022-23. Due to his specific eye disability caused by RD, he needs large magnified font text only on black back ground with requisite contrast to read text. As this can't be corrected with normal lens and he can't hear too, so he uses Senorita 5HD magnifier to read the text and do rough work as prescribed by ophthalmologist. While

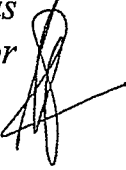
he received an e-mail a day before the examination conveying the approval of the appropriate authority for use of the magnifier, he was humiliated and not allowed him to carry it to the hall. He informed the authorities from the SBI and the TCS that he has been allowed to carry it in all previous exams of SBI as well as TJPSC Civil Services and BPSC. The officials said that this is another exam and not by UPSC.

2. Submissions made by the Respondent:

2.1 Respondent No 01, General Manager (RP & PM), SBI filed their reply dated 14.03.2023 and inter-alia submitted that Shri Zeeshan Ali, Roll No – 4401002116 reported for the online examination on 17.12.2022 at iON Digital Zone iDZ1, Patliputra Centre, Patna, along with Senorita 5 HD Video Magnifier having recording features along with photo capturing facility. Since the said device was having recording and photo capturing features, the candidate was not allowed to use the same in the said examination on his own.

2.2 He also received an email 19.12.2022 from Institute of Banking Personnel Selection (IBPS) which was conducted the said examination, the extract of the said email is as under:

“As informed by TCS Team, the candidate reported for examination with scribe and device. When device was inspected it was noted that the device can capture photo. Hence after discussion, candidate was informed that he can give exam with scribe but not with device, for which the candidate denied.”



2.3 Respondent No 02, Deputy General Manager, IBPS filed their reply dated 28.02.2023 and inter-alia submitted that as per the relevant provisions (Clauses K & L) of the Advertisement dated 02.08.2022 for CRP PO/MT XII, any kind of electronic device and gadgets are not allowed inside the said examination venue in order to prevent Cheating/unfair means in the examination. Hence, IBPS conveyed its inability to allow the same in accordance vide its replied dated 14.10.2022. Therefore, IBPS in order to facilitate him in consideration of his disability, assured him that he will be provided zooming/magnified font option on the computer system on the day of said examination. He also submitted that such electronic devices have storage, which can be used for cheating/unfair means.

2.4 He further submitted that the complainant has stated that he has been allowed to use ‘magnifier’ in other exam of UPSC, BPSC, SSC and even exams like SBI. The respondent has no knowledge about correctness of his such statement regarding other exam of UPSC, BPSC, SSC, hence it is unable to offer any comments on the same.

3. Submissions made in Rejoinder:

3.1 The complainant filed his rejoinder dated 24.03.2023 and submitted that in all the earlier exams of SBI, he was allowed to carry the magnifier and even in the exam of IBPS CRP/Clerk XI it was allowed as invert colour/black background feature was not available on candidate console/screen, may be seen in enclosure complaint #CLK11E359710 at 3:40 pm dated 17.12.2022.

3.2 The table of previous exams in which it was allowed is as under:

Name of Exam	Phase	Exam Conducting Authority	Agency of Online Exam	Result	Remarks Magnifier Allowed/not allowed with scribe and compensatory time
SBI PO	Pre	IBPS	TCS iON	Qualified	Allowed on spot on prior request
	Main	do	do	Not Qualified	Allowed on spot with prior request after rigorous check and harassment and after lapse of an hour of exam
The NIACL AO Generalist	I	do	do	Qualified	Allowed on spot on prior request
	II	do	do	Display of text was inaccessible and magnifier was not allowed	Not all having prior request to all concerned, re-format and appealed to Grievance redressal cell online, not considered
IBPS CRP/Clerk – XI	Pre	do	do	Not Qualified	Allowed on spot prior request, though denied on IBPS grievance portal, and then informed the the invert colour/black background feature is not available on candidate console/screen
SBI PO 2021	Pre	do	do	Qualified	Allowed on spot on prior request

	Main	do	do	Not Qualified	Allowed on spot with prior request
IBPS CRP/PO/MT – XII	PT	do	do	Not appeared as my prayer to allow the magnifier not considered and prayed before the court for justice	
SBI PO 2022	PT	do	do	Appeared at the center of exam, but magnifier was not allowed	Not allowed having the SBI acceded my need so prayed before the court

3.3 The table above clearly shows that he has been allowed on spot with magnifier in all earlier exams of SBI and also in IBPS CRP/Clerk-XI and which may also be verified by their CCTV recording as they record every incident and being preserved.

3.4 The IBPS, SBI and ICS on the basis of false statements in comments 5 (storage feature, photo capturing), 8 (recording and photo capturing), and finally, in a biased, one sided and false report in comment 9 (recording feature, camera working) has denied him to access and take part in the exam.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on Thursday, the 22.05.2023. The following were present:

- Complainant: Shri Zeeshan Ali and alongwith Adv. Rajan Mani
- Respondent No 1: Shri S. Lama, G. M.
- Respondent No 2: Shri Mohan Nair, DGM

5. Observations & Recommendations:

5.1 During online hearing, the Complainant explained the necessity of the screen magnifier device. This is small device which can be held in hand. When the user of this device puts it in front of the computer screen it magnifies the font of the text displayed on the computer screen so that the Person with Disabilities having Visual Impairment can read the text. This device also has an option to change the background color and text color which also assists the user in reading the text. Apart from magnifying the

screen display, this device also helps in magnifying the text written on paper.

5.2 Complainant also presented some pictures to prove that the device is absolutely indispensable for him because of the nature of his disabilities. Due to his Visual Impairment, he cannot watch the text which is displayed on the computer screen and due to his Hearing Impairment, he cannot use the facility of scribe since he cannot hear the voice of the scribe.

5.3 The main issue raised by the Respondent No. 2 is that the Complainant cannot be allowed to use the magnifying device because it has recording and photo capturing feature, which can be used for cheating and unfair advantage. The Complainant explained that this feature is essential and it is used not for obtaining unfair advantage and further demonstrated the practical use of this feature. The Complainant demonstrated that he uses this feature to capture the photo of the screen and bring it close to his eyes so that he can watch the captured photo from close.

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

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

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

Court explained this in VIKASH KUMAR v. UPSC; 2021 SCC OnLine SC 84.

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

5.6 Another provision which is indispensable to mention here is s.2(h) of the Act. The provision lays down the definition of ‘discrimination’ and is mentioned below –

(h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

5.7 From perusal of the provisions mentioned above and particularly s. 2(h) of the Act, it is certain that the concept is not merely a privilege which can be granted or denied at the discretion of the appropriate government. It is the mandate of the appropriate government to provide reasonable accommodation and if denied, it amounts to discrimination.

5.8 Coming to the factual matrix of the Complaint, screen magnifier device, which is in center of the present Complaint is assistive device and falls under the umbrella of ‘Reasonable Accommodation’. The Respondent has to allow its use in order to accommodate the disability of the Complainant.

5.9 The only objection raised by the Respondent No. 2 in allowing the use of screen magnifier device, hereinafter referred as ‘device’, is that it has storage capacity and hence can be used for cheating. The Respondent tried to disprove this objection through the demonstration made during online hearing. This Court is not inclined to agree with the Respondent’s

objection. It is hard to configure as to how the device can be used for cheating if it has very limited capacity of storing things. As far as the submissions made by the Respondent, no evidence was produced to prove that the device can be used to establish communication with any third party so as to send and receive the information during examination from third party. Respondent's objection seems to be only apprehension bereft of any merit.

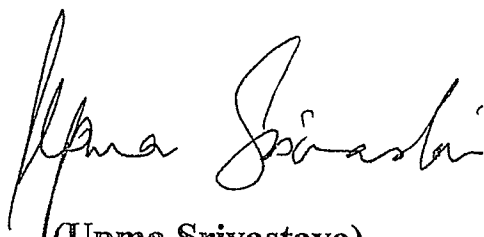
5.10 During online hearing, the learned advocate appearing on behalf of the Complainant also suggested that if the Respondent will provide their own magnifying device, it can also solve the problem.

5.11 On the basis of the legal provisions and submissions made by the parties, this Court recommends that in order to solve the issue and properly analyze and check the device and make reasoned decision on the issue of possibility of cheating, both the Respondents shall, within 30 days from the date of this Order, send their representatives to the Complainant's home in Bihar. The representatives shall particularly analyze the storage capacity issue. These representatives shall also demonstrate their own screen magnifier device to the Complainant and evaluate if it fulfils the requirements of the Complainant.

5.12 A copy of this Order shall also be marked to M/o Electronics & Information Technology (MeitY), which shall inform this Court within 30 days from the date of this Order, about technology or device which may already be existing or any other possible solution by use of which the disability of the Complainant can be accommodated.

5.13 Respondents are directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondents fail to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondents have 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.

5.14 Accordingly, the case is disposed of.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 03.07.2023



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: 13605/1022/2022

Complainantss

Smt. Chandni
H.No. 1509, Near Ekta Property,
Baba Colony, B-Block,
Burari, Sant Nagar, Delhi – 110084
Email : chandnisharma712@gmail.com
Mobile No. 07503409743

13605/1022

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

13605/1023

1. GIST OF COMPLAINT

1.1 Smt. Chandni, a person with 100% Visual Impairment has filed a complaint dated 05.12.2022 regarding transfer of her husband Shri Mukesh Kumar (ID-75970), working in Kendriya Vidyalaya No. 2, Pathankot, Punjab, to a KVS School in Delhi.

1.2 She has submitted that she is a visually impaired women working in railway department in Delhi and living alone since 3 years. Due to her disability, she is not able to face the challenges of her daily life alone. She is not feeling comfortable and secure without support of her husband. Her husband is working as PRT Music in Kendriya Vidyalaya No. 2 Pathankot, Punjab. She has requested for taking up a case with the Kendriya Vidyalaya Sangathan for transfer of her husband from Pathankot Punjab to Delhi.

2. The matter was taken up with the Respondent vide letter dated 30.12.2022 under Section 75 of the RPwD Act, 2016.

3. REPLY FROM RESPONDENT

3.1 In response, Assistant Commissioner (Estt-2/3) vide letter dated 31.01.2023 stated that the transfer of teachers is effected 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. Due to Covid-19 pandemic in the country, annual transfer of teachers were not effected in the year 2020.

3.2 The Respondent further informed that as per records, Shri Mukesh Kumar has joined KVS on 25.03.2019 as PRT (Music) in KV No. 2, Pathankot, Punjab on direct recruitment. He had applied online annual request transfer for the year 2021 to the choice stations i.e. Delhi. His request for transfer to a station of his choice was considered during the annual request transfer for the year 2021 but he could not get the request transfer due to less transfer counts, i.e. 64, whereas those who got transfer to the choice station had a minimum 79 transfer counts at the time of issue of transfer list. At present, the annual transfer process of KVS has been suspended for the current academic session 2022-23. The request of the teacher will be considered along with other employees as per transfer guidelines, if he applies for the same.

4. REJOINDER OF THE COMPLAINANT

4.1 The Complainant filed rejoinder against the letter issued by the Court of the Chief Commissioner for Persons with Disabilities vide email letter dated 18.02.2023 and rebutted the reply of the Respondent. She also stated that the Kendriya Vidyalaya Sangathan had earlier said that they will transfer her husband Sh. Mukesh Kumar on a preferential basis as soon as the transfer process is resumed but they did not do so. She also questioned the statement of the Respondent saying that no transfer was made in the year 2021, as she was aware of many transfers made during this period.

5. Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 06.06.2023. The following were present:

Complainant

- i) Ms. Chandani

Respondent

- i) Shri Abhishek Sharma, Commissioner, Kendriya Vidyalaya Sangathan

6. OBSERVATIONS /RECOMMENDATIONS:

6.1 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.

6.2 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 fulfil 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

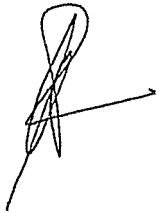
- a) to fix responsibility of the state towards protection of rights, provision of medical care, education, training, employment and rehabilitation of Persons with Disabilities,
- b) To create barrier free environment for Persons with Disabilities,
- c) To remove any discrimination against Persons with Disabilities in the sharing of development benefits, vis-à-vis enabled persons.

6.3 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; cdfa
- 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.

6.4 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.

6.5 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.



6.6 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 dependent.

7. **STATUTORY PROVISIONS AND GUIDELINES**

- 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 may 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 may 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 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 dependent daughter/son/parents/spouse/brother/sister may be exempted from exercise of routine transfer.

8. ANALYSIS OF THE PROVISIONS & GUIDELINES

- a) 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.

- b) Even in case of employee who serves as care giver of divyang dependent , 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.
- c) Objective behind exempting care giver must also be understood. DoP&T O.M. dated 06.06.2014, rightly lays down that rehabilitation of divyang dependent 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.

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

- a) **ISSUE** – Exempting divyang employee from transfer if Service Rules prescribe for mandatory transfer.
- b) 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

- c) 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.
- d) **ISSUE** – Since, transfer is an incidence of service should employee follow transfer Orders without exception?
- e) 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.
- f) **ISSUE** – Can an employee be exempted if he was intimated about transferable nature of the job at the stage of joining?
- g) 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.

- h) 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.
- i) 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.

- j) ISSUE – Various O.Ms. related to transfer & posting of divyang employees are of recommending nature and are no binding on the government establishments.
- k) 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.
- l) 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.
- m) 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.
- n) 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. 32. 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 ‘dependent’.

- o) 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 recognised 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 per cent. 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 organization 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.

p) 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,

- q) 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.

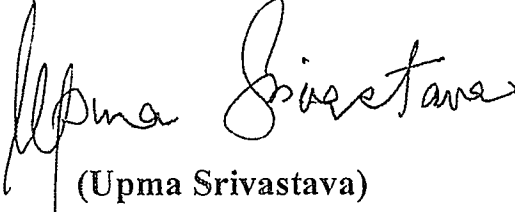
10. SOME OTHER CASE LAWS ON THE ISSUE OF TRANSFER OF DIVYANG EMPLOYEE

- a) 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.
- b) 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

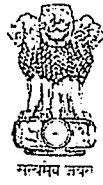
policy and contended that at the time of promotion employees are transferred. Further it was contended that O.Ms. issued by various ministries and departments are of directory nature and are not binding. Hon'ble High Court rejected Respondent bank's contentions and relied upon Ministry of Finance O.M. 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.

11. PRESENT CASE

- 11.1 Case of the Complainant can be resolved by referring to 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 dependent daughter/son/parents/spouse/brother/sister may be exempted from exercise of routine transfer.
- 11.2 Objective of the guidelines relating to transfer of employee of divyang dependent is that the employee who serves as care giver of divyang dependent can take care of the dependent and at the same time can focus on the work assigned to such employees.
- 11.3 Applying these guidelines to the present Complaint, this Court recommends that the Respondent establishment shall transfer the husband of the Complainant to Delhi and thereafter exempt the husband of the Complainant from routine transfer.
- 11.4 The case is disposed of accordingly.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023



Case No. 13558/1022/2022

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: 13558/1022/2022

Complainant :

Shri Ratan Lal Khatik,
 Chief Manager (PF Index No. 5127785)
 State Bank of India, Ahmedabad
 Mobile No. 7600087427
 Email ID – ratanlkhatik@gmail.com

Respondent :

The Chairman,
 State Bank of India,
 Madame Cama Road,
 Nariman Point, Mumbai-400021
 Email: chairman@sbi.co.in

GIST OF COMPLAINT

1.1 The Complainant, Shri Ratan Lal Khatik, working as Chief Manager, in State Bank of India, Ahmedabad requesting for transfer to his native place as he is care giver to his father Sh. Roop Lal Khatik, a person with 80% Locomotor Disability. The Complainant stated that his father suffered from paralysis due to which his one hand is also not working, he is totally bed ridden from the past few years. At present he is suffering from multiple complications. The Complainant recently transferred to Morbi (Gujrat) on 03.09.2022 from Ajmer (Rajasthan). Due to disability of his father and critical illness, he had not joined his new place of posting and represented against the order as shifting again and again disturbed the rehabilitation and health of his father and new place of posting is about 450 Km. from his home town with no direct transportation facility.

1.2 The Complainant further submitted that his father's health has further deteriorated in the past few years and that he has been hospitalized two times

in the last three months. Travelling to 450 Km. from his native place will be more riskier for him with no support from the other family members. At this stage it is not possible for him and his wife to take proper care of him alone. Requirement of other family members is also necessary for him to take care of his old age father in more effective manner so that he can live his life with inherent dignity and non- discrimination.

1.3 The Complainant stated that all the time he had requested to the Bank that his father is having health issues and he is transferred on extreme compassion grounds, so post him at his home town or nearby to home town so that he can take care of his parents well. But the bank has ignored all his requests and transferred him to farthest place from his home town.

