



सत्यमेव जयते

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

Case No. 7389/1102/2017

R-7454

Dated: .03.2018

**In the matter of :**

Shri Yamuna Prasad Gupta  
[guptayamunaprasad@gmail.com](mailto:guptayamunaprasad@gmail.com)

-Complainant

**Versus**

Canara Bank  
 (through: the Chairman & Managing Director)  
 Head Office  
 112, J.C. Road, P.B.No. 6648  
 Bangalore-560002

R-7455

-Respondent No. 01

Canara Bank  
 (through: the Branch Manager)  
 Branch Burari, New Delhi

R-7456

-Respondent No. 02

**Date of Hearing:** 13.02.2018

**Present:** Shri Yamuna Prasad Gupta of behalf of the Complainant  
 Shri Abhishek Raina, Advocate on behalf of the Respondent  
 Shri R Murugesan, AGM, Canara Bank on behalf of the Respondent  
 Shri Avnish Kushwaha, Manager, Canara Bank on behalf of the Respondent  
 Shri Dal Chand Singh, Canara Bank on behalf of the Respondent

**ORDER**

Shri Yamuna Prasad Gupta, a person with 100% visual impairment filed a complaint dated 23.02.2017 regarding harassment by Branch Manager on account of cheque authentication under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995(which is replaced as the Rights of Persons with Disabilities Act, 2016).

2. Reserve Bank of India (RBI) vide Master Circular No. DBOD No. Leg.BC.21/09/07.006/2014-15 dated 01.07.2014 advised to all Scheduled Commercial Banks (Excluding RRBs) that Banks should ensure that all the banking facilities such as **cheque book facilities including third party cheques, ATM facility, Net banking facility, locker facility, retail loans, credit cards etc.,** are invariably offered to the persons with disabilities including visually challenged without any discrimination.

3. In accordance with the above RBI's guidelines, the matter was taken up with the Respondent vide this Court's letter dated 22.03.2017 followed by reminder letter dated 18.08.2017.

4. The Manager, Canara Bank Branch Burari vide letter dated 01.09.2017 has informed that the complainant is a Valuable customer of their branch since long. One day he came to branch for withdraw money. As per Bank guidelines Visually Impaired illiterate person have to be witness of his/her thumb impression. So they were not able to cash his cheque without witness of his thumb impression.

Pg. 2

5. Upon considering Respondent above mentioned reply dated 01.09.2017, it has been decided to hold a personal hearing in the matter and accordingly a Notice of Hearing dated 08.01.2018 issued to the parties.
6. The matter was heard as per schedule on 08.01.2018.
7. Canara Bank's Circular: 69/2016 dated 06.02.2016 stated that "*Cash payments to a blind person should always be made in the presence of a person known to the Bank who should also sign as a witness. While such witnesses should preferably customers of the Bank, a Bank official other than the paying cashier may also sign as a witness*". Which is contradicted to above RBI guidelines?
8. After hearing all the parties, the Respondent-Bank was advised to provide all the banking facilities to the complainant, Shri Yamuna Prasad Gupta as per extant norms and follow the RBI guidelines in the letter and spirit and they were agreed for the same. The case is disposed off with the direction that customers/persons with disabilities shall not be deprived of their legitimate rights and their sensitivity should be maintained.



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



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*Extra*

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**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 7271/1031/2016

*R-7130*

Dated 05.03.2018

In the matter of:

Dr. Nitesh Kumar Tripathi,  
 H.No.B-241, B-Block, Sant Nagar,  
 Burari, Delhi-110084  
 Email- [niteshtripathi85@gmail.com](mailto:niteshtripathi85@gmail.com)

.... Complainant

*Versus*

Post Graduate Institute of Medical Education & Research,  
 [Through: The Director]  
 Chandigarh

*R-7131*

.... Respondent

Date of hearing: 13.07.2017

Present:

1. Smt. Bilo Devi, Superintendent, PGIMER Chandigarh for respondent
2. None appeared for the complainant

**ORDER**

The above named complainant a person with 65% locomotor disability (lower limb) filed a complaint vide email dated 13.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995) regarding non-implementation of the Act, in the admission to various PG courses by the respondent.

2. As per the complainant, he had to appear in the Entrance Examination – Session January, 2017 [Roll No.18914] conducted by PGIMER Chandigarh (respondent). His examination centre was allotted at Chandigarh. He alleged that respondent did not implement PwD Act, 1995 in admission to various PG courses. He raised the following issues-

- (i) The examination centre was allotted at Chandigarh on 21.11.2016. When he tried to book hotel, no room was available as they were already booked. He could not attend the entrance examination at PGIMER due to centre allotment at Chandigarh while all most all the examination centre are available in National Capital like as AIIMS, JIPMER etc. but PGIMER has no examination centre at National Capital.

Page 1 of 4

He requested that examination centre be kept in National Capital to save from the problems of accessibility. If it is not possible, the examination centre be given in the campus or at any accessible/ disabled friendly place at the cost of Government so that no person with disability could leave the examination on the ground of disability.

- (ii) Qualifying marks must be as per order of the Apex Court that had fixed 45% or percentile for candidates with disabilities in the entrance examination for admission to PG medical courses.
- (iii) PGIMER be asked to submit 100 point reservation roster since 1995, the details of the candidates with disabilities who applied, appeared and got admission in all the courses offered and marks obtained by each and every candidates with disabilities.
- (iv) In future, PGIMER should provide all these facilities at the ground floor disabled friendly atmosphere, WC toilet, pure drinking water, travel expenses to attend examination along with an escort as per the norms of UNCRPD to avoid any kind of negative feelings.

3. Section 39 of PwD Act, 1995 provided as under:

*“All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities.”*

4. Section 46 of PwD Act, 1995 provided as under:

*“46. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for -*

- a. ramps in public buildings;*
- b. adaptation of toilets for wheel chair users;*
- c. braille symbols and auditory signals in elevators or lifts;*
- d. ramps in hospitals, primary health centres and other medical care and rehabilitation institutions.*

5. Clause I and Clause XIII of the guidelines for conducting written examination for persons with disabilities, issued by Ministry of Social Justice and Empowerment vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 provide as under:-

*I. There should be a uniform and comprehensive policy across the country for persons with disabilities for written examination taking into account improvement in technology and new avenues opened to the persons with disabilities providing a level playing field. Policy should also have flexibility to accommodate the specific needs on case-to-case basis.*

*XIII. Proper seating arrangement (preferably on the ground floor) should be made prior to the commencement of examination to avoid confusion or distraction during the day of the exam. The time of giving the question*

*papers should be marked accurately and timely supply of supplementary papers should be ensured.*

6. Under Section 59 of the Act, this Court, vide letter dated 27.02.2017, the respondent was advised to submit their comments ensuring that the legitimate rights of persons with disabilities are not infringed.

7. Since no reply was received from respondent, despite reminder dated 11.04.2017, the case was scheduled for personal hearing on 13.07.2017 at 1200 Hrs.

8. During the hearing on 13.07.2017, the representative of the respondent told that reply had been sent to this Court by the respondent vide their letter dated 28.04.2017. He filed a copy of the same which was taken on record. The representative relied on the reply filed by the respondent and added that it would not be possible to keep the examination centres in different places in India.

9. In the reply filed by respondent it was submitted that they have already implemented the reservation to candidates with disabilities and the percentage of the reservation are being revised time to time as per guidelines of Government of India. The ramps are already in existence in the Institute's hospitals buildings/OPD/Advance centres and at few of the places the toilets are constructed wherein the wheelchair can be taken inside freely. As regards to the Braille symbols and auditory signals it is not in the existence and for which SHE (sic) would do the needful. As regards, the seating arrangement for the candidates, the observer appointed in the examination centre is authorized to take any decision for facilitating the candidates. The candidates unable to go upstairs are accommodated in the ground floor.

10. In the light of the facts mentioned in the preceding paragraphs, there appears no violation. However, the respondent is advised to implement the provisions of the Rights of Persons with Disabilities Act, 2016 in true spirit along with the instructions issued by the Government and provide reasonable accommodation and level playing field to the persons with disabilities.