2. REPLY OF THE RESPONDENT

2.1 Sh. Debendra Kumar Sahoo, Deputy General Manager & CDO of State Bank of India, Local head office, Ahmedabad filed reply on behalf of the Respondent vide affidavit dated 21.12.2022 and submitted that Shri Ratan Lal Khatik has been posted at SSI Sanala Road Morbi Branch, under Rajkot Administrative Office, Gujarat in Ahmedabad Circle on 03.09.2022. But Shri Khatik has not reported at Morbi Branch till date and is on unauthorized absence since 05.09.2022. Further, Shri Khatik has also requested to post him only under Gandhinagar or Ahmedabad Centre. He has approached to CCPD office seeking his transfer from Ahmedabad Circle to Udaipur Centre, in Jaipur Circle. In the meantime, he has further requested to Asst. General Manager (HR) Ahmedabad Circle vide email dated 20.12.2022 that his grievances with the bank will be resolved if the Bank posts him at Gandhinagar Centre from where he can take care of his father easily with the help of his other family members. It is submitted the Bank has sympathetically considered the request of Shri Khatik and accordingly posted him at IBU Gift City Branch Gandhinagar vide office order No. HR/22-23/117/20.12.2022.

2.2 The Respondent further submitted that the Bank has utmost regard to its "Equal Opportunity Policy for Persons with Disabilities 2021-2024" and has always strives to provide fair treatment to such employees. As Shri Khatik has

now been posted in Gandhinagar as per his request and consent, the present application of Shri Khatik may be treated as dealt with.

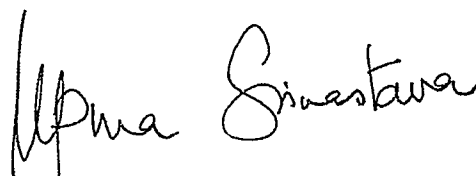
3. SUBMISSION MADE IN REJOINDER

3.1 The Respondent reply forwarded to the Complainant vide letter dated 10.01.2023 for submission of his comments/rejoinder. However, the Complainant did not file any reply/rejoinder. He had, however, sent an email dated 23.05.2023 stating that the Bank has posted him at Gandhinagar as per his request and as such his grievance stands resolved. He requested to treat the case as closed.

4. OBSERVATIONS & RECOMMENDATION:

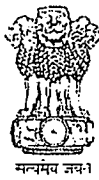
4.1 As the grievance of the Complainant has been redressed by the Respondent, no further intervention is warranted in this matter.

5. The Case is disposed of accordingly.



(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023



Ex 12

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. 13644/1014/2023

In the matter of—

Ms. A. Jyothi,
H.No.1-9-1113/27/F/183,
Nagamaiah Kunta,
VST Road, Azamabad,
District: Hyderabad,
Telangana 500020
Email: suryajyothi625@gmail.com

1241214

.... Complainant

Versus

Administrative Officer,
Software Technology Parks of India,
Sy.No.76&77, 6th Floor, Cyber Park,
Electronic City, Hosur Road, Bengaluru,
Karnataka- 560100.
Email: blr.career@stpi.in
Tel.No:- +91-80-6618 6000-07

1241215

.... Respondent

1. Gist of Complaint:

1.1 Ms. A. Jyothi, a person with 100% hearing impairment, filed a complaint dated 09.01.2023 regarding denial of appointment to the post of MTS S-1 on the ground of her disability by the respondent pursuant to the Employment Notice No.STPIB/01/2022 dated 15.01.2022 of the respondent.

1.2 The Complainant submitted that she qualified in the written examination, but in the Skill Test she got 3rd Rank. She alleged that she was not provided an interpreter in the Skill Test and that is why she could not clear the Skill Test.

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2. Submissions made by the Respondent:

The Respondent filed their reply on affidavit dated 02.02.2023 and inter-alia submitted that Ms. A Jyothi, Roll No.S1-458 had attempted the written examination which was conducted on 06.11.2022. She obtained 46 marks out of total 100 and cleared the written examination. She failed to clear the second stage of the recruitment process i.e. the Skill Test which was conducted on 21.12.2022. Ms. A Jyothi had selected Typing Computer / Operating Photocopier / Fax Machine as her primary skill set at the time of filling of her application and the same did not require or mandate for an interpreter to be

provided to the candidate. Since she could not qualify in her choice of primary skill test, she was not found eligible for being considered for the post of Multi Tasking Staff (S-1).

3. Submissions made in Rejoinder:

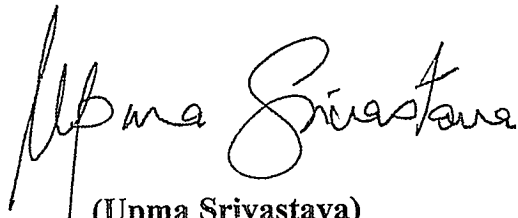
The Complainant filed her rejoinder dated 27.02.2023 and inter-alia submitted that the Respondent is relying on the recruitment policy but they did not mention eligibility of a deaf is 60 db and above. Everyone is applying with fake deaf certificates and is cheating to the born deaf people.

4. Observations & Recommendations:

4.1 The reply filed by the Respondent is satisfactory as Ms. A Jyothi had selected Typing Computer / Operating Photocopier / Fax Machine as her primary skill set at the time of filling of her application and the same did not require or mandate for an interpreter to be provided to the candidate. Since she could not qualify in her choice of primary skill test of her choice, she was not found eligible for being considered for the post of Multi Tasking Staff (S-1). Hence, there appears no merit in the complaint and no further interference is warranted by this Court.

4.2 Accordingly the case is disposed of.

Dated: 04.07.2023


(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. 13633/1011/2023/162987

In the matter of—

Shri Amit Yadav,
R/o House No. 236, Block Nizampur.
Ward No. 11, Rambass,
Opp. Idea Tower,
P.O.: Dhanot,
Narnaul, Mahendergarh,
Haryana - 123001
Email: 6059.amit@gmail.com;
Phone: 9050078777

.... Complainant

Versus

(1) The Chairman,
Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110003;
Email: chairmanssc@gmail.com

.... Respondent No.1

(2) Director General of Meteorology,
India Meteorological Department,
Mausam Bhavan, Lodhi Road,
New Delhi-110003;
Email: directorgeneral.imd@imd.gov.in,
dgmmt@gmail.com,
m.mohapatra@imd.gov.in

.... Respondent No.2

1. Gist of Complaint:

1.1 Shri Amit Yadav, a person with 60% Mental Illness filed a complaint dated 04.10.2022 regarding identification of post of Scientific Assistant (Group 'B' Non-Gazetted, Non-Ministerial Post, in the Level 6 of the Pay Matrix) for persons with mental illness category in India Meteorological Department (IMD); and relaxation in percentage in educational qualification reg.

1.2 The complainant submitted that recently SSC (Staff selection commission) had advertised an advertisement on 30.09.2022 for recruitment to the post of Scientific Assistant in India Meteorological Department (IMD), Group 'B' Non-Gazetted, Non-Ministerial Post, in the Level 6 of the Pay Matrix. But the persons with mental illness disability have not been included for the benefit of reservation. He further submitted that 60% marks in Graduation has been compulsorily demanded from candidates with disabilities. but 5% relaxation in marks has not been provided for candidates with disabilities.

1.3 The complainant prayed to take strict action and to allow persons with mental illness disability be provided 5% relaxation in marks for selection to that post.

2. Submissions made by the Respondents:

2.1 The Respondent No.1 (SSC) filed their reply dated 24.01.2023 and inter-alia submitted that they are a recruiting agency which conducts examination for recruitment of various Group 'B' and Group 'C' post for filling up the vacancies as per the MoU signed by the indenting department i.e. in this case India Meteorological Department (IMD). As per the clause (IV) of MoU, "IMD will identify disabilities which are suitable for the post in accordance with PwD Act, 2016 and Notification dated 04.01.2021 issued by Dept. of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice and Empowerment and inform the same to the Commission." IMD vide their letter dated 06.09.2022 had informed SSC that Eligibility of PwD candidates: PH (one arm or one leg), Dwarfism (DW), Acid Attack Victim (AAV) and on the basis of the letter eligibility of PwD candidate was incorporated in the Notice of Examination. The matters related to calculation of vacancies, maintenance of reservation roster and identification of suitability of the post(s) for pwBDs are under the domain of the user department i.e. IMD in this case. As such, SSC has no role in deciding / identifying the suitability of post for a person with disabilities.

2.2 The Respondent No.2 (IMD) filed their reply dated 31.01.2023 and inter-alia submitted that the nature of work performed by Scientific Assistant: Scientific Assistant in the department are primarily responsible to take meteorological observations such as recording and reporting or synoptic observations, upper air observations, ozone, radiation, seismological observations etc. and its allied work for providing current weather and weather forecasts / meteorological information for optimum operation of weather-sensitive activities like agriculture, irrigation, shipping, aviation, off-shore oil explorations etc. and to warn against severe weather phenomena like tropical cyclones, norwesters, dust storms heavy rains and snow, cold and heat waves, etc. Duties also involve plotting of weather charts, to decode aviation messages, prepare flight forecast folders, disseminate reports, warnings etc. They also keep watch over local weather phenomena, issue of routine and non-routine weather reports, constant monitoring, reception of foreign Meteorological broadcasts and to provide telecom facilities. They are also responsible for maintenance and upkeep of instruments, calibration and preparation of technical statements, scrutiny and checking of data computation and entering of data in proper format for Meteorological studies, routine inspection tours to observatories and to look after the technical administrative work of the unit. Further, the persons selected to join IMD has to serve all India service liability. The offices of IMD are situated at remote areas also where timely medical facility may not be available. In view of the job profile explained above, the persons with disability having OL or OA); Dw; and AAV are suitable for the post. As per the recruitment rules, there is no provision of relaxation in minimum educational qualification.

3. Submissions made in Rejoinder:

No rejoinder was received from the complainant to the replies filed by the respondents.

4. Hearing: The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on **01.06.2023**. The following persons were present during the hearing:

- (1) Shri Ram Sagar, US, SSC, Respondent-1
- (2) Shri Dr. Sidhartha Singh, Scientist(F) (Estt.), Respondent-2

5. Observations & Recommendations:

5.1 The main issue which needs contemplation of this Court is identification of the post of Scientific Assistant (Group B). To resolve the issue it is pertinent to refer to the list of posts identified suitable for various categories of disabilities, dated 04.01.2021(hereinafter mentioned as 'the list'), issued by Department of Empowerment of Persons with Disabilities, M/o Social Justice & Empowerment (hereinafter mentioned as 'DEPwD').

5.2 In the list, the post of Scientific Assistant as well as the post of Senior Scientific Assistant is identified suitable for PwBDs with Mental Illness in fields of Agriculture, Physicist and Research/Scientific/System Analyst. The Respondent failed to prove that there is any difference between the nature of work which is assigned to Scientific Assistant in fields of Agriculture, Physicist and Research/Scientific/System Analyst and in the Respondent establishment.

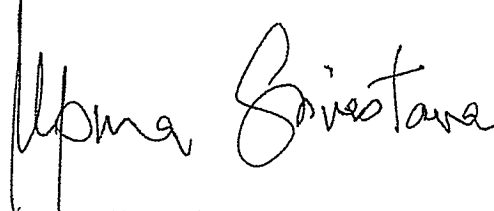
5.3 The Respondent establishment is bound to identify the posts suitable in accordance with the list. In case the Respondent establishment seeks exemption from identifying the post suitable for Person with Benchmark Disabilities with Mental Illness, it must seek such exemption from DEPwD, in accordance with DoPT O.M. dated 15.01.2018. However, till date such exemption is not sought and granted the Respondent is bound by the list.

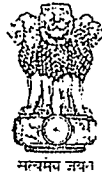
5.4 This Court recommends that the Respondent shall implement the list in letter and spirit and thus identify the post of Scientific Assistant (Group B) as suitable for Person with Disabilities with Mental Illness.

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 of.

Dated: 04.07.2023


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



Extra

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

Case No. 13476/1102/2022

In the matter of—

Ms. Saraswathi Chandrasekaran,
 974, 67th Street, Sector 11, KK Nagar.
 Chennai-600078
 Email: saras_srm@yahoo.co.in

... Complainant

Versus

The Managing Director & Chief Executive Officer,
 Axis Bank Limited, 'Axis House',
 C-2, Wadia International Centre,
 Pandurang Budhkar Marg,
 Worli, Mumbai-400025
 Email: nodal.officer@axisbank.com

... Respondent

Affected Person: The complainant, a person with 90% Hearing Impairment

1. Gist of Complaint:

1.1 Ms. Saraswathi Chandrasekaran, a person with 90% Hearing Impairment, filed a complaint dated 30.08.2022 against the respondent regarding not providing her Axis Bank Credit Card and an accessible service to a person with hearing impairment.

1.2 The Complainant submitted that she had applied to Axis Bank Credit Card on 30.08.2022 and a video KYC was taken on the same date to complete the process online. She had asked the agent to type her questions in addition to talking. But the agent refused this even though the chat facility was available during the KYC. She further alleged that the agent did not complete the KYC process and asked her to complete the process offline by visiting a branch. The agent left the chat abruptly behaving as if she was not a human being.

1.3 The Complainant has demanded that the Respondent bank may pay to her Rs.1,00,000/- for refusing her to provide accessible service.

2. Submissions made by the Respondent:

No reply was received from the Respondent bank even after issuance of Notice on 04.10.2022 followed by reminders dated 20.10.2022 and 04.11.2022.

3. Hearings:

3.1 An online hearing through Video Conferencing was conducted on **09.03.2023**. The following persons were present during the hearing:

- (1) Shri Alok Shankar Advocate for respondent with Shri Vikas Kumar Dy. Manager (Law Officer)
- (2) None appeared for the complainant

3.2 During the hearing the representatives appearing on behalf of the Respondent submitted that they had received the instruction on that day itself for appearing in the matter and, hence, sought some time for presenting the case. Considering their request, the hearing adjourned to 21.03.2023.

3.3 Next hearing Online through Video Conferencing was conducted on **11.04.2023**. The following persons were present during the hearing:

- (1) Ms. Saraswathi Chandrasekaran, the complainant
- (2) Advocate Alok Kumar and Shri Vikas Kumar for the Respondent

4. Observation/Recommendations:

4.1 Complaint is regarding not providing of Axis Bank Credit Card and an accessible-services to a person with hearing impairment. The Complainant submitted that she had applied to Axis Bank Credit Card on 30.08.2022 and a video KYC was taken on the same date to complete the process online. She had asked the agent to type her questions in addition to talking. But the agent refused this even though the chat facility was available during the KYC. She further alleged that the agent did not complete the KYC process and asked her to complete the process offline by visiting a branch. The agent left the chat abruptly degrading the human dignity of a person with disabilities.

4.2 Attention of the Respondent is attracted to s.43 of Rights of Persons with Disabilities Act, 2016. The provision makes it mandatory for the government establishments to take measures to promote development, production and distribution of consumer products and accessories for general use of persons with disabilities.

4.3 The issue raised in the present Complaint is that of inaccessible format of 'KYC' process and lack of sensitivity on the part of an employee of the Bank. The process adopted by the Respondent bank to complete KYC of the Complainant was not accessible for the Complainant who is person with Hearing Impairment. KYC is an essential process for distribution/sale of credit cards. KYC process cannot be said to be different from distribution/sale of consumer products. Hence the Respondent is bound to take measures and make guidelines in accordance with s.43 of Rights of Persons with Disabilities Act, 2016.

4.4 This Court recommends that the Respondent shall conduct KYC in format which is accessible for divyangjan of all categories. In the instant case, KYC in

accessible form can be done by asking the questions in writing. Respondent shall consider all the cases of similarly placed divyangjan and complete KYC process in format which is accessible for divyangjan of all categories.

4.5 Sensitization of employees engaged in any service to the public at large towards the special needs of the persons with disabilities is a bounden duty of all establishments, including the private establishments. Conducting training programmes, workshops, lectures in every establishment is a crying need of the hour. It is therefore, considered necessary that a copy of these recommendations be sent to the Chairman, Reserve Bank of India and the Secretary, Department of Financial Services for issuing necessary instructions to all banks and insurance companies.

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

4.7 Accordingly the case is disposed of.

Dated: 04.07.2023


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



Extra

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

Case No. 13740/1101/2023/174058

In the matter of--

Shri Sandesh Shivkumar Sonkambale,
 Email: sonkamblesandesh71@gmail.com

.... Complainant

Versus

The Registrar,
 Jawaharlal Nehru University,
 New Mehrauli road, JNU Ring Road,
 New Delhi - 110067
 Email: registrar@mail.jnu.ac.in

.... Respondent

1. Gist of Complaint:

1.1 The Complainant, Shri Sandesh Shivkumar Sonkamble, a person with 49% Locomotor disability, a student at Jawaharlal Nehru University, vide email dated 05.12.2022 has requested to ensure an accessible environment and inclusive education for students with disabilities in JNU Hostel.

1.2 The Complainant submitted that his condition doesn't allow him to function without the physical support of a caregiver. The JNU is not providing an accessible hostel room and caregiver to him. Due to which, it has become difficult for him to move from one place to another. The academic session had started on 23.11.2022 and it was difficult for him to attend the classes. He approached the JNU Administration by writing an application, but they were not responding. He submitted that without disabled friendly hostel room, accessible surroundings and a caregiver, it would be impossible for him to continue his education. Accordingly, he requested that (i) JNU administration shall allow a full time "care giver" (his sister) and provide accommodation in the JNU Campus; (ii) caregiver allowance to persons with disabilities with high support needs; and (iii) as per S.16 of RPwD Act, 2016 the educational institute provide and ensure an accessible environment, transportation, accommodation and necessary support to the students with disabilities.