11. The case is accordingly disposed of.



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



सत्यमेव जयते

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

वाद संख्या 7521/1141/2017 R-7101

दिनांक 05.03.2018

श्री राजा राम,  
 ग्राम व पोस्ट - शैकपुर दड़ोली,  
 जिला - फतेहाबाद, हरियाणा - 125053  
 ईमेल - [dr.rajaramagarwal@gmail.com](mailto:dr.rajaramagarwal@gmail.com)

--- शिकायतकर्ता

बनाम

पंजाब नेशनल बैंक,  
 (द्वारा - अध्यक्ष एवं प्रबन्ध निदेशक)  
 मुख्यालय, 7-भिखाजी कामा प्लेस,  
 नई दिल्ली - 110607

R-7102

.... प्रतिवादी संख्या1

शाखा प्रबन्धक,  
 पंजाब नेशनल बैंक, भट्ट कलां शाखा,  
 जिला-फतेहाबाद, हरियाणा - 125053

R-7103

.... प्रतिवादी संख्या2

सुनवाई की तिथि - 22.02.2018

उपस्थिति -

1. श्री वीरेन्द्र कुमार, उप प्रबन्धक, पंजाब नेशनल बैंक, भट्ट कलां शाखा, प्रतिवादी पक्ष से

आदेश

श्री राजा राम, 70% अस्थिबाधित व्यक्ति (शिकायतकर्ता) ने पंजाब नेशनल बैंक, भट्ट कलां के कुछ बैंक कर्मियों का व्यवहार अपमानजनक, भेदभावपूर्ण एवं भड़काऊ होने की शिकायत दिनांकित 18.01.2017 इस न्यायालय में प्रस्तुत किया था। शिकायतकर्ता का कहना था कि सीसीटीवी फूटेज खंगाली जाए तो यह सामने आएगा की बहुत से लोगों के साथ बदसलूकी किया जाता है। दिनांक 14.01.2017 को कैश काउन्टर पर कार्यरत पूजा नामक कर्मि ने बदसलूकी की। दिनांक 17.01.2017 को कर्मि विनोद ने बदतमीजी की और विकलांगता सम्बन्धी ताने मारे।

2. इस न्यायालय के पत्र दिनांक 05.05.2017 के द्वारा इस मामले को अध्यक्ष एवं प्रबन्ध निदेशक, पंजाब नेशनल बैंक, नई दिल्ली (प्रतिवादी संख्या 1) और शाखा प्रबन्धक, पंजाब नेशनल बैंक, भट्ट कलां शाखा, जिला-फतेहाबाद (हरियाणा) [प्रतिवादी संख्या 2] के साथ उठाया गया और प्रतिवादीगण को निर्देश दिए गए कि प्रकरण की जाँच कराकर जाँच रिपोर्ट अपनी टिप्पणी सहित इस न्यायालय को भेजे।

3. प्रतिवादीगण की ओर से मुख्य प्रबन्धक, निरीक्षण एवं लेखा परीक्षा कार्यालय, हिसार ने जाँच रिपोर्ट 13.02.2017 अपने पत्र दिनांक 24.05.2017 प्रस्तुत की। जाँच रिपोर्ट में शिकायतकर्ता द्वारा लगाए गए आरोपों को निराधार बताया गया।
4. शिकायतकर्ता ने प्रतिवादी के उत्तर पर अपनी असंतुष्टी व्यक्त की और कहा कि जाँच एक तरफा की गई और प्रभावित पक्ष को जानने का प्रयास नहीं किया गया। शाखा प्रबन्धक, जो उक्त घटनाक्रम से पहले कभी मिले ही नहीं, के द्वारा आरोपों को नकारना तथा उल्टा आरोप लगाना बिलकुल तथ्यों से परे तथा मनमानी होना बताया। अपनी शिकायत में 13 जनवरी के बजाय 14 जनवरी लिखे जाने के लिए क्षमा माँगते हुए शिकायतकर्ता ने 13 और 17 जनवरी के सीसीटीवी फुटेज दिलाने का अनुरोध किया और यह भी कहा कि यदि बैंक कर्मों अपना रवैया सुधारने को तैयार हैं तो वे अपनी शिकायत वापस लेने के लिए तैयार हैं।
5. उपरोक्त तथ्यों के आलोक में मामले में दिनांक 22.02.2018 को 1600 बजे सुनवाई की तिथि सुनिश्चित की गई और दोनों पक्षों को, सम्मन दिनांक 19.01.2018 भेजकर, निर्धारित समय एवं तिथि पर सुनवाई के लिए उपस्थित रहने की सलाह दी गई।
6. इस दौरान, उप मण्डल प्रमुख, पंजाब नेशनल बैंक, हिसार ने पत्र दिनांक 01.02.2018 के द्वारा इस न्यायालय को सूचित किया कि वरिष्ठ अधिकारियों द्वारा शिकायतकर्ता से सम्पर्क किया गया। बातचीत के बाद शिकायतकर्ता ने बैंक सेवाओं के प्रति संतुष्टी व्यक्त की और अपनी शिकायत वापस लेने का निर्णय लिया। शिकायत वापस लेने के सम्बन्ध में शिकायतकर्ता द्वारा लिखित रूप से इस न्यायालय को सम्बोधित पत्र दिनांक 30.01.2018 भी प्रस्तुत किया जिसमें बैंक के कर्मचारियों और अधिकारियों का व्यवहार सद्भावनापूर्ण होना और किसी तरह की शिकायत नहीं होना कहा गया।
7. शिकायतकर्ता ने इमेल दिनांक 21.02.2018 के द्वारा यह सूचित किया कि दिनांक 30.01.2018 को पंजाब नेशनल बैंक की स्थानीय शाखा व सर्कल ऑफिस डाबडा चौक हिसार से कई अधिकारी गण, मित्र, परिचितों के साथ उनके आवास पर गए व कर्मियों के दुर्व्यवहार के बारे में खेद जताते हुए कहा कि उनकी काउंसलिंग की गई तथा भविष्य में शिकायतकर्ता सहित किसी भी ग्राहक से दुर्व्यवहार न होने के बारे में आश्वस्त किया। अतः सामाजिक दबाव व नैतिकता के चलते अपनी शिकायत वापस लेने का निश्चय किया व इस बाबत हस्ताक्षर भी कर दिए कि बैंक कर्मियों / अधिकारियों का व्यवहार अब ठीक हो गया है। शिकायतकर्ता ने इस न्यायालय से निवेदन किया कि दिनांक 22.02.2018 की सुनवाई से विकलांगता के कारण होने वाली असुविधा से बचाने हेतु व्यक्तिगत रूप से अनुपस्थित रहने की छूट प्रदान करते हुए मामले का निपटारा कर दिया जाये। फिर भी यदि न्यायालय का आदेश होगा तो प्रस्तुत होने के लिए वे उपस्थित होंगे। शिकायतकर्ता ने किसी भी माध्यम से इस बारे में उनको सूचित करने के लिए भी निवेदन किया।
8. दोनों पक्षों द्वारा प्रस्तुत उपरोक्त तथ्यों के आलोक में इस मामले को यहीं बन्द किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

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

वाद संख्या 6854/1032/2016 *R-7098*

दिनांक 05.03.2018

श्री अरमान  
 द्वारा - डॉ. गुलाम मुस्तफा खान वार्सी  
 कल्लू की चक्की के सामने, हमदर्दनगर-बी,  
 जमालपुर, अलीगढ़, उत्तर प्रदेश

.... शिकायतकर्ता

बनाम

अलीगढ़ मुस्लिम विश्वविद्यालय,  
 द्वारा - रजिस्ट्रार  
 अलीगढ़ - 202002 (उत्तर प्रदेश)

*R-7099*

.... प्रतिवादी संख्या 1

विश्वविद्यालय अनुदान आयोग,  
 द्वारा - सचिव,  
 बहादुरशाह जफ़र मार्ग, नई दिल्ली-110002

*R-7100*

.... प्रतिवादी संख्या 2

सुनवाई की तिथि - 07.06.2017

उपस्थित -

सभी पक्षकार अनुपस्थित

**आदेश**

शिकायतकर्ता, 46% अस्थिबाधित व्यक्ति ने अलीगढ़ मुस्लिम विश्वविद्यालय, अलीगढ़ (प्रतिवादी संख्या 1) में विकलांग छात्रों को निःशुल्क भोजन प्रदान कराने, आयु सीमा को हटाने एवं विकलांग छात्रों के साथ हो रहे भेद-भाव को समाप्त कराने तथा छात्रावास की सुविधा के सम्बन्ध में निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत एक शिकायत पत्र दिनांक 22.08.2016 इस न्यायालय में प्रस्तुत किया था।