2. Submissions made by the Respondent:

The Respondent filed their reply dated 29.03.2023 and submitted that the Complainant, Shri Sandesh Shivkumar Sonkamble, BA 1st year student, is eligible for double seater room in boy's hostel, as per the hostel rules. However, the Competent Authority of JNU approved his case as special case and approved for allotment of

Mahanadi Hostel, which has attached bathroom and kitchen. So, Inter-Hall Administration (IHA) has allotted him accommodation in Mahanadi Hostel and he has been staying in the said accommodation since 13.01.2023.

3. Submissions made in Rejoinder:


No Rejoinder was received from the Complainant to the reply filed by the Respondent.

4. Observations & Recommendations:

4.1 From the reply filed by the respondent, it appears that the grievance of the Complainant has been redressed as no counter reply has been received from the Complainant to the reply filed by the Respondent. Hence, no further intervention is warranted in this matter by this Court.

4.2 Accordingly the case is disposed of.

Dated: 04.07.2023


(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. 13695/1033/2023/177202

Complainant:

Km Rani Srivastav
B-Block, 189/190, Azad Nagar,
Campwell Road
Balaganj, Lucknow,
Uttar Pradesh-226003
Email – shinharani117@gmail.com

13695

Respondent:

- (1) Chairman & Managing Director
National Handicapped Finance & Development Corporation
Unit No. 11 & 12, Ground Floor,
DLF Prime Tower,
Okhla Phase - I, Near Tehkhand Village,
New Delhi – 110020; Email: nhfdc97@gmail.com
- (2) The Principal,
Institute of Management and Technology Centre for Distance Learning,
16, Site, A, 3, Meerut Road, UPSIDC Industrial Area,
Ghaziabad, Uttar Pradesh – 201003
Contact No – 0120-4622436
Email – support@imtc dl.ac.in

13696

13697

Affected Person: The Complainant, a person with more than 50% Mild Mental Retardation

1. Gist of Complaint:

1.1 Km Rani Srivastav, a person with 50% Mild Mental Retardation filed a Complaint dated 19.12.2022 and submitted that she enrolled for a 2 years MBA/PGDMO at Institute of Management and Technology Centre for Distance Learning (CDL) Ghaziabad, UP. She claims that while she was applying for Post Matric Scholarship at National Scholarship Portal and while selecting the Institute from the list of available Institutes in Ghaziabad, she was getting message "Institute KYC is not yet completed. Please ask your Institute Nodal Officer at NSP to complete KYC."

1.2 She further submitted that she requested the College multiple times to rectify this mistake and informed them about the last date of application. However, the College did not rectify the problem and she was not able to fill the form.

2. Submissions made by the Respondent:

Respondent No 02 filed their reply dated 24.02.2023 and inter-alia submitted that information about incomplete KYC was received on 07.11.2022. Several efforts were made by the Respondent in between 07.11.2022 and 22.11.2022. The KYC registration process was successfully completed on 22.11.2022 and the Complainant was also informed about the same on 23.11.2022. However, no communication was received from the Complainant. On 28.01.2023, the Respondent received the notice of this Court and came to know that the issue had not been resolved. Respondent claim that all possible action were taken to update its data on the National Scholarship Portal and a representative was also sent to the office of the Distt. Social Welfare Officer, Ghaziabad to active a probable "Trouble Shoot mechanism" if any, available at the local level. An application dated 02.02.2023 to the said effect was also submitted before the concerned Officer.

3. Submissions made in Rejoinder:

3.1 The Complainant filed her rejoinder dated 27.02.2023 and inter-alia submitted that the Respondent tried their level best to fix the technical issue and ensured that she did not miss the opportunity for the scholarship. The NSP Portal was itself not functioning due to server issues and because of which the College Authorities could not update/authenticate their data on the portal and therefore they cannot be penalized for issues which were beyond their control. She also tried calling the Nodal Officer at various helplines numbers, but those number were not working. The deadline for the application was 30.11.2022. She kept on trying till the last date, but to no avail. Respondent is also evident that the authorities are completely oblivious of the Centrally funded scholarship in question.

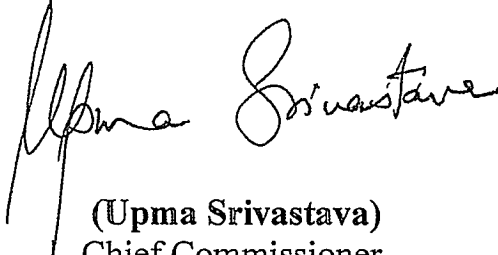
3.2 She further prayed that she be given an opportunity to apply for the scholarship and direct the Respondent to complete their KYC at the NSP portal after fixing the technical issues.

4. Observation & Recommendations:

4.1 The Respondent No 02 is recommended to update all its documents and complete process relating to registration on National Scholarship Portal, so that no divyangjan has to face similar problem.

4.2 Accordingly, the case is disposed of.

Dated: 04.07.2023


(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.13494/1024/2022

Complainant:

Shri Mahiboob Shaik
 Email: mks.akor@rediffmail.com

RM/1681

Respondent:

The Divisional Railway Manager (P)
 Central Railway
 Divisional Office, Personnel Branch,
 Solapur, Maharashtra

RM/1682

Complainant: 70% Locomotor Disability**1. Gist of the Complaint:**

1.1 Shri Mahiboob Shaik, a person with 70% locomotor disability filed a complaint dated 27.09.2022, regarding family pension.

1.2 The Complainant submitted that he applied for family pension as a Handicapped Son to Divisional Railway Manager (Personnel), Solapur Division of Central Railway. He had submitted Disability Certificate issued by Government Hospital, Kalburgi to DRM(P), Solapur. The Railway Authorities verified the genuineness of certificate by contacting to Government Hospital, Kalburgi and the same was authenticated by them.

1.3 He submitted that the Divisional Personnel Officer, Solapur directed him for Medical Examination at Railway Hospital, Solapur. He was directed to Dr. Babasaheb Ambedkar Memorial Railway Hospital, Byculla, Mumbai for Medical Examination. And lastly as per the plan the Medical Authorities of Dr. Babasaheb Ambedkar Memorial Railway Hospital, Byculla, Mumbai opined that "Shri Mahiboob, Handicap Son of Late Mohammad Khaja Shaikh, Ex Battery Man/S&T/AKOR is able to earn his livelihood, hence may not be considered for family pension."

1.4 He requested that Railway Authorities to accept the Disability Certificate issued by the State Medical Board and sanction him family pension as a handicapped son of Ex. Railway Employee.

2. Submissions made by the Respondent

2.1 Divisional Personnel Officer, Central Railway, Solapur stated that the employee of Railway Shri Mohammad Khaja expired on 28/05/1969 after the death of employee family pension was sanctioned to his widow Smt. Chandbee, who was drawing pension from 29/05/1969 till the date of her death on 18/06/2006.

2.2 The Respondent stated that after the death of Smt. Chandbee her family pension was stopped as no one was authorised to receive family pension after her death. The Complainant herein first time approached to Railway Administration in year 2017, i.e. after the lapse of period of about 11 years.

2.3 The Respondent submitted that, after receipt of application from the Complainant for grant of family pension he was directed to report to Chief Medical Superintendent, Dr. Kotanis Memorial Railway Hospital, Solapur vide letter No. SUR/P/SR/FP/MKS/2022 dated 19/05/2022. Further, he was directed by Chief Medical Superintendent, Solapur for further examination to Dr. Babasaheb Ambedkar Hospital, Byculla. Thereafter, Assistant Divisional Medical Officer, Solapur vide letter No. U/MD/100/SP/F/MMS dated 01/07/2022 advised the Personnel Branch of Solapur that Shri Mahiboob Handicapped Son of Shri Mohamad Khaja Shaikh was examined by the Zonal Railway Hospital at Byculla and said Hospital opined that, "he is able to earn his livelihood."

3. The Complainant did not submit a rejoinder on the reply of the Respondent despite this Court's letter dated 17.03.2023 seeking his rejoinder, if any.

4. Observations & Recommendations

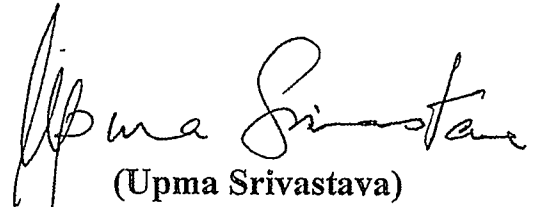
4.1 The issue raised by the Complainant is related to non payment of family pension. As per relevant rules, family pension is admissible to dependent of the deceased employee who is Person with Disabilities if she/he is not able to earn his livelihood. The Respondent has submitted on affidavit that after receiving the Complainant's application for issuing family

pension, he was referred to Chief Medical Superintendent for examination of his 'ability to earn his livelihood'. Further, the Respondent has submitted that on the directions of Chief Medical Superintendent, the Complainant was examined by Assistant Divisional Medical Officer, Solapur and he was certified as 'able to earn his livelihood'. Hence, as per the relevant rules his application for family pension was rejected.

4.2 This Court concludes that the Respondent took all steps in accordance with the relevant rules on the subject. The cause of the Complaint stands extinguished. Further intervention of this Court is not warranted.

4.3 The Case is disposed of accordingly.

Dated: 04.07.2023


(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. 13799/1024/2023/185677

Complainant:

Shri Ashok Kumar Kureel
 111/480 Harsh Nagar,
 Kanpur- 208012
 Email: akkureel74@gmail.com

Respondent:

Assistant General Manager
 State Bank of India
 Centralized Clearing Processing Centre,
 Block No.4, Main Branch Premises,
 Kanpur- 208011

1. Gist of Complaint:

1.1 शिकायतकर्ता श्री अशोक कुमार कुरील, 65% चलन अक्षम व्यक्ति ने दिनांक 21.01.2023 को निश्चिन्ता भत्ता, सेवानिवृत्ति उपरांत पेंशन के लाभ के सम्बन्ध में अपनी शिकायत दर्ज की है।

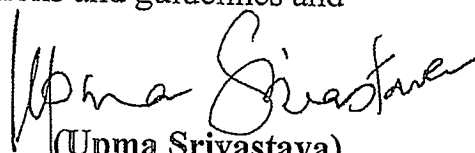
1.2 शिकायतकर्ता ने कहा कि भारतीय स्टेट बैंक (SBI) CCP ज़ोनल ऑफिस से सहायक प्रबंधक पद से विगत दिनांक 31/08/2011 को सेवानिवृत्त हुआ था। शिकायतकर्ता भारतीय स्टेट बैंक से पेंशन प्राप्त कर रहा है। जिसमें उसे विषयक अलाउंस नहीं दिया जा रहा है।

2. Submissions made by the respondent:

2.1 वैधानिक समय बीत जाने के बाद भी प्रतिवादी से कोई उत्तर प्राप्त नहीं हुआ।

3. Observations & Recommendations:

3.1 The Complainant is claiming that he is entitled for 'post retirement disabilities allowance'. However, he has not provided any details of rules/regulations/guidelines to prove that claimed 'post retirement disability allowance' is admissible. This Court recommends that the Respondent shall examine the case in light of the relevant rules, regulations and guidelines and dispose of the complaint accordingly.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023



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.13684/1023/2023

Complainant

Shri Birendra Kumar

Email: birendra84@gmail.com

141674

Vs

Respondents:

The Chairman,
 Central Board of Indirect Taxes and Customs
 North Block, New Delhi – 110001
 Email: mohammad.ashif@nic.in

.....Respondent No.1

The Principal Chief Commissioner of GST &
 Central Excise,
 Nungambakkam, Chennai, Tamilnadu
 Email: ccu-cexchn@nic.in

.....Respondent No.2

1. Gist of the Complaint:

1.1 The Complainant Shri Birendra Kumar, a person with 45% Hearing Impairment has filed a Complaint dated 22.12.2022, regarding request for Lien. The Complainant has joined as GST Inspector, in Mumbai through technical resignation with Lien from Chennai, but Lien has not been given to him as per DOPT's circular dated 11.03.2019. The Complainant had written the application dated 21.12.2022 to the Principal Chief Commissioner of GST & Central Excise, Chennai, whereby he requested to provide Lien. The Complainant has requested to this Court to give directive to the Respondent to provide him Lien as per the DOPTs circular dated 11.03.2019.

2. The matter was taken up with the Respondent vide letter dated 27.01.2023 under Section 75 of the RPwD Act, 2016.

3. Submissions made by the respondent:

3.1 In response, Additional Commissioner, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai, has submitted office order no. 30/2023 dated 16.03.2023, regarding the confirmation in the grade of Inspector.

4. Submissions made in Rejoinder:

4.1 The Complainant has not filed the reply against the rejoinder letter issued by the Office of Chief Commissioner for Persons with Disabilities vide letter dated 23.03.2023.

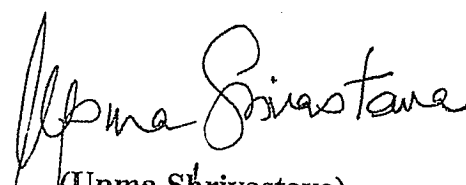
5. Hearing: The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on 01.06.2023. The following were present:

- Shri Birendra Kumar : Complainant
- Ms. Rajni Menon, Assistant Commissioner- Respondent No.2

6. Observations/Recommendations

6.1 During online hearing both the parties informed this Court that the issue has been resolved. Further intervention of this Court in the present Complaint is not warranted.

6.2 The case is disposed of accordingly.


(Upma Shrivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023

**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.13589/1024/2022/169662

Complainant:

Shri Krishnendu Gongopadhyay

Email: kgongopadhyay@gmail.com

24/6/22

Respondent:

The Director

Indian Institute of Science Education &
Research (IISER), Mohali

Sector 81, S.A.S. Nagar, Punjab- 140306

24/6/23

Complainant: 60% Locomotor Disability**1. Gist of Complaint:**

1.1 Shri Krishnendu Gongopadhyay, a person with 60% locomotor disability filed a Complaint dated 14.11.2022, regarding deprivation and professional harassment due to systematic hindrance created by IISER Mohali Administration.

1.2 He has submitted for the following reliefs:

(1) He should be promoted to the post of Professor either by appointment to the vacant Professor (PwD) post or, by sliding along the currently occupied PwD Post (as per roster) with effect from July 29, 2022- the date of the CAS interview as per the BoG resolution on July 30, 2022. As per the BoG resolution, a concurrence from the MoE is required.

(2) The Institute promoted (re-appointed to higher pay grades) a total number of 17 faculty cadres across all designations, including 4 Professors- all in general categories in October first week, 2020.

1.3 The Complainant submitted that he joined IISER, Mohali as an Assistant Professor in April 2010 and is currently an Associate Professor

since 17th December, 2015 in the Department of Mathematical Sciences at the Indian Institute of Science Education and Research (IISER), Mohali. He submitted that despite having all eligibility criteria and requirements for his appointment to the post of Professor, the administration at IISER Mohali is depriving him systematically of the appointment since 2020. There are at least 24 vacant flexi positions. At least one of them should belong to the PwD category. He also submitted that despite having all the necessary eligibility criteria and strong CV, he was not shortlisted by the Screening Committee. To validate their wrong decision it has been said that he did not satisfy internal convention of 5 years experience as an Associate Professor.

1.4 The Complainant further submitted that the Institute called for a Special Recruitment Drive, and in the advertisement IISER M/F(01)/Regular/2022', the Professor (PwD) post is said to be reserved for certain vertical category candidates. He wrote to the Director to appoint him to the post of Professor (PwD) in view of the CAS Interview held on July 29th, 2022 and being highly eligible for the post. There was one vacancy for PwBD, but this post can only be filled, if the candidate belongs to SC or OBC reserved categories and that the Institute does not have any vacancy in UR and ST category in case of Professors."

1.5 The Complainant also submitted that total sanctioned posts of IISER, Mohali is 120 and hence, as per the RPwD Act 2016, 5 posts should belong to PwBD categories, and at least one post of Professor should be reserved for PwBD candidates. All posts are flexi. So, technically there is no limitations for the Professor posts. He was the only applicant for the post of Professor from the PwBD category. But the IISER Mohali has kept only 15 posts of Professor in their reservation roster, and deprived the PwBD category from the Professor post. The Institute authority seems to have no intention to implement that.

1.6 He submitted that in the BoG meeting on the July 30, 2022, the promotion/re-appointment will be validated provided the Ministry of Education gives concurrence to it. The Ministry should not have any

objection to it, especially since the promotion policy was approved by the BoG.

2. Submissions made by the Respondent

2.1 The Respondent filed an interim reply vide letter dated 01.02.2023 and submitted that Dr. Krishnendu Gongopahdyay has been promoted to the post of Professor on 21.11.2022 and he joined the post on 21.11.2022. However, the ratification of the same from the Board of Governor is pending.

2.2 The Respondent further submitted that the tentative date of the forthcoming BoG meeting was in the February/March, 2023, hence, they had requested for two months' time to file their reply.

2.3 No final reply has been received so far from the Respondent despite lapse of considerable time.

3. Submissions made in Rejoinder

3.1 The Complainant filed a rejoinder dated 03.04.2023 and submitted that a promotion order by the IISER Mohali Administration has been issued on 21.11.2022 and accordingly, he had joined the higher post of Professor. This has given him partial resolution to the above mentioned Complaint. His promotion is in effect from 21.11.2022 and he had been promoted to this post on his own merit by an open procedure along with other faculty members despite being in the PwD category. He had been deprived of special consideration and reservation benefit regarding the promotion since 2020.

4. Observations & Recommendations:

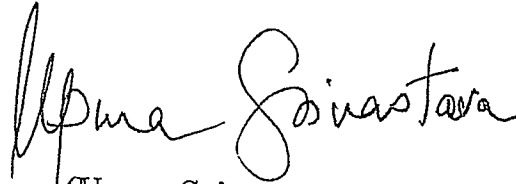
4.1 The Complaint is based on a flawed understanding of the legal position on reservation in promotion for persons with benchmark disabilities. It is clarified that no reservation for persons with disabilities is available in promotions within Group A posts, i.e. from Group A to another Group A post. Also reservation in promotion in Group A and Group B posts were introduced by the DoPT vide their OM No. 36012/1/2020-Estt (Res-II) dated 17.05.2022. These instructions were implemented prospectively. As such, the Complainant's claim of reservation in promotion prior to the issue of these instructions are not tenable.

4.2 It is also considered necessary to state here that Complainant's understanding of computation of reservation for persons with benchmark disabilities is also wrong. It is clarified that the reservation for persons with benchmark disabilities is not post based, but is calculated on the basis of a 100 points vacancy based reservation roster where point nos. 1,26,51 and 76 are reserved points. Detailed instructions in this regard can be seen at para 7 of the DoPT's OM No. 36035/2/2017-Estt (Res) dated 15.01.2018 in respect of Direct Recruitment and at para 10 of their OM No. 36012/1/2020-Estt (Res-II) dated 17.05.2022 in respect of Promotion.

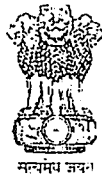
4.3 Notwithstanding the above, it is also statutorily protected as per Section 20 (3) of the RPwD Act, 2016 that a person with benchmark disability shall not be denied of his promotion merely on the ground of disability. Admittedly, the Institute has not denied him from being considered for promotion. He was considered in his own turn and promoted to the higher post. The Respondent has apparently followed the law and the instructions in this matter.

4.4 It is therefore, clear that the Complainant has not been able to make any case of denial of his rights as a person with disability or of discrimination on the ground of disability. As such, no intervention is warranted from this Court on the matter.

4.5 The case is disposed of accordingly


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023

**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: 13649/1022/2023**Complainant**

Shri Bhabani Sankar Acharya,
 Manager, Indian Bank,
 College Road Pattamundai Branch,
 Pattamundai, Kendrapara
 Odisha-754215
 Email: bhabani.mba@gmail.com
 Mobile: 8249985117

K41669

Respondent

1. The General Manager
 Indian Bank,
 FGMO Bhubaneswar,
 Plot No.3/1-B, IRC Village Nayapalli,
 Bhubaneswar, Odisha -751015
 Email: fgmo.bhabaneshwar@indianbank.co.in
 Mobile: 9413339996
2. The Zonal Manager,
 Indian Bank,
 Zonal Office Cuttack,
 Camp Tulasipur Branch,
 At-Deula sahi
 PO: Tulasipur, Distt.Cuttack-753008
 Email: zocuttack@indianbank.co.in
 Mobile: 9775507077

K41670

K41671

1. GIST OF COMPLAINT

- 1.1 The Complainant Shri Bhabani Sankar Acharya, a person with 50% Locomotor Disability submitted a complaint dated 05.01.2023 stating that he was suddenly transferred to Balaghat, Jabalpur, Madhya Pradesh, which is about 900 kms from his village. The Complainant requested

his Zonal office & FGM office to post him in his state i.e., Odisha, District Jajpur. But his requests were rejected. He further stated that ever since his joining the Bank in the year 2013, he was always posted to remote areas away from his home district Jajpur, Odisha and without having basic amenities and facilities. He also stated that he is not able to drive and move properly due to pain in his legs as well as knee joints.

2. REPLY OF THE RESPONDENT

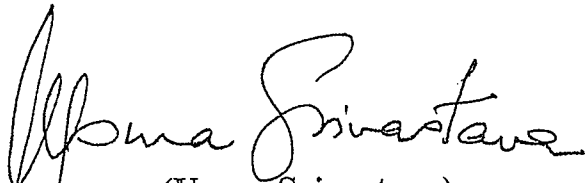
- 2.1 Vide affidavit received through email on dated 17.02.2023, Sh. Sandeep Pattanayak, Assistant General Manager submitted the response on behalf of Indian Bank. The respondent stated that Shri Bhabani Sankar Acharya, Manager was posted in Pattamundai Branch of Indian Bank w.e.f. 23.11.2020 as the Branch Manager. Pattamundai is a Tehsil HQ under Kendrapara Distt. Odisha having all necessary infrastructure for good stay, medical facility and potential market for banks business. Since his posting at the Branch, business of the branch was showing de-growth continuously year over year since 31.12.2020.
- 2.2 Despite repeated persuasion / support & guidance from higher authorities during review meetings, the performance of the Branch did not improve. The Customer service at the branch was very poor and Mr. Acharya was not showing any interest on business growth of the branch. Considering repeated non-performance, Zonal office (Controlling office under whom the branch falls) has no other option but to replace the Branch Manager with a suitable one to improve the branch business and provide proper service to the customers.
- 2.3 The Respondent stated that Indian Bank have many officers with disability more than Shri Acharya, but their disability has never impacted their performance and they have reached many top positions in the Bank giving their exemplary services to the Bank. However, Shri Acharya is a non-performer by intention and as such unable to do his duties religiously. The Respondent also expressed

their reservation about the disability of the Complainant being any hindrance for him to perform.

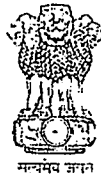
- 2.4 Considering Zonal Office analysis & recommendation, Shri Acharya was transferred to Balaghat, under ZO Jabalpur. Balaghat Branch is located in district HQ having all necessary infrastructure for good stay, medical facility. Moreover, the Branch (Balaghat) has 3 additional officers other than the BM and Sri Acharya. Further, this branch was chosen so that non - performance of Sri Acharya as a 2nd line officer in the branch would not have much impact on the business of the branch. However, giving due regards to the Commission for Disability, Shri Acharya's case was reviewed by appropriate authorities and considering his request, vide letter dated 17.11.2022, to retain him in home state Odisha, competent authority has taken a positive view to retain him within Odisha State thereby giving him one more opportunity to deliver and show his performance.
3. The Complainant filed the rejoinder vide email dated 21.04.2023 and stated that he has never been posted in his native district i.e, Jajpur, Odisha and at present the management has again put his posting at Angul Branch. He had joined the branch on 16th March 2023, now also being affected by ankular spondylitis along with flatfoot issue. So, he wants to pray his esteemed authority to kindly consider his situation and post him at a suitable place at Jajpur.
4. From the submissions of the parties, it emerges that the Bank has posted the Complainant to his home state, i.e. Odisha despite their reservations and because of the intervention of this Court. The Complainant is not satisfied as he wants posting at his home district. He is an officer in the Bank, who generally have an all India posting liability. Due to administrative exigencies it may not be possible for self-sustained financial establishments of the Govt. to post all their employees with disabilities in their respective home towns. Hence even if the employee is posted in the home state it should be considered as implementation of the guidelines. In the instant case, change of posting location within 4

months of earlier posting in Madhya Pradesh has to be considered as adequate relief to the Complainant. As such, no further intervention of this Court is warranted in this case.

5. This case is disposed of accordingly.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 04.07.2023

**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. 13669/1021/2023

Complainant:

Shri Narendra Kumar Shailon

S/o. Shri Dharampal Singh,

59, Misson Compound,

Govindganj, Shahjapur, UP-242001

Email -narendra.shailon@newindia.co.in

R41662

Respondent:

Chairman cum Managing Director

The New India Assurance Co. Ltd

87, Mahatma Gandhi Road

Fort Mumbai, Pin – 400001

Telephone – 022-22624987, 022-22632291

Email – neerja.kapur@newindia.co.in

R41668

Affected Person: The complainant, a person with 45% Locomotor Disability**1. Gist of Complaint:**

1.1 शिकायतकर्ता ने दिनांक 25.11.2022 को दर्ज शिकायत में कहा कि वह दि न्यू इंडिया एश्योरेंस कंपनी लिमिटेड शाखा शाहजहाँपुर (शाखा कोड - 340102) के कार्यालय में एक प्रशासनिक अधिकारी के रूप में कार्यरत है। शिकायतकर्ता ने उपयुक्त अधिकारी से अनुमति लेकर 2013 में एमबीए की डिग्री पास की है। MBA पास करने के बाद, न्यू इंडिया एश्योरेंस ने 5 साल बाद रु 820 / - एमबीए भत्ता के रूप में दिया।

1.2 वर्ष 2016 में MBA का भत्ता 820/- से बढ़ाकर 1550/- हुआ। जिसे 01 अगस्त, 2012 से लागू माना गया। इस प्रकार जून 2018 की वेतन स्लिप में MBA का भत्ता 1550/- दिया गया। जो कि वर्ष 2013 से शिकायतकर्ता को 1550/- के आधार पर बकाया धनराशी 89900/- दिया गया।

1.3 शिकायतकर्ता ने मांग की है कि दिनांक 18.03.2014 से उसे वरिष्ठ सहायक पद पर प्रमोशन दिया जाये। कंपनी नियमानुसार 13.1 में नियम है कि यदि कोई वरिष्ठ सहायक MBA डिग्रीधारक है तो उसे प्रशासनिक अधिकारी पद हेतु साक्षात्कार के लिए बुलाया जायेगा। शिकायतकर्ता को अवसर की समानता से वंचित रहने के आधार पर प्रशासनिक अधिकारी पद पर 19.03.2015 में माना जाये।

2. SUBMISSIONS MADE BY THE RESPONDENT

2.1 Chief Manager (Corp-HRM), The New India Assurance Co. Ltd. filed their reply on affidavit dated 28.02.2023 and inter alia submitted that the Complainant sent a letter dated 20.01.2016 enclosing a Certificate no. 059996 along with transcript marks dated 18.01.2016 of his Master of Business Administration HRM and requested to add 15 marks against his MBA qualification.

2.2 Marks were to be added in next Promotion Exercise which was done in December, 2016. Meanwhile, the Promotion Policy for Supervisory, Clerical and Sub-Ordinate Staff 2008 was amended vide circular dated 03.08.2016 and accordingly, the qualification marks for MBA were reduced to 5 from 15. Hence, amended Promotion Policy was applicable for Promotion Exercise done in December, 2016 when Shri Shailon's application was considered.

2.3 The Company paid him the qualification allowance against his MBA qualification in June 2018, along with arrears from year 2013 as per the Gazette Notification dated 23.01.2016.

2.4 Shri Shailon did not apply as a disabled person (PWD). In fact, Shri Shailon submitted Disability Certificate No. 25361 dated 16.05.2017 on 17.05.2017 which was temporary in nature. In June 2017, Shri Shailon submitted Disability Certificate No. 25616 dated 13.06.2017.

3. SUBMISSIONS MADE IN REJOINDER:

3.1 शिकायतकर्ता ने अपना प्रत्युत्तर दिनांक 06.03.2023 दायर किया और अपनी शिकायत दोहराई और बताया की शाखा कार्यालय के रिकॉर्ड के अनुसार शिकायती पत्र द्वारा MBA की मार्कशीट दिनांक 01.11.2013 को उचित माध्यम द्वारा प्रादेशिक कार्यालय को भेज दी गयी थी। अतः यह कहना की शिकायतकर्ता ने 20.01.2016 को अपने MBA के दस्तावेज दिये यह असत्य है।

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 30.05.2023. The following persons were present during the hearing:

Shri Narendra Kumar Shailon : Complainant

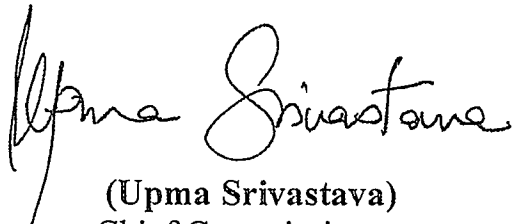
Adv. Shri Devendra Nath Joshi c/o The New India Assurance Co. Ltd :
Respondents

5. OBSERVATIONS & RECOMMENDATIONS:

5.1 During online hearing, this Court inquired about the year in which the Complainant acquired disability and year in which the promotion was allegedly denied. The Complainant informed this Court that he acquired disability in 2017 and allegations of denial of promotion are related to 2015.

5.2 Since the cause of action of the present Complaint arose after the Complainant acquired disability, there is no case of discrimination on the grounds of disability. Intervention of this Court in the present Complaint is not warranted.

6. The case is disposed of.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 04.07.2023

**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: 13665/1022/2023

Complainant

Shri Vipin Kumar Sharma,
Email: vipinddk69@gmail.com
Mobile: 9412424766

13665

Respondent

The Additional Director General (NZ),
Akashvani & Doordarshan,
Jamnagar House,
Shahjahan Road,
New Delhi-110011
Email ID <dgdd@doordarshan.gov.in>

1366

1. GIST OF THE COMPLAINT

1.1 शिकायतकर्ता का अपनी शिकायत पत्र दिनांक A-19/16(4)/2022/EPC में कहना है कि वह 40 प्रतिशत लोकोमोटर दिव्यांगजन है तथा दूरदर्शन रिले केन्द्र, अलीगढ़ पर तकनीशियन के पद पर कार्यरत है। प्रार्थी का स्थानांतरण A-19/16(4)/2022/EPC order No. 20/2022 dated 24.06.2022 के अनुसार दूरदर्शन रिले केन्द्र, अलीगढ़ से आकाशवाणी, मथुरा कर दिया है। शिकायतकर्ता का कहना है कि भारत सरकार की नीतिगत निर्णय के अंतर्गत एल.पी.टी. का क्लोजर हुआ जिसमें नीतिगत निर्णय के अंतर्गत स्टाफ को अलीगढ़ एवं अन्य केंद्रों पर भी उसी शहर में अन्य केंद्रों पर समायोजित किया।

1.2 शिकायतकर्ता का कहना है कि दिव्यांगजन होने के बावजूद भी उसका स्थानांतरण आदेश संख्या A-19/16(4)/2022/EPC order No. 20/2022 dated 24.06.2022 के अनुसार दूरदर्शन रिले केन्द्र, अलीगढ़ से आकाशवाणी, मथुरा कर दिया है और शिकायतकर्ता की अस्थानान्तरणीय

पोस्ट है फिर भी शिकायतकर्ता का ट्रांसफर कर दिया गया है। शिकायतकर्ता का कहना है कि अपर महानिदेशक कार्यालय दिल्ली से बार-बार प्रार्थना की गई कि शिकायतकर्ता को अलीगढ़ एफ.एम. पर ही समायोजित किया जाए परन्तु, हर बार शिकायतकर्ता की प्रार्थना पत्र को ठुकराकर अन्य लोगों को (श्री सुदेश कुमार, तक., श्री गोपाल सिंह, अभि. सहा., श्री चन्द्र केतु, अभि. सहा., एवं श्री राजेन्द्र कुमार गौर, वरि. अभि. सहा.) समायोजित एवं अन्य केंद्रों से बिना कार्यकाल पूरा किये अलीगढ़ एफ.एम. पर ट्रांसफर कर दिया गया। शिकायतकर्ता का आगे कहना है कि उनका एक्सीडेंट हुआ था जिसके कारण शिकायतकर्ता को ठण्ड के दिनों में चोट में परेशानी होने के कारण बस/ट्रेन में सफर करने में परेशानी होती है और शिकायतकर्ता होम लोन द्वारा स्वयं के निर्मित मकान में अलीगढ़ में ही रहता है।

2. REPLY OF THE RESPONDENT

- 2.1 प्रतिवादी का अपने उत्तर में कहना है कि स्टेशन बंद होने की स्थिति में शिकायतकर्ता श्री विपिन कुमार शर्मा जी की सहूलियत के हिसाब से यथा संभव स्थान पर समायोजित किया गया। Engineering Personnel Cell से हर वर्ष Seniority लिस्ट जारी की जाती है। इस Seniority लिस्ट में श्री विपिन कुमार शर्मा ने कभी भी अपनी कैटेगरी को लेकर कोई आपत्ती दर्ज नहीं की और ना ही स्थानान्तरण आवेदन में PH दिखाया, अतः इनका स्थानान्तरण इनकी अपनी स्वेच्छा के आधार पर किया गया। श्री विपिन कुमार शर्मा PH हैं इसके बारे में कार्यवाही करके EPC के डाटा को अपडेट कर दिया जाएगा। जब वे स्थानान्तरण किए जायेंगे इनके स्थानान्तरण के संबंध में नियम अनुसार उचित कार्यवाही की जाएगी। नीतिगत निर्णय के अनुसार समायोजन किया गया है एवं श्री विपिन कुमार शर्मा के ट्रांसफर प्रार्थना पत्र के आधार पर इनकी दूसरी विकल्प आकाशवाणी, मथुरा में की गयी। तकनीशियन गैर हस्तांतरणीय पोस्ट है, स्टेशन बंद होने की स्थिति में श्री विपिन कुमार शर्मा की सहूलियत के हिसाब से यथा संभव स्थान पर समायोजित किया गया। चूँकि कार्यालय के