2. प्रतिवादी संख्या 1 ने अपने उत्तर दिनांक 17.03.2017 में शिकायतकर्ता द्वारा लगाए गए आरोपों को खंडन करते हुए यह सूचित किया कि प्रतिवादी संख्या 1 दिव्यांग श्रेणियों के बीच किसी भी तरह का भेद-भाव नहीं किया जाता है। यह शिकायत विश्वविद्यालय अनुदान आयोग (प्रतिवादी संख्या 2) से संबंधित है, प्रतिवादी संख्या 1 के साथ नहीं। विकलांग छात्रों को एक सत्र के लिए मुफ्त भोजन प्रदान किया जाता है। चूंकि सभी विकलांग छात्र 18 वर्ष से अधिक आयु के हैं, जो छात्रावास में रहते हैं और प्रतिवादी संख्या 1 को कोई विशिष्ट अनुदान नहीं मिलता है, अतः प्रतिवादी उन्हें मुफ्त भोजन प्रदान करने में असमर्थ है। विभिन्न सुविधाओं के लिए आयु सीमा पर लगाए गए प्रतिबंधों को हटाया नहीं जा सकता, क्योंकि यह नीतिगत निर्णय है जो प्रतिवादी संख्या 2 के स्तर पर किया जाना है।



3. प्रतिवादी संख्या 1 के उत्तर को ध्यान में रखते हुए प्रतिवादी संख्या 2 को प्रतिवादी की सरणी में सम्मिलित कर मामले में सुनवाई का निर्णय लिया गया। तदनुसार, शिकायतकर्ता की शिकायत दिनांक 22.08.2016 और प्रतिवादी संख्या 1 द्वारा प्रस्तुत उत्तर/टिप्पणी दिनांक 17.03.2017 की छायाप्रतियाँ (अनुलग्नक सहित) प्रतिवादी संख्या 2 को, इस न्यायालय द्वारा जारी सम्मन दिनांक 08.05.2017 के द्वारा उन पर उनकी टिप्पणी सुनवाई की तिथि से 05 दिन पूर्व प्रस्तुत करने और निर्धारित समय एवं तिथि पर सुनवाई हेतु उपस्थित रहने की सलाह दी गई।
4. प्रतिवादी संख्या 2 की ओर से कोई उत्तर प्राप्त नहीं हुआ। दिनांक 07.06.2017 को सुनवाई के दौरान कोई भी पक्षकार उपस्थित नहीं हुए और न ही पक्षकारों की ओर से उनके अनुपस्थित रहने से सम्बन्धित कोई सूचना इस न्यायालय में प्राप्त हुई।
5. उपरोक्त परिस्थिति एवं दिव्यांगजन नियम, 2017 के नियम 38(4) में प्रदत्त अधिकारों का प्रयोग करते हुए इस परिवाद को यहीं समाप्त किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

*Extra*

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

वाद संख्या 6483/1033/2016

*R-7123*

दिनांक 06.03.2018

सुश्री रुकैया नाज़,  
 पुत्री - मु० जुबैर, द्वारा - श्री वासिफ अख्तर,  
 बी-39, न्यू कॉलोनी, कासिमपुर पावर हाउस,  
 जनपद - अलीगढ़-202001 (उ०प्र०)

--- शिकायतकर्ता

बनाम

राष्ट्रीय मुक्त विद्यालयी संस्थान,  
 (द्वारा - निदेशक)  
 ए-31, इंस्टीट्यूटल एरिया,  
 सेक्टर - 62, नोएडा-201309 (उ०प्र०)

*R-7124*

---- प्रतिवादी

सुनवाई की तिथि - 24.07.2017

उपस्थित -

- 1- सुश्री रुकैया नाज़, शिकायतकर्ता
- 2- श्री मधु बंसल, सहायक निदेशक, राष्ट्रीय मुक्त विद्यालयी संस्थान प्रतिवादी पक्ष की ओर से