संज्ञान में श्री विपिन कुमार शर्मा की श्रेणी PH नहीं थी, इसलिए श्री सुदेश कुमार का स्थानांतरण मानवीय आधार पर किया गया।

- 2.2 प्रतिवादी का यह भी कहना है कि श्री गोपाल सिंह, अ.स., श्री चंद्र केतु, अ.स. एवं श्री राजेन्द्र गौर, व.अ. को उन्हीं के संवर्ग में रिक्त पदों पर उन्हीं के संवर्ग में रिक्त पदों पर उन्हीं के अनुरोध पर बिना TA/DA स्थानांतरण किया गया। आकाशवाणी, अलीगढ़ में रिक्त पद होने पर विपिन कुमार शर्मा के स्थानांतरण पर नियम अनुसार विचार किया जाएगा। स्थानांतरण आवेदन में श्री विपिन कुमार शर्मा ने इस संबंध में कोई जानकारी कार्यालय को अवगत नहीं करायी। प्रतिवादी ने अपने उत्तर में कहा कि शिकायतकर्ता को होम लोन से संबंधित सूचना कार्यालय से संबंधित नहीं है तथा अन्य सभी उत्तर में प्रतिवादी ने कहा कि पद रिक्त होने पर नियम के अनुसार विचार किया जाएगा तथा कार्यालय द्वारा प्रसार भारती/महानिदेशालय के ट्रांसफर नियमावली के अनुसार स्थानांतरण किए जाते हैं और उपरोक्त कार्यालय सभी तथ्यों को ध्यान में रखते हुए स्थानांतरण करता है व किसी के साथ भेदभाव नहीं करता।

3. SUBMISSION MADE IN REJOINDER

- 3.1 प्रतिवादी का उत्तर परिवादी को प्रतिउत्तर हेतु भेजा गया था, तथा दिनांक 03/03/2023 को परिवादी का उत्तर प्राप्त हुआ जिसमें उनका कहना है कि प्रतिवादी के उत्तर से संतुष्ट नहीं है।

4. Hearing : The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 01.06.2023. The following were present:

Complainant :

- (i) Shri Vipin Kumar Sharma

Respondent :

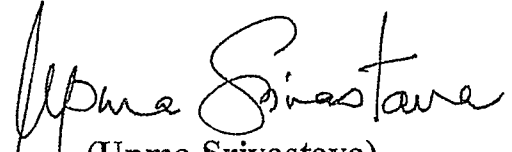
- (i) Shri Bibian Kerketta, Director (E), Akashvani & Doordarshan

OBSERVATIONS /RECOMMENDATIONS:

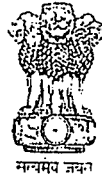
5. During online hearing, the Complainant submitted that he has not joined till date. Further, during online hearing, the Respondent submitted that the vacancy in Aligarh will arise in December 2023 due to superannuation of another employee and the complainant can be considered for transfer to Aligarh at that time.

6. After perusal of the submissions and supporting documents filed by the Complainant and the Respondent, this Court concludes that the Reply filed by the Respondent is satisfactory. This Court recommends that the Complainant shall join in Mathura immediately and his application for transfer to Aligarh, if filed by the Complainant, shall be considered as and when the vacancy arises in future.

7. The case is disposed of accordingly.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated : 04.07.2023

**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.13512/1024/2022

Complainant:

Shri Narender Singh,
H.No. 371
Gali No. 08, Shahid Bhagat Singh Colony
Karawal Nagar, Delhi-110090

Respondent:

The General Manager,
State Bank of India, Region-I
Delhi Administrative Office-I
Parliament Street, New Delhi-110001

1. Gist of Complaint:

1.1 Shri Narender Singh, a person with 90% hearing impairment filed a complaint dated 25.07.2022 regarding difference in payment of leave encashment at the time of retirement, delay in submission of TDS for ITR in the financial year 2020- 2021 & non-receipt of Income Tax Return.

1.2 The complainant submitted that he is a pensioner of the State Bank of India. He had made several requests and complaints in writing to the State Bank of India, Delhi Administrative Office, Region-I, New Delhi-1 to take action in the above matter. But despite his repeated requests, no action has been taken by the bank administration and nor any clarification has been given on this matter till filing of the complaint.

2. Submissions made by the Respondent

2.1 The Service Manager, SBI, SME Branch, Asaf Ali Road, New Delhi vide letter dated 28.11.2022 has filed an interim reply stating that the Branch Manager is out of Country now a days and the reply will be provided on her joining after Ist

week of December, 2022, but no reply was received from the Respondent even after lapse of considerable time.


3. **Hearing:** The case was listed for hearing via Video Conferencing before the Chief Commissioner for Persons with Disabilities on 02.05.2023. None of the parties were present during the hearing.

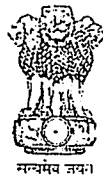
4. **Observations & Recommendations:**

4.1 After perusing the submissions made by the parties, this Court concludes that the Complainant has not disclosed any discrimination on the basis of disability. Further intervention of this Court in the present Complaint is not warranted.

4.2. The case is disposed of accordingly.

Dated: 04.07.2023


(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. 13531/1022/2022

Complainant:

Shri Jeetender Kumar
S/o Shri Amrik Singh
VPO - Dhani Silawali
Tehsil - Siwani, District Bhiwani
Haryana - 127046
Email: jitufromharyana81@gmail.com
dhandaajitu4@gmail.com

K41649

Respondent:

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

K41650

Affected Person: Shri Jeetender Kumar, a persons with 42% Locomotor disability.

GIST OF COMPLAINT:

1.1 Shri Jeetender Kumar, a persons with 42% locomotor disability, filed a Complaint dated 05.10.2022 and submitted that his wife is working as TGT Sanskrit in KVS no. 2 Belgaum, Karnataka whereas he is working in Education Department Government of Haryana. He is a person with disability and depends on others for his daily works. His wife is posted at the above mentioned school since 04.10.2019. He has submitted that a post of TGT Sanskrit is lying vacant in Kendriya Vidyalaya, Hissar Cantt and requested for transfer of his wife to KV Hisar Cantt.

2. The matter was taken up with the Respondent under section 75 and 77 of the RPwD Act 2016 vide notice dated 02.11.2022. followed by reminder dated 29.11.2022 and 13.12.2022 but no reply has been received from the respondent.

3. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 25.04.2023 The following persons were present during the hearing:

Complainant :

Shri Jeetender Kumar

Respondent :

Shri Deepak Kumar Dabral, Asst. Commissioner :

4. OBSERVATIONS AND RECOMMENDATIONS

4.1 Complainant submitted that his wife is working as TGT Sanskrit in KVS no. 2 Belgaum, Karnataka whereas he is working in Education Department Government of Haryana. He is a person with disability and depends on others for his daily works. His wife is posted at the above mentioned school since 04.10.2019. He has submitted that a post of TGT Sanskrit is lying vacant in Kendriya Vidyalaya, Hissar Cantt and requested for transfer of his wife to KV Hisar Cantt.

4.2 During online hearing the Respondent admitted that the post of TGT Sanskrit is vacant in Kendriya Vidyalaya, Hisar Cantt. Further, Respondent submitted that the employee, on whose behalf the Complaint is filed cannot be transferred to KVS Hisar because vacancy at Hisar is subject to Court case and outcome of vacancy may change because of the decision which may come in pending Court case. Respondent further submitted that total 900 cases are pending. Court's decision in these cases may change the whole outcome of vacancies available at different locations.

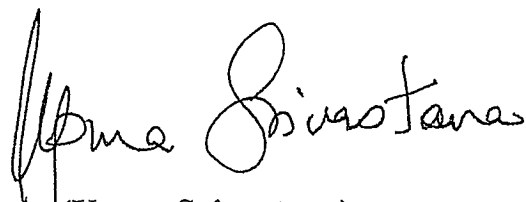
4.3 From the Respondent's reply it is evident that the Court cases are pending with respect to hundreds of vacancies and postings and vacancy at KVS, Hisar Cantt is not the only cause of ongoing Court case. Furthermore, it

cannot be predicted in advance that the outcome of the pending case will affect the vacancy position in KVS Hisar Cantt for certain.

4.4 Hence, this Court concludes that the Respondent's reply is not plausible and the Respondent shall take decision to transfer the employee to KVS, Hisar Cantt in accordance with DoPT O.M. No. 42011/3/2014, dated 08.10.2018. This O.M. extended the scope of O.M. dated 06.06.2014. This O.M. lays down that government employee who serves as care giver of dependent daughter/son/parents/spouse/brother/sister may be exempted from exercise of routine transfer. Further, if the Respondent decides to not transfer the Complainant, it shall inform this Court as to why the relevant O.M. mentioned above is not applicable in the present case.

4.5 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.

4.6 The case is accordingly disposed of.



(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 04.07.2023



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. 13771/1021/2023

Complainant:

Shri Vivekanand Nimesh
 House No. 130, Gali No D/4,
 Chattar Pur Pahadi,
 New Delhi – 110074
 Mobile No – 9717788264
 Email Id - vivekanandnimesh1965@gmail.com

Respondent:

Municipal Corporation of Delhi
 Central Establishment Department
 22nd Floor, Dr. S P Mukherjee Civic Centre
 J L Nehru Marg, New Delhi – 110002
 Email - soenggcedmcd@gmail.com

Affected Person: The Complainant, a person with 50% Locomotor Disability

1. GIST OF COMPLAINT:

1.1 Shri Vivekanand Nimesh, a persons with 50% locomotor disability, filed a complaint dated 12.01.2023 stating that despite being from the SC and PwBD categories and clear from any disciplinary or vigilance angle, he has been ignored for promotion to higher posts even as his juniors have been promoted to the grades of AE and EE. He joined his service in April 2001 and was promoted on ad-hoc basis in April 2022.

2. SUBMISSIONS MADE BY THE RESPONDENT:

2.1 The Respondent filed their reply through e-mail dated 05.04.2023 enclosing letter dated 29.03.2023 and submitted that the Complainant was appointed as JE (Civil) in MCD on 20.04.2001 holding Diploma in CE. They further submitted that as per the existing notified RRs for the post of Assistant

Engineer (Civil), Junior Engineer (Civil) with 06 years regular service in the grade for those possessing Degree in Civil Engineering and 08 years regular service for those possessing Diploma in Civil Engineering are eligible for promotion to the post of Assistant Engineer (Civil).

2.2 The Respondent further submitted that as per the final seniority list dated 09.03.2007, the officer/official having seniority No. 1016 namely Sh. Hardayal Meena, ST, appointed as JE (Civil) on 20.09.2000 (below the name of the Sh. Nimesh, Sty No. 1015) is Degree holder and as per RRs to the post of AE(C) after completion of requisite length of service (06 years), Sh. Hardayal Meena was promoted as AE(C) on regular basis under the ST vacancy vide order dated 16.07.2007. Sh. Vivekanand Nimesh was not eligible at that time as per notified RRs of AE(C), as he had not completed the 08 years regular service in the grade being a diploma holder. The Complainant was promoted to the post of AE (Civil) on ad-hoc basis Vide Office Order dated 01.04.2022 by the erstwhile South DMC.

2.3 It is also important to mention here that the matter for ad-hoc promotion to the post of Assistant Engineer (Civil) w.e.f. the date of his junior is also under consideration.

3. SUBMISSIONS MADE IN REJOINDER:

3.1 The Complainant vide his rejoinder dated 13.04.2023 submitted that the reply of the respondent is ambiguous in nature and misleading without addressing the actual concern. He further submitted that he was eligible for promotion to the grade of AE after 8 years of service, i.e. in the year 2009, whereas he got his next promotion in April 2022. From 2009 to 2022 his juniors (having lower seniority number & holding Diploma in CE) were regularly promoted as Assistant Engineer (Civil) on adhoc basis. His juniors having seniority no i.e 1036 to 1052, also holding Diploma in CE, under general category were also promoted as Assistant Engineer (Civil) on ad-hoc basis overlooking his seniority and without considering the SC/PH Quota and without circulating the General/routine seniority list.

4. Hearing: The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on 22.05.2023. The following persons were present during the hearing:

Shri. Vivekanand Nimesh : **Complainant**

Shri P.K. Jolly, Admn. Officer, MCD : **Respondents**

5. OBSERVATIONS & RECOMMENDATIONS:

5.1 During online hearing the Respondent reiterated that the allegations of the Complainant lack merit because the promotion of other employee, namely Shri Hardayal Meena was done on basis of his seniority in ST category.

5.2 The Complainant insisted that there is discrimination on the basis of disability because the Respondent keeps on changing the seniority list. On this point, the Respondent submitted that various municipalities situated in Delhi have merged and demerged in the past. Because of this merging and demerging exercise, seniority lists have to be prepared and revised from time to time. There is no discrimination with the Complainant on the basis of disability.

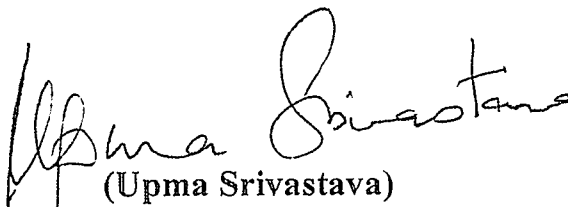
5.3 Present Complaint seems to have arisen out of confusion which exists between the Complainant and the Respondent. Apart from Shri Hardayal Meena, the Complainant was not able to give any other example of a junior employee who was promoted before him. However, he insisted that such instances are happening in the Respondent establishment.

5.4 This Court recommends that both the Complainant and the Respondent shall conduct a meeting within one month from the date of this Order and analyze the records relating to seniority and promotion and the Complainant shall help the Respondent in reviewing the seniority list and also point out any specific instances of irregular promotion, if any.

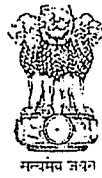
5.5 The Respondent shall inform this Court about the outcome of the meeting and subsequent analysis of records within three months from the date of this Order, failing which it shall be presumed that the Respondent failed to

implement the recommendations of this Court and the matter shall be reported to Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

6. The case is disposed of.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 05.07.2023



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: 13570/1022/2022

Complainant :

Shri Tapan Kumar Sahu

NYK, APA, Jagatsinghpur

Email: tkstapansahu@gmail.com

1412/16

Respondent :

Director General,

Nehru Yuva Kendra Sangathan

Ministry of Youth Affairs & Sports, Govt. of India

4, Jeevan Deep Building, Ground Floor,

Parliament Street, New Delhi-110001

Email: aanyksha@gmail.com

1412/12

GIST OF COMPLAINT :

1.1 Shri Tapan Kumar Sahu, a person with 50% locomotor disability has filed a complaint dated 22.11.2022 regarding transfer to his native place Chhattisgarh.

1.2 He has submitted that he is working in Nehru Yuva Kendra Sangathan (NYKS), an Autonomous Organization under Ministry of Youth Affairs & Sports. He has been posted to a place which is 900 Kms away from his hometown. He requires support for travel and daily works. Due to his disability, it is difficult for him to travel to his hometown. He has submitted his transfer request/reminder several times for posting him near his hometown but the same has not been considered by his office. He also alleged that many employees without the benchmark disabilities have been posted in their hometown or given preference posting/many others posted at same place. He has given the

[Signature]

name of places for posting i.e., NYK Durg, NYK Raipur/SO Raipur, NYK Dhamtari.

2. SUBMISSIONS OF THE RESPONDENT

2.1 Director (Personnel), Nehru Yuva Kendra Sangathan in his reply dated 13.02.2023, has submitted that the Complainant's request for transfer to the NYKS in Chhattisgarh was considered. Shri Tapan Kumar Sahu Joined NYKS on 19.06.2020 and the places requested by him for his transfer to Chhattisgarh are not vacant at present. His request as mentioned in his above referred complaint will be considered sympathetically during the next general transfers of employees in NYKS. Hence, his request has not been acceded to by the Competent Authority.

3. SUBMISSIONS MADE UNDER REJOINDER:

3.1 No rejoinder has been filed by the Complainant.

4. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 30.05.2023. The following were present:

a. Shri Tapan Kumar Sahu	:	Complainant
b. Shri G. S. Raghav, Dy. Director (Legal)	:	Respondent

5. OBSERVATIONS /RECOMMENDATIONS:

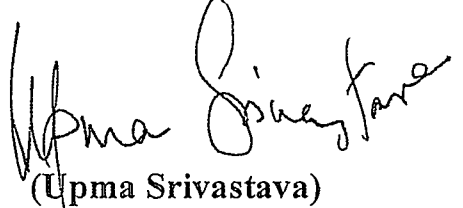
5.1 During online hearing the Complainant submitted that he is posted in Odisha since 6 years. This Court inquired from the Respondent about the problems in sending the Complainant to Chhattisgarh. The Respondent submitted that there are no vacancies at the choice of stations/locations he submitted in his application. The Respondent further submitted that the Complainant can be transferred to other locations in Chhattisgarh where vacancies are available.

5.2 The Complainant submitted that vacancy is available in Rajanandgaon, Chhattisgarh and he is willing to be transferred there. The Respondent agreed

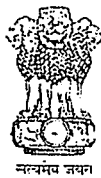
to the request of the Complainant and assured this Court that the Complainant shall be transferred to Rajanandgaon, Chhattisgarh subject to the condition that the Complainant shall file fresh application applying for transfer to Rajanandgaon, Chhattisgarh.

5.4 Since the Respondent has acceded to the Complainant's request hence this Court disposes of this Complaint with a liberty granted to the Complainant to approach this Court again in case the Respondent does not transfer him to Rajanandgaon, Chhattisgarh within 3 months of filing his fresh application.

5.5 This case is disposed of.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 05.07.2023



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. 13843/1013/2023

In the matter of—

Ms. Paridhi Varma,
House No.61/19, Sector 6,
Near Haldi 'Ghati' Gate,
Pratapnagar,
Sanganer,
Jaipur 302033
Email: paridhivarma@gmail.com
Contact: 9956355576

.... Complainant

Versus

The Chairman & Managing Director,
Coal India Limited,
Block -3, Plate-A, 3rd Floor
East Kidwai Nagar Office Complex
New Delhi-110023
Email: cil.delhi@coalindia.in
Phone: +91 11 24624622

.... Respondent

1. Gist of Complaint:

1.1 Ms. Paridhi Varma, a person with 60% Visual Impairment filed a complaint dated 06.02.2023 regarding not issuing appointment letter despite selected for Management Trainee under Advertisement No.3/2022 and Result Notice 10/2022 published by Coal India Ltd.

1.2 She also submitted that after document verification and initial medical examination which gone smoothly, she tried multiple times to reach out the authorities of Coal India Ltd., over email and official telephone numbers, but she did not receive their response. The other selected management trainees had already received their offer letters and most of them had joined their assignments.

2. Submissions made by the Respondent:

2.1 Dy. General Manager [Personnel/HOD (Recruitment)], Coal India Ltd., Kolkata filed its reply dated 30.03.2023 and submitted that subsequent to the initial medical examination, to ascertain clarification with regard to the nature/percentage of her disability mentioned in her disability certificate, she was again medically examined at WCL Nagpur on 24.03.2023 and was declared medically fit for

employment. Offer of Appointment was issued and sent to her by email on 24.03.2023. The Respondent furnished a copy of the same.

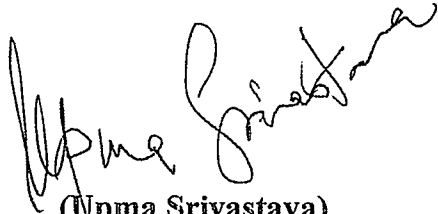
3. Submissions made in Rejoinder:

The Complainant filed her rejoinder dated 24.04.2023 and expressing her gratitude informed that she was going to join the organization on 27.04.2023.

4. Observations & Recommendations:

- 4.1 Having observed that the grievance of the Complainant has been redressed, no further intervention is warranted by this Court in the matter at this stage.
- 4.2 Accordingly the case is disposed of.

Dated: 05.07.2023


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities



Extra

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

Case No. 13338/1011/2022

In the matter of—

Dr. Dharamraj Bhim Bhole;
 Email: discoverability.drp@gmail.com

.... Complainant

Versus

The Registrar,
 University of Allahabad,
 Senate House, University Road,
 Old Katra, Prayagraj,
 Uttar Pradesh 211002
 Email: reg_au@allduniv.ac.in;
 Phones: 0532-2461083, 09415214363

.... Respondent

1. Synopsis of the Case:

1.1 Dr. Dharamraj Bhim Bhole had filed a complaint dated 04.06.2022 against University of Allahabad regarding irregularities in reservation of seats for PwDs for the post of Assistant Professor in the Department of Statistics and Department of Psychology. The case was heard on 18.10.2022 and recommendations were passed vide Order dated 26.12.2022. The operative parts of the recommendations read as under:-

“5.5 During online hearing respondent was asked to submit necessary document to prove that University Counsel has taken decision to allocate 01 additional post in each department and reserved it for divyangjan. However, till date no document has been submitted by the respondent. This Court by using its powers under section 77 of Rights of Persons with Disabilities Act, 2016 grants final opportunity to the respondent to file the document, within 7 days of receiving the copy of this order, to support this claim of allocation of one additional post in each department, failing which the appropriate legal action can be initiated against the respondent as per relevant provisions of Indian Penal Code read with section 77(2) of Rights of Persons with Disabilities Act, 2016.

5.6 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and

the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

5.7 Accordingly the case is disposed off.”

2. Compliance Report filed by the Respondent:

2.1 The University of Allahabad vide letter dated 03.01.2023 has submitted its Compliance Report in respect of the order passed by this Court in this case. The respondent has reported that –

(1) In rejoinder dated 29.08.2022, the allegation made by the complainant that University Guest House is not accessible for Divyangjan, is not tenable because the venue is having ramp for easy access and the interview of Divyangjan candidates is held at the ground floor of the University Guest House.

(2) Actual number of selected candidates and unfilled positions of each category are regularly uploaded on the University Website through E.C. Minutes after declaration of results.

(3) As regards the Observations at Point 5.5 of the Order, in the hearing it was clearly mentioned that all Divyangjan posts which could not be filled due to any reason, would be re-advertised in July 2023 and appointment on them would be made at the earliest. No rule of UGC/HRD prescribes 01 additional post in each department for Divyangjan. Therefore, observation in para 5.5 cannot be followed as they are in contradiction to Govt. of India rules for Divyangjan.

3. Hearing:

Upon considering the Compliance Report dated 03.01.2023 filed by the Respondent, a Hearing (Online through Video Conferencing) was conducted on 13.04.2023. The following persons were present during the hearing:-

- (1) Dr. Dharamraj Bhim Bhole, the complainant in person.
- (2) Shri Narendra Kumar Shukla, Registrar; Prof. Dharmendra Yadav, Director, Faculty (Recruitment Cell); and Prof. Manmohan Krishna, Advisor, Faculty (Recruitment Cell) for the Respondent.

4. Observations & Recommendations:

4.1 During online hearing conducted on 18.10.2022, Respondent submitted that the University Council had taken a decision to allocate one post in Department of Statistics and Department of Psychology. This Court asked the Respondent to send a copy of decision taken by University Council and the Respondent had also assured that a copy would be furnished to this Court. Later, by letter dated 03.01.2023, the Respondent informed this Court that no additional post can be allocated as per UGC rules.

4.2 Later during online hearing conducted on 13.04.2023 the Respondent clarified that due to confusion incorrect information was passed. The Respondent submitted that the decision was taken to treat unfilled reserved vacancy as ‘backlog’ or it can be re-advertised or an unfilled vacancy in other department can be filled with a Person with Benchmark Disability (hereinafter ‘PwBD’) candidate treating it as reserved for PwBD. The Respondent further submitted that the reserved vacancies which

remained unfilled under impugned recruitment process would be re-advertised in July, 2023 treating them as reserved for PwBD candidates.

4.3 This Court accepts the clarification given by the Respondent with recommendation to the Respondent to exercise caution and attend hearing and make submissions only after analyzing the facts and rule position in detail.

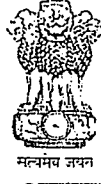
4.4 The present Complaint is disposed of with liberty granted to the Complainant to approach this Court again in case the unfilled reserved vacancies are not re-advertised in July, 2023 as submitted by the Respondent during online hearing on 13.04.2023.

4.5 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.

4.6 Accordingly the case is disposed of.

Dated: 05.07.2023


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

*Extra*

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

Case No. 13635/1014/2023/162988

In the matter of—

Shri Jude Vishal A
 Email: judevishal2004@gmail.com
 Phone: 9884545374

141700

.... Complainant

Versus

(1) The General Manager,
 Southern Railway,
 General Branch,
 1st floor NGO Main Building,
 Park Town, Chennai- 600003;
 Email: gm@sr.railnet.gov.in

141701

.... Respondent No.1

(2) DG(Emp)/Additional Secretary,
 Ministry of Labour & Employment,
 Shram Shakti Bhawan,
 Rafi Marg,
 New Delhi 110001
 Email: as-labour@nic.in

141702

.... Respondent No.2

1. Gist of Complaint:

1.1 Shri Jude Vishal A, filed a complaint dated 04.10.2022 regarding Non-implementation of Section 34 of the Rights of Persons with Disabilities Act, 2016 in the Notification No.01/2022 dated 29.09.2022 issued by Southern Railway for engagement of Apprentices under Apprentices Act, 1961.

1.2 He submitted that he is a person with Specific Learning Disability, however, he did not submit disability certificate. He was trying to apply for apprenticeship in Indian Railways (Southern Railway and Integral Coach Factory) in Tamil Nadu. But, in the Notification, only 03 disabilities i.e. VH, HH and OH) out of 21 disabilities were included, therefore, he was unable to apply for apprenticeship. The last date for applying online was 31.10.2022. When contacted by the Complainant, the Respondent told him that they had yet to receive the orders from Railway Board and Ministry of Skill Development and Entrepreneurship for implementation of section 34 of the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as "the Act".

[Signature]

1.3 He prayed that Southern Railway may be directed to include Specific Learning Disability under disability category for consideration under PwBD reservation.

2. Submissions made by the Respondent:

2.1 The Respondent filed their reply dated 25.02.2023 and submitted that the Notification for engagement of apprenticeship are issued in accordance with the Apprentice Rules, 1992 issued by the Ministry of Labour and Employment, Director General of Employment and Training vide their letter No. DGE&T(3)2005/AP dated 24.04.2006. In view of the Gazette Notification dated 04.01.2021 issued by DEPWD/MSJE; and in the absence of specific orders from the Director General of Employment and Training, Southern Railway is not in a position to extend/notify in accordance with Section 34 of the Act in the instant case.

2.2 In view of the request made by the complainant, the Deputy Chief Personnel Officer, Carriage and Wagon Works, Perambur, vide letter dated 08.02.2023, had requested Regional Directorate of Apprenticeship Training to identify the trades that are allotted for each category mentioned in sub clause (d) & (e) of clause 1 of section 34 of the Act and the reply is still awaited. On receipt of suitable advice from RDAT, Railways shall take necessary remedial measure in this aspect.

3. In the light of the reply filed by Southern Railway, prima-facie there appeared violation of sections 33 and 34 of the Act. The Director General of Employment and Training, M/o Labour and Employment was impleaded as Respondent No.2 and the case was scheduled for hearing.

4. Hearing:

The case was heard via Video Conferencing on **16.05.2023**. The following persons were present during the hearing:

- (1) Shri Jude Vishal A, the Complainant along with his father Shri Anthony I.
- (2) Shri M. Senthyl Kumar, Dy. Chief Personnel Officer; and Shri Vipin Saini, Dy. Chief Personnel Officer for the Respondent

5. Observations & Recommendations:

5.1 During online hearing, the Respondent No. 1 explained that apprenticeship is not a regular employment. Apprentices are engaged for 1 year only to train them as per the trade.

5.2 Furthermore, the Respondent No. 2 submitted that they have agreed to consider Person with Benchmark Disabilities having Specific Learning Disabilities ('SLD') and other disabilities for giving training of different types of trades.

5.3 Intervention of this Court in the present Complaint is not warranted because of two reasons, firstly, the issue raised is not related to recruitment for regular employment and secondly, the Respondent No.2 has agreed to consider Persons with

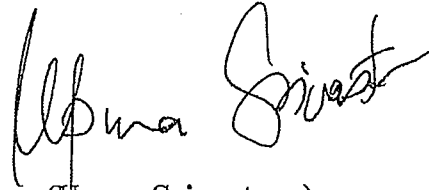


Benchmark Disabilities having SLD and other disabilities for imparting training of various trades, therefore, the issue stands resolved.

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

5.5 Accordingly the case is disposed of.

Dated: 05.07.2023



(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. 13698/1024/2023

Complainant:

Shri Devendra Kumar
 TGT (SS),
 Jawahar Navodaya Vidyalaya,
 Vill. Sagga, Distt. Karnal,
 Haryana- 132001
 Mobile No. 9785806588
 Email: devendra791@gmail.com

Respondent:

The Regional Office
 Navodaya Vidyalaya Samiti
 Jaipur Region, Sector-5,
 Near Parishkar College,
 Behind HCG Hospital,
 Mansarovar, Jaipur- Rajasthan- 302020

1. Gist of Complaint:

1.1 शिकायतकर्ता 75% चलन अक्षमता व्यक्ति, श्री देवेंद्र कुमार ने दिनांक 21.11.2022 को अपनी शिकायत दर्ज की है,

1.2 शिकायतकर्ता ने कहा कि जुलाई 2018 में विद्यालय में नियुक्ति के बाद उन्होंने दोगुने परिवहन भत्ते की स्वीकृति के लिए आवेदन दिया, परिणामस्वरूप उन्हें पहली बार अगस्त 2018 से दोगुने परिवहन भत्ते का लाभ दिया जाने लगा जो कि बगैर किसी पूर्व सूचना के सितम्बर 2020 से बंद कर दिया गया।

1.3 शिकायतकर्ता ने कहा कि 2021 को विद्यालय द्वारा उन्हें पहली बार सूचित किए गया कि विकलांग कर्मचारी के रूप में जुलाई 2018 से अगस्त 2020 तक मिले परिवहन भत्ते के लाभ पर अगस्त 2020 विद्यालय में किये गए अंकेषण में यह आपत्ती जताई है की उन्होंने सक्षम पदाधिकारी के द्वारा दोगुने परिवहन भत्ता स्वीकृति का

अनुशंसा प्रमाण पत्र जमा नहीं किया है या सक्षम अधिकारियों से स्वीकृति नहीं ली है अर्थात् मेडिकल बोर्ड द्वारा जारी दिव्यांगता प्रमाण पत्र होने के बावजूद भी परिवहन भत्ते के लिए उनको दोबारा से सक्षम अधिकारी से अनुशंसा करवाना था। इसलिए उनको दोगुने परिवहन भत्ते के 53352 रुपए वापस जमा करने होंगे, अन्यथा उनके वेतन से वसूली की जाएगी।

1.4 शिकायतकर्ता ने कहा कि उनके दिव्यांग होने का उल्लेख नवोदय विद्यालय समिति में उनकी नियुक्ति प्रक्रिया के प्रत्येक चरण में है तथा सामान्य जिला चिकित्सालय अलवर (राजस्थान) के सक्षम अधिकारियों (मेडिकल बोर्ड) द्वारा निर्धारित प्रारूप में जारी किया गया दिव्यांग प्रमाण-पत्र (UDID CARD) उनके सेवा अभिलेखों में सलग्न भी है।

1.5 शिकायतकर्ता ने कहा कि उसे विभाग के द्वारा मार्च 2021 से पहले दोगुने परिवहन भत्ते के लिए सक्षम अधिकारी से अनुशंसा करवाने/स्वीकृति लेने के लिए कोई पत्र दिया भी नहीं गया।

2. Submissions made by the respondent:

2.1 उपायुक्त, नवोदय विद्यालय समिति ने अपने पत्र दिनांक 03.03.2022, के द्वारा जवाब दिया, जो इस कार्यालय को दिनांक 10.03.2023 को प्राप्त हुआ था, जिसके द्वारा अवगत कराया कि उनके कार्यालय के पत्र संख्या एफ़ .19-46/नविस-जसं / लेखा एवं वित्त (आईए)/2022-23/13666 दिनांक 21.02.2023 के तहत श्री देवेन्द्र कुमार, TGT (सामाजिक विज्ञान) के दोगुने परिवहन भत्ते के सम्बन्ध में अंकेक्षण दल द्वारा निकली गयी वसूली माह मार्च, 2018 से अगस्त, 2020 तक के लिए अंकेक्षण वसूली योग्य कुल राशी रुपए 53352/- की कार्योत्तर स्वीकृति प्रदान करते हुए प्रस्तर (Para) निरस्त कर दिया गया है।

2.2 प्रतिवादी ने यह भी सूचित किया कि प्राचार्य , जवाहर नवोदय विद्यालय जिला करनाल ने अपने कार्यालय आदेश संख्या एफ.पी.एफ /जेएनवीएस/2002-23/1602 दिनांक 24.02.2023 के तहत श्री देवेन्द्र कुमार, TGT (सामाजिक विज्ञान) को दोगुना परिवहन

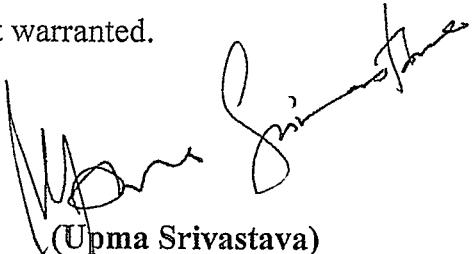
भत्ता माह अक्टूबर, 2020 से मार्च, 2021 तक की कुल राशी 12,636/- भी स्वीकृत की है। श्री देवेन्द्र कुमार, TGT ने अपने अनुरोध पत्र दिनांक 24.02.2023 के माध्यम से मुख्य आयुक्त दिव्यनंजन, नई दिल्ली को प्रेषित करते हुए सूचित किया है कि परिवहन भत्ते के लाभ स्वीकृति पर लगायी गयी आपत्ति को निरस्त कर बकाया राशी का भुगतान कर मामले का निपटारा कर दिया गया है। उपरोक्त के आलोक में सम्बंधित कार्मिक के सभी देय नियमानुसार निर्गत कर दिए गए हैं। कार्मिक ने भी अपने प्रतिवेदन दिनांक 24.02.2023 में अनुरोध किया है की मामले को बंद कर दे।

2.3 प्रतिवादी ने कहा कि सम्बंधित कार्मिक द्वारा की गयी शिकायत का निपटान हो चुका है।

3. Observations & Recommendations:

3.1 Complainant raised the issue of Double Transport Allowance. The Respondent informed this Court that the issue has now been resolved and grievance of the Complainant has been redressed. After perusal of the submissions made by the Complainant and the Respondent this Court is satisfied with the reply of the Respondent. Further, intervention of this Court is not warranted.