आदेश

शिकायतकर्ता, 100% दृष्टिबाधित छात्र ने राष्ट्रीय मुक्त विद्यालयी संस्थान द्वारा जारी माध्यमिक विद्यालय परीक्षा 2010 के अंक विवरणिका (अनुक्रमांक 45006082317) में नाम, पिता का नाम और जन्म तिथि में हुई त्रुटि को सही न करने से सम्बन्धित एक शिकायत पत्र दिनांक 08.06.2016 निःशक्त व्यक्ति (समान अवसर, अधिकारसंरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. शिकायतकर्ता का कहना था कि राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान से सन् 2010 में माध्यमिक विद्यालय परीक्षा पास किया। प्रतिवादी संस्थान द्वारा जारी माध्यमिक विद्यालय परीक्षा के अंक विवरणिका में नाम, पिता का नाम और जन्म तिथि में त्रुटि थी। उन त्रुटियों को सही कराने के लिए संस्थान के निदेशक ने आश्वासन दिया। संस्थान द्वारा उससे सम्बन्धित शुल्क तीन सौ रूपये शिकायतकर्ता से जमा करा लिया गया और यह कहा गया कि एक माह के भीतर अंक तालिका स्पीड पोस्ट के द्वारा शिकायतकर्ता के घर भेज दिया जाएगा। परन्तु पर्याप्त समय बीत जाने के बाद भी संस्थान द्वारा अंकतालिका में हुई त्रुटियों को सही नहीं किया गया और उसके द्वारा जमा कराया गया शुल्क वापस कर दिया गया यह कहते हुए कि इस सम्बन्ध में संस्थान द्वारा कोई सहायता नहीं की जाएगी। शिकायतकर्ता ने अंकतालिका में हुई त्रुटियों को निम्नलिखित रूप से सही कराए जाने के लिए निवेदन किया -

(Page 1 of 3)

राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान द्वारा अंक तालिका में की गई त्रुटियाँ	शुद्धिकरण जो होना चाहिए था
नाम – रोकैया (ROKAYYA) पिता का नाम – मु० जुब्बर (MD. JUBBAR) माता का नाम – रुकसमा (RUKSAMA) जन्म तिथि – 26 Feb., 1989	नाम – रुकैया (RUQAIYA NAAZ) पिता का नाम – मु० जुबैर (MD. JUBAIR) माता का नाम – रुखसाना खातून (RUKHSANA KHATOON) जन्म तिथि – 26 Feb., 1994

3. इस न्यायालय के पत्र दिनांक 18.07.2016 के द्वारा प्रतिवादी के साथ उठाते हुए प्रतिवादी को सलाह दी गई कि शिकायतकर्ता की शिकायत पर विचार करें और अंक तालिका में हुई त्रुटियों को दूर कर नई अंक तालिका शिकायतकर्ता को जारी करें। प्रतिवादी को यह भी सलाह दी गई कि प्रकरण में अपनी टिप्पणी और कृत कार्यवाही से इस न्यायालय और शिकायतकर्ता को सूचित करें।

4. प्रतिवादी ने अपना उत्तर प्रस्तुत किया और शिकायतकर्ता द्वारा लगाए गए आरोप को अस्वीकार करते हुए सूचित किया कि प्रतिवादी ने पत्र दिनांक 09.03.2016 के द्वारा शिकायतकर्ता को सूचित कर दिया था कि प्रवेश के समय प्रवेश पत्र के साथ संलग्न दस्तावेजों के अनुसार अंक तालिका सुधार योग्य नहीं था। इसलिए, शिकायतकर्ता के अभ्यावेदन को अस्वीकार कर दिया गया था। उम्मीदवार का नाम, जन्म तिथि, पिता का नाम/माता का नाम और दिनांक में सुधार के लिए राष्ट्रीय मुक्त विद्यालयी संस्थान में प्रवेश के लिए पंजीकरण की तारीख से तीन साल के भीतर ही माना जाएगा लेकिन प्रथम परीक्षा में सम्मिलित होने से पहले। प्रतिवादी ने यह भी सूचित किया कि माननीय उच्च न्यायालय चंडीगढ़ ने सिविल रिट याचिका 15315/2014 (अम्बिका कौल बनाम केन्द्रीय माध्यमिक शिक्षा बोर्ड) में पारित निर्णय में स्पष्ट किया है कि यदि नियमावली में तीन वर्ष की अवधि उल्लिखित है तो उस कालावधि के उपरान्त सुधार हेतु माँग पर विचार नहीं किया जाएगा।

5. प्रतिवादी के उपरोक्त उत्तर में शिकायतकर्ता ने प्रत्युत्तर दिनांक 18.03.2017 प्रस्तुत किया और कहा कि जब प्रतिवादी के अधिकारियों से वे पहली बार मिली तो उन्होंने यह नहीं बताया कि अंकतालिका में हुए त्रुटि को तीन वर्ष की अवधि के अन्दर ही सुधार करने का प्रावधान है, उसके उपरान्त नहीं। फिर भी अंकतालिका