3.2 The case is disposed of accordingly.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated: 05.07.2023



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

परिवाद संख्या -13584/1024/2022/172352

परिवादी :

Shri Mithilesh Kumar

Email: mtarway123@gmail.com

LU1679

प्रतिवादी:

The Chairman

East Central Railway

5th Floor, C-Block, Maurya Lok Complex

Patna- 800001

LU1680

1. परिवाद का सार:

1.1 श्री मिथिलेश कुमार, 50 % दृष्टिबाधित व्यक्ति ने विभागीय परीक्षा में दृष्टि दिव्यांगता रेलवे कर्मचारी को चिकित्सा जांच में दिव्यांगता का लाभ नहीं दिये जाने सम्बंधित शिकायत प्रस्तुत की।

1.2 उनका अपनी शिकायत दिनांक 28.11.2022 में कहना है कि उक्त परीक्षा में उनका चयन प्रवर लिपिक के पद पर हुआ था, परन्तु चिकित्सालय जांच दृष्टि दिव्यांगता के आधार पर नहीं हुआ। उनके अनुसार उन्हें सिर्फ दिव्यांगता के आधार पर अंतिम पैनेल से बाहर रखा गया। शिकायतकर्ता ने कहा कि वह वरीय प्रशाखा अभियंता कार्य पूर्व मध्य रेल, गया के अधीन चौकीदारी के पद पर कार्यरत है।

1.3 शिकायतकर्ता ने कहा दिनांक 28/01/2020 को C.B.T परीक्षा हुआ और इसमें उन्हें दिव्यांगता का लाभ मिला जिसमें उन्हें Scribe और compensatory टाइम दिया गया। एवं दिनांक 20/03/2022 को टंकण कौशल जांच हुआ जिसमें उन्हें typing exemption प्रमाण पत्र प्रस्तुत करने के पश्चात् उन्हें टंकण से छुट दिया गया। दिनांक 26.07.2022 को उनके दस्तावेजों का सत्यापन हुआ। दस्तावेज सत्यापन के पश्चात दिनांक 27.07.2022 को चिकित्सकीय जांच के लिए पूर्व मध्य रेलवे चिकित्सालय पंडित दीन दयाल उपाध्याय भेजा गया। शिकायतकर्ता का कहना है कि C.B.T परीक्षा, टंकण कौशल जांच एवं दस्तावेज सत्यापन के लिए

रेलवे भर्ती प्रकोष्ठ पूर्व मध्य रेल पटना के द्वारा जो प्रवेश पत्र जारी किया गया था उसमें Community में O.B.C के साथ P.W.D और VI यानि दृष्टि दिव्यांगता को नहीं दर्शाया गया और सामान्य अभ्यर्थी के तर्ज पर मेडिकल लिया गया अर्थात दिव्यांगता का लाभ नहीं दिया गया परिणाम स्वरूप उन्हें मेडिकल में अनफिट कर दिया गया और उनका नाम अंतिम चयन सूची में शामिल नहीं किया गया।

1.4 शिकायतकर्ता बताना चाहता है कि रेलवे बोर्ड के पत्र संख्या E(NG) M/2017/RC-2/ Policy दिनांक 28/06/2017 एवं पूर्व मध्य रेल हाजीपुर के पत्र संख्या E/227/O/ECR/HJP/ दिनांक 20/07/2017 के 15 नंबर पॉइंट में स्पष्ट किया गया है कि मेडिकल जाँच इस तथ्य पर ध्यान दिए बिना कि पद अरक्षित अथवा अनारक्षित है। शिकायतकर्ता ने कहा कि इसी परीक्षा में प्रवर लिपिक पद (Category No-20) के लिए श्री अमृत राज, दृष्टि दिव्यांग (Master Canid No-111079 एवं C.B.T. Roll Number- 6010109020) भी एक प्रत्याशी थे, जिनको पूर्व मध्य रेलवे चिकित्सालय समस्तीपुर के द्वारा फिट किया गया और अंतिम चयन सूची में शामिल किया गया परन्तु उन्हें अंतिम चयन सूची में शामिल नहीं किया गया।

2. प्रतिवादी द्वारा प्रस्तुत उत्तर-

2.1 अध्यक्ष, आरआरसी ने प्रतिवादी की तरफ से उत्तर फाइल किया एवं कहा कि जीडीसीई के अधिसूचना संख्या ईसीआर/ एच्आरडी/भर्ती/जीडीसीई/2018 के शुद्धि पत्र दिनांक 19.07.2019 में यह जिक्र किया गया है की RBE No. 65/2019 दिनांक 23.04.2019 में दिए गए निर्देश के आलोक में जीडीसीई कोटा के तहत चयन में PwBD अभ्यर्थियों/ कर्मचारियों के आरक्षण का प्रावधान को समाप्त कर दिया गया है। उनका कहना है कि इस मामले की जांच की जा रही है एवं जांच के उपरांत इस न्यायालय एवं आवेदक को इस सम्बन्ध में विस्तृत सूचना उपलब्ध करायी जाएगी एवं इस सन्दर्भ में नियमानुसार आवेदक द्वारा उठाये गए बिन्दुओं पर कार्यवाही की जाएगी।

3. **Hearing:** The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 01.06.2023. The following were present in the hearing:

(1) Shri Mithilesh Kumar – **Complainant**

(2) Shri Jaiprakash, Chairman RRC, Patna- **Respondent**

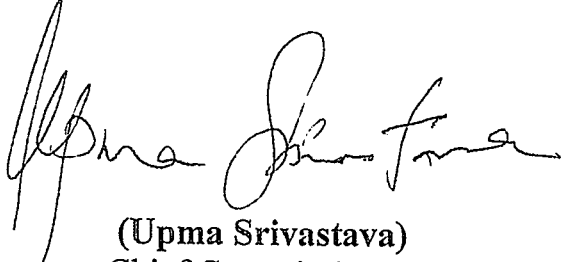
4. Observations & Recommendations:

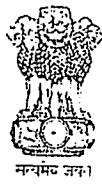
4.1 During online hearing the Respondent submitted that the case of the Complainant was examined and it was decided that medical examination of the Complainant will be conducted again as per the disability standards. The Respondent further assured this Court that the Complainant's medical examination shall be re-conducted within 1 month.

4.2 It is pertinent to mention that as per DoPT O.M. No. 36035/02/2017-Estt(Res) dated 15.01.2018, it is mandatory to inform the Medical Board that the post is identified suitable for Person with Benchmark Disability and medical examination of the candidate shall be conducted keeping the fact of disability in view.

4.3 This Court recommends that the Complainant shall be re-examined keeping in view the disability of the Complainant. Further, the Respondent shall file the Compliance Report of this Order within 3 months from the date of this Order, failing which it shall be presumed that the Respondent has not implemented the Order without reason and the matter shall be reported to the Parliament in accordance with section 78 of Rights of Persons with Disabilities Act, 2016.

Dated: 05.07.2023


(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. 13786/1021/2023

Complainant:

Shri Gudise Abraham
 Inspector of Income Tax (Retd)
 Door No 6-18/2, Museum Road,
 Palnadu District, Andhra Pradesh,
 Amaravathi – 522020

241661

Respondent:

Shri Atul Pranay,
 The Pr. Chief Commissioner of Income Tax,
 Telangana & A.P., A.C. Guards,
 Hyderabad – 500004

241662

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

[Signature]

1. GIST OF COMPLAINT:

1.1 Shri Gudise Abraham, a person with 75% locomotor disabilities, filed a complaint dated 31.01.2023 alleging that the CCIT has prepared a seniority list of direct recruits of ST and SC candidates and promoted them in their feeder cadres within 3 to 4 years. Thus, those who joined the department after his joining i.e. on 13.08.1982 are all juniors but they got their promotions before him.

1.2 He joined as an LDC in PH quota in IT Department, Hyderabad dated 13.08.1992 in Income Tax Department through Staff Selection Commission. He passed Ministerial Staff Examination conducted by the Department in the year 1983 and promoted as UDC on 24.08.1991 under the vacancy reserved for the Scheduled Caste candidates.

2. SUBMISSIONS MADE BY THE RESPONDENT:

2.1 DCIT (Hqrs)(Admn), O/o Pr CCIT filed their reply dated 05.04.2023 and inter-alia submitted that the Complainant joined the department on 13.08.1982 in the cadre of LDC under PH quota as a Hindu under SC category. Subsequent to his joining and after earning the promotion of UDC on 17.09.1991, in SC quota. The Complainant intimated the department on 28.02.1995 that he has embraced Christianity with effect from 12.02.1995. Even though, the complainant lost the status as a Scheduled candidate on embracing the Christianity, he was not denied any reservation under PH category, in promotion. He retired from government service on 30.06.2008, in the cadre of Inspector of Income Tax. The Complainant was given promotion in the appropriate category, after duly considering under PH quota.

2.2 Respondent further submitted that the eligibility for promotion to the grade of Assistant is minimum of 03 years of regular service in the grade of UDC and passing 4 subjects i.e., IT Law-II, Other Taxes and Office procedure, of the departmental examination for Income Tax Inspectors with 40% marks for UR category and 35% marks for SC category. The official passed the said subjects in the year 1995 and become eligible for promotion for the year 1995-96 only. His candidature was considered under PH quota in the DPC held for the promotion to the cadre of Tax Assistant and promotion orders was issued on 19.03.1996. The Complainant was promoted as Office Superintendent, as per his seniority on 18.06.2001.

2.3 The promotion for Inspectors was given as per the instructions given by the CBDT in F.No.48/1/2001-AP/DOMS/141 dt. 04.06.2021. His candidature was considered in general category though he passed the exam under relaxed category mentioned for SC candidates. The Complainant passed the Income Tax Inspectors examination under relaxed category in SC quota, though he has embraced the Christianity. The CBDT communicated vide it's letter dated 16.01.2023 that it has considered the Complainant as to have passed the inspectors exam.

3. SUBMISSIONS MADE IN REJOINDER:

3.1 The Complainant filed his rejoinder dated 13.04.2023 and submitted that as per the DOPT OM dated 01.04.1989, he should have been promoted as UDC in 1989 itself, which he did in 1991. He also alleged that a junior officer, Shri Y. Prasadudu was promoted as Tax Asstt, before him in 1996. He has accordingly requested for revision of Inter Se Seniority and his pay and allowances.

4. Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 30.05.2023. The following persons were present during the hearing:

Complainant :

Shri Gudise Abraham, Inspector of Income Tax (Retd)

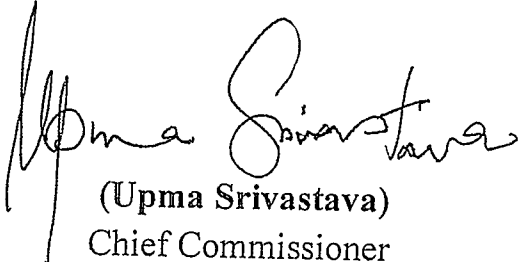
Respondents :

Shri Thamba Mahendra, Dy. Commissioner (IT)

5. OBSERVATIONS & RECOMMENDATIONS:

5.1 After perusal of the submissions and supporting documents filed by the Complainant and the Respondent, this Court concludes that the Reply filed by the Respondent is satisfactory. Intervention of this Court in the present Complaint is not warranted.

6. The case is disposed of.


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Dated: 05.07.2023



परिवाद संख्या 13562/1011/2022/173423

125

Extra

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

Case No. 13562/1011/2022

In the matter of—

Shri Suresh Chand,
 Village Goth, Tehsil Reejgarh
 Alwar, Rajasthan
 Email -sureshchand946@yahoo.com

RM1786

... Complainant

Versus

The Registrar,
 University of Delhi
 Delhi – 110007
 Email - registrar@du.ac.in

RM1787

... Respondent

1. Gist of the Complaint:

The Complainant has raised issue of denial of reservation in Direct Recruitment process for the post of Librarian conducted by the Respondent Establishment in 2022. The Complainant alleged that the Delhi College of Arts and Commerce which is affiliated by the Respondent Establishment did not reserve the Librarian Post for Persons with Benchmark Disabilities. The Complainant further alleged that the College is in practice of not appointing any Person with Benchmark Disability against Group A non-teaching posts in the College.

2. Gist of the Reply:

University of Delhi (hereinafter 'the University') in its Reply dated 26.12.2022 submitted that in accordance with Para 7.4 of DoPT's O.M. No. 36035/02/2017-Estt (Res.) dated 15.01.2018 Head of Institution has right to allocate any vacancy in particular block of 25 points for Persons with Benchmark Disabilities. Further it is submitted that since there was only one vacancy available in Group A non-teaching post, hence, the Head of Institution decided to keep it unreserved and reserved subsequent vacancy for Persons with Benchmark Disabilities.

1 | Page

3. Gist of the Rejoinder:

3.1 The Complainant in his Rejoinder dated 06.02.2023 stated that as per Point No.7.4 of the Office Memorandum dated 15.01.2028, the Head of the Institution, the Principal of DCAC College, through the roster of Divyangjan, had allocated the vacancy of Librarian in the year 2018 duly approved by the University of Delhi. Consequently, the college had issued Advertisement No. DCAC/Advt.NT/2018/01 dated 17.02.2018 for recruitment to the post of Librarian in the recruitment year 2018. Thus, in the recruitment year 2018, the subsequent recruitment year i.e. in the recruitment year 2022 of the advertisement for the post of Librarian in DCAC College, the next extremity to fill up the said vacant post was to follow the Point No.8.1 of the above mentioned Office Memorandum dated 15.01.2018 which the college did not do deliberately for the purpose of making illegal appointment of its predetermined internal candidate/employee "Mrs. Poonam Rani" by hiding the actual facts.

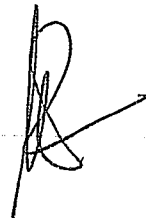
4. Hearing:

4.1 The case was heard via Video Conferencing by the Chief Commissioner for Persons with Disabilities on **11.04.2023**. The following persons were present during the hearing:

- (1) Shri Suresh Chand, the Complainant along with the Advocate Anil Kumar Saxena
- (2) Shri Parv Garg, Advocate for University of Delhi
- (3) Shri Mahinder Rupal, Advocate for Delhi College of Arts & Commerce

4.2 During the hearing, the Complainant submitted that there are 5 non-teaching Group 'A' posts in the Respondent Establishment and from the year 1994 till date Respondent has not filled even 1 post with PwBD person. The Respondent No.1 in its written reply submitted that as per Point No.7.4 of DoPT O.M. dated 15.01.2018, the Head of Establishment has power to allocate any one vacancy in the block as reserved for divyangjan.

4.3 The Ld. Counsel for Delhi College of Arts & Commerce also appeared along with the Respondent No.1 and requested the Court to grant time to file written reply.



4.4 This Court granted final opportunity to the Delhi College of Arts & Commerce, which is mentioned hereafter as 'the College', to file its written Reply within 15 days of receiving the copy of the Order, failing which the right of the Respondent to file written Reply shall extinguish and this Court will proceed accordingly.

4.5 The next hearing was fixed for **08.06.2023**.

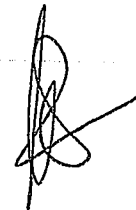
5. The College filed its reply on affidavit dated 21.04.2023 and submitted that the Post of Librarian was not reserved for PwBD or for any other category because it is a 'stand-alone' post and hence, as per the DoPT's rules and UGC's guidelines, it was not reserved. The College placed heavy reliance on clarification issued by the UGC in this regard, which was attached by the college along with the reply submitted

6. However, before the hearing took place on 08.06.2023, the Complainant sought extension of time at least two weeks.

7. Observations & Recommendations:

7.1 The main issue which needs contemplation of this Court is whether disability right has been violated because of not reserving the Post of Librarian for Person with Benchmark Disabilities. This Court completely disagrees with the Reply filed by the University. Para 7.4 of the DoPT's O.M. dated 15.01.2018 does not give unfettered liberty to reserve any point out of 25 points in reservation roster. The Paragraph clearly lays down that out of 25, the very first point has to be kept reserved for PwBD candidate. In case the first point is not reserved, next point has to be kept reserved for PwBD candidate. The Para is mentioned below –

“7.4 All the vacancies arising irrespective of vacancies reserved for Persons with Benchmark Disabilities shall be entered in the relevant roster. If the vacancy falling at point No.1 is not identified for the Person with Benchmark Disability or the Head of the Establishment considers it desirable not to fill it up by the Persons with Benchmark Disabilities or it is not possible to fill up that Post by the Persons with Benchmark Disabilities for any other reason, one of the vacancies falling at any of the points from 2 to 25 shall be treated as reserved for the Person with Benchmark Disability and filled as such”



7.2 From the perusal of the paragraph it is certain that first point may not be kept reserved for PwBD candidate only for any one of the three reasons, which are a) vacancy at Point No. 1 is not identified suitable for PwBD, or b) Head of the Establishment considers it desirable not to fill it up by PwBD or c) it is not possible to fill it by PwBD candidate.

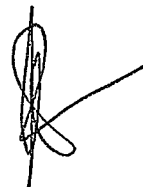
7.3 The University has failed to prove that the vacancy at Point No 1 was not identified suitable for PwBD candidate. As far as second reason is concerned, it is impertinent to note that any decision of the Head of Establishment to consider it non desirable to fill Point No.1 with PwBD must be reasoned decision. It is cardinal principle of administrative law that every decision should be reasoned decision so as to rule out any possibility of arbitrariness. The University failed to provide any reason so as to satisfy any ground for not reserving Point No. 1, as mentioned in Para 7.4 of the O.M. dated 15.01.2018.

7.4 This Court also had opportunity to analyze the Reply filed by the College, in which the College made reliance on UGC's clarification. The Court perused the UGC's clarification annexed by the Respondent along with the Reply. Clarification is dated 19.06.2019 and states that the UGC has sanctioned/approved one Post of Librarian in each College affiliated to University of Delhi. Further it says that as per DoPT's rules, the Post of Librarian is an isolated post and, therefore, it does not fall under the ambit of reserved category i.e. SC/ST/OBC/EWS/PwD.

7.5 The Court is satisfied with the Reply of the College. The reason behind not reserving single isolated post is that in case if such post is reserved for PwBD then the quantum of reservation will touch 100% which will result into a situation in which non PwBD candidates shall be excluded from the opportunity of appointment against the Post.

7.6 Hence, intervention of this Court in the issue of denying reservation on the Post of Librarian is not warranted. However, this Court recommends that the College must review its records and must ensure that reservation in Direct Recruitment is extended in all vacancies in accordance with DoPT's O.M. dated 15.01.2018.

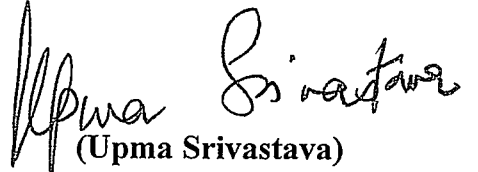
7.7 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit




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.

7.8 Accordingly, the case is disposed of.

Dated: 11.07.2023


(Upma Srivastava)
Chief Commissioner
for Persons with Disabilities

Copy to:


The Principal,
Delhi College of Arts & Commerce
(University of Delhi)
Netaji Nagar,
New Delhi - 110023



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.13696/1023/2023

Complainant:

Shri Jaya Kumar
 Jayakumar K. CPF No. 32424
 Chief Manager (E6)
 NLC India Ltd, 41-B, Type-III qtrs.
 Block-12, Neyveli, Tamilnadu- 607803
 Mobile: 9488828936
 Email: jayakumar_k@nicindia.in

Versus

Respondent:

The Director/ HR
 NLC India Limited
 Neyveli, Tamilnadu- 607803

1. Gist of the Complaint:

1.1 The Complainant Shri Jayakumar.K., a person with 85% Locomotor Disability has filed a Complaint dated 01.01.2022, into four parts i.e. Reasonable Accommodation, Preponing the date of Redesignation to 'Chief Manager', Restore leave availed for treatment of chronic fracture at L2, a sequel to the injury suffered in 2001, Reimbursement of expenditure incurred on the purchase of ROHO high-profile wheelchair cushion and 'Neomotion'-wheelchair-power attachment.

1.2 He submitted that he is working as a Chief Manager (CPF No. 32424) for NLC India Ltd. He is a high level (T3 complete) paraplegic with 85% disability, since 2001, due to an industrial accident. He was not taken back on the roll by his employer after his accident in 2001. He got his job back thankfully after the intervention of CCPD (Case No.2962/2005). He started commuting by an invalid carriage from 2015. The divyang car shed is about

150 meters away from his Office. Without someone bringing the manual wheelchair from his Office room to his car in the morning, and back in the evening, it is impossible for him to attend Office. After years of request to post an attendant in Medical Records Department Section, of which he has been posted as in-charge, one Shri Pandurangan, CPF No. 49155, a 'Service Worker', was posted on 20-01-2022. Since then, he used to bring MWC from Office to the car in the morning and back, in the evening (shift hours 09:30hrs to 17:30hrs). He also used to run errands and fetch him drinking water and tea from canteen, which is about 250 meters away and has a ramp with a slope of about 35 degrees. He was relieved from MRD/NLC India Hospital on 30-09-2022 as per the mutual transfer order dated 12-09-2022.

1.3 He further submitted that Shri Singaram, CPF No. 49428, Assistant Service Worker, his replacement had reported at NLC India Hospital (NLCIH), but he has not been posted in Medical Records Department. On 06-10-2022, in the morning no one came to fetch him his wheelchair. After waiting in his car till 10:37 hrs he left home, fearing sitting any longer on the car seat could cause gluteal pressure ulcers. He further submitted that in February 2019, he developed a chronic fracture at L2 as a sequel to the spinal injury already suffered, in 2001, and had undergone six spine surgeries. About 21 years of propelling wheelchair has left him with painful shoulders. These days, he cannot propel even for a few meters without excruciating shoulder pain. Without attendant's help he cannot reach the Office room from car in the morning. He has requested that the NLCIH authority be ordered to post someone in MRD to assist him on duty and perform the duties of attendant at MRD and regularize attendance on 06.10.2022.

1.4 He attended the first interview for selection for redesignation to 'Chief Manager' from 'Additional Chief Manager' on 23-10-2020 at Neyveli House, Block -1, which was not accessible to him. He was physically carried into the building with wheelchair that was humiliating. The redesignation entails no monetary benefits, not even a



promotion increment. The DPC did not recommend him for redesignation in spite of the fact that he scored one 'OUTSTANDING' during the three preceding years, period of performance usually considered for redesignation. He attended the second interview for selection for redesignation to 'Chief Manager' on 28-08-2021 through video conferencing from home. He has been redesignated as 'Chief Manager' since 01-07-2021. He requested to provide him the benefit of reservation in promotion and his date of redesignation may be preponed to 01-07-2020.

1.5 He suffered a chronic fracture at L2 as a sequel to the spinal cord injury acquired in 2001 in an industrial accident, by no fault of him. He had undergone six spine surgeries on 12.03.2019, 08.10.2019, 29.10.2019, 08.11.2019, 24.12.2019 & 12.07.2021. To take treatment (spine stabilisation) for the fracture and consequent medical complications (infection of implants and subsequent removal of them, months later) he has availed leave. He submitted that if not for the chronic fracture at L2, which was a sequel to the spinal cord injury acquired in an industrial accident in 2001, the leave [17 days EOL (Loss of pay), 82 days Cumulative Medical Leave, 70 days Half -Pay Leave & 126 days Earned Leave] would have been in his account.

1.6 He further submitted that till the chronic fracture of L2 vertebra, he used to experience spasticity in his lower limbs, which helped in retaining some gluteal muscles. So, the foam cushion bought with the 'ottobock' wheelchair, sponsored by his employer, in 2010 was mostly sufficient to prevent pressure ulcers. But, after the L2 fracture, the spasticity was gone, resulting in further loss of gluteal muscle mass. On 27-01-2021, he gave letter to Director/HR through proper channel to provide funds to buy a high-profile wheelchair cushion. After suffering several episodes of gluteal pressure ulcer, from 26-10-2021 to 30-12-2021, he bought the high-profile cushion on 15-12-2021. He was on loss of pay for 51 days.



1.7 He requested that the Respondent may be directed to reimburse the expenditure incurred on buying a high-profile wheelchair cushion and the neomotion WC+Powered attachment. If his employer had taken a decision about sponsoring the purchase of the wheelchair cushion and intimated him in time, he would not have suffered loss of pay for 51 days due to pressure ulcer. Also, the pressure ulcer is an off shoot of his industrial-accident-caused disability. So, his employer may be directed to repay the salary deducted against those 51 days of Extra-Ordinary Leave.

2. The matter was taken up with the Respondent vide letter dated 30.01.2023 under Section 75 of the RPwD Act, 2016.

3. Submissions made by the Respondent:

3.1 In response, Executive Director (HR), NLC India Limited, vide letter dated 22.03.2023, has submitted that NLC India Hospital is a 350-bed hospital serving to all employees/contract workmen / CISF and public in and around Neyveli and offering emergency care and trauma care to employees round the clock. The services of the employees posted in Hospital are being utilised based on the need and emergency requirements of the Hospital. The Complainant was transferred from L&DC to Medical Branch (General Hospital) under special consideration. He joined in this Unit on 29.06.2007 and posted to Medical Record Department (MRD). The Pandurangan (CPF No. 49155) Service Worker was posted to Medical Record Department to assist the staff working in the MRD in day-to-day administrative works. His services were utilized by the Complainant on need basis. The Complainant was provided with assistance for his conveyance from parking shed to his work station every time with the available manpower. An exclusive parking shed to his work station is just 15 meters only. An exclusive punching machine was provided in his work station to record in attendance. Necessary ramp provision is available at work station, wheel chair accessible toilet, sufficient room for maneuvering wheel chair so as to perform his duties without any hindrance.

3.2 The Respondent further submitted that on 06.10.2022, the Complainant had recorded his IN Punch at 09.07 AM but had not recorded his OUT punch on that day as per NLCIL AMS Report. His contention that no one came to help him to move to work place on the said day and hence had to return to home at 10.37 AM is not correct. The Respondent further submitted that he had punched at 09.07 AM with the help of one person at punching station. Meanwhile Shri Prabhudoss, Staff, working in MRD Division had offered to bring the wheelchair from office, which was denied by the Complainant stating "tomorrow there is no guarantee that he would come to help" and as such returned back to his home without punching Out. Since his act of leaving the workplace was on his own without any proper approval or consent of his Reporting Officer, his request to regularize the attendance on 06.10.2022 is not maintainable. Hospital services are critical in nature, based on availability emergency the assistance had been extended to the Complainant and NLCIL Hospital Management never refused extending assistance to him for his conveyance. Since, the Complainant has been transferred to Education Department vide order dated 29.12.2022 and he joined duty on 13.01.2023, hence, the request of posting an Assistant in MRD Division at NLCIL Hospital does not arise now.

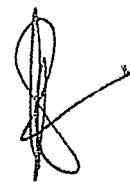
3.3 The Complainant was appointed in NLCIL as DET/Electrical with effect from 27.07.1987 in Supervisory cadre. Subsequently, he was promoted to next higher grade such as Junior Engineer Gr-1 (S-4), Assistant Engineer (E-1) under Time Bound Consideration. Further, he was promoted to Executive cadre as Additional Engineer/Electrical (E-2 Grade) w.e.f. 04.10.1999 and presently to the post of Chief Manager/Electrical (E-6 Grade) w.e.f. 01.07.2021. As per Career Growth Policy circular dated on 26.06.2014, depending upon vacancies and requirements for sub-group heads, Addl. Chief Manager, on completion of three years will be considered for re-designation as Chief Manager in the same scale of pay without any pay fixation benefits based on merit, length of grade service and assessment marks. As per the policy,



eligible Executives (ACMs in the scale of pay of Rs. 90,000-2,40,000) i.e upto 01.11.2014 batch (all disciplines) were called for the Assessment for DAC-2020 with the approval of Competent Authority held from 22.10.2020 to 23.10.2020.

3.4 The Respondent further submitted that in the assessment, out of 55 ACMs in Electrical discipline, 17 ACMs had been recommended by the Assessment Committee for re-designation as Chief Manager (scale of pay of Rs. 90,000- 2,40,000) w.e.f 01.07.2020 based on merit, length of grade service and assessment marks. The Complainant was one among the Executives attended the Assessment held on 23.10.2020, but the Assessment Committee did not recommend his case for re-designation. His case was again taken up during 2020 assessment along with others. In this review, the Assessment Committee had recommended his case for re-designation as Chief Manager w.e.f. 01.07.2021. The Complainant was placed in the re-designated post as Chief Manager in the same scale of pay without any pay fixation benefits, hence, the reservation is not applicable. Therefore, the request of Complainant for pre-postment of date of re-designation as Chief Manager, w.e.f 01.07.2020 instead of 01.07.2021 is not possible as the Assessment Committee's recommendation for Executives as Chief Managers during DAC-2020 and DAC-2021 which were duly approved by the Competent Authority and is in order.

3.5 The Respondent further submitted that the Complainant met with an industrial accident on 23.08.2001 with severe head and cervical injury while he worked in Electrical Mines/Mine-IA. The first aid treatment was given at NLC India Hospital and immediately he was referred to outside Hospital at Apollo Speciality Hospital, Vanagaram Chennai. After completion of treatment, he rejoined duty on 16.06.2005 on transfer to L&DC Unit. His period of absence for 3 years, 9 months and 23 days from 23.08.2001 to 15.06.2005 were treated as leave (special disability leave) with wages amounting to Rs. 8,50,000/- was paid. During the above period, total of Rs. 23,48,739 had been paid to the Hospital for his



treatment by NLCIL. The best treatment was provided to the Complainant. The cost of treatment at specialized superior class hospitals were borne by NLCIL to the tune of Rs. 10.23 Lakhs, and total Rs. 39,83,475/- has been paid by NLCIL towards his treatment at Hospitals till date.

3.6 The request of the Complainant to restore the 295 days leave availed by him from 25.02.2019 to 05.08.2021 (such as 17 days EOL + 82 days CML +70 days HP + 126 days EL) is not possible for compliance as per the Rules of the Company. The Complainant in his Complaint has mentioned that he had availed EOL for 51 days from 26.10.2021 to 30.12.2021 on account of pressure ulcer, as such, the absence of 51 days as stated by the Complainant is not an EOL. Further, it is also informed that the Complainant has not submitted any request for regularizing the leave period as EOL (Leave without pay), since being NR, salary was deducted. The Respondent further submitted that NLC India Ltd. is well taking care of its employees including PwD employees for self-sustenance of their needs. The Complainant is presently posted in Library, Education Department facilitating him to work in a comfortable and accessible environment. The Complainant is drawing monthly emolument of Rs. 2,35,000/- (Approximately) in the scale of pay of Rs. 90,000-240,000 besides other entitlements. However, he had requested for re-imbursement of expenditure incurred on purchase of ROHO high profile Neo Motion Wheel Chair is under examination by the NLCIL Management through Standing Committee as per the guidelines issued for providing certain facilities for Persons with Disabilities vide circular No. CORP/HR/Policy & Rules/1932/2016, dated 25.06.2016.

4. Submissions made in Rejoinder:

4.1 The Complainant has filed the rejoinder vide email dated 28.03.2023 and submitted that the he went home not to take lunch but to empty his urine bag. He needs to access the restroom at an interval of every 2-3 hours. As the restroom is not accessible to him, he is unable to work there. The ditch at the base of the collapsible gate at the entrance



is very challenging to navigate in a wheelchair. The ramp is also too narrow to use. He is unable to even enter the building and also the Respondent have admittedly taken no steps to solve the issue of accessibility despite his email dated 29.12.2022, he requested that he may be allowed to work from home. So, it is his employer's responsibility to provide him with all the required assistance to perform his duties. He also submitted to clarify whether rules permit a Chief Manager to report to another Chief Manager when both were elevated to the post on the same date. Without human assistance and a barrier-free workplace, it is impossible for him to work. Till both are ensured at his workspace, he may be allowed work from home or granted OD.

5. Hearing: The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on 04.05.2023. The following were present:

- i) Adv. Paul Kumar Kalai on behalf of Complainant
- ii) Shri K. Kumar Darshan- General Manager, Mr. Kartik- Additional Chief Manager, Shri Sarode Ram Kumar – HR Department: for Respondent

6. Observations/Recommendations

6.1 During online hearing the Complainant submitted that as on the day of hearing only three issues remain, which are availability of ramp, accessible washroom and assistance. The Respondent agreed to provide all three facilities to the Complainant.

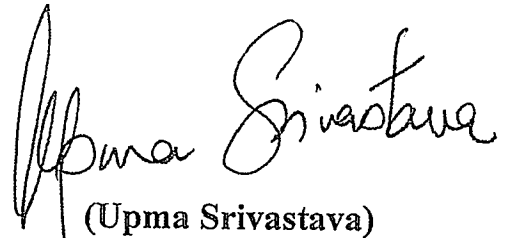
6.2 This Court is satisfied with the fact that the Respondent has agreed to provide facilities to the Complainant to reasonably accommodate the disability of the Complainant. Rights of Persons with Disabilities Act, 2016 also envisages that employer shall provide conducive environment to employees with disabilities. Hence, this Court recommended that the Respondent shall fulfill the assurances given and shall provide facilities of ramp, accessible washroom and assistant to the Complainant as soon as possible and latest within 1 month from the



date of this Order. The Respondent is further directed to file Compliance Report within 3 months from the date of this Order, failing which the matter shall be reported to the Parliament.

6.3 The present case is disposed of with liberty granted to the Complainant to approach this Court again in case the Respondent fails to provide ramp facility, accessible washroom and assistant facility, as assured by the Respondent during online hearing.

6.4. The case is disposed of.


(Upma Srivastava)
Chief Commissioner for
Persons with Disabilities

Dated:11.07.2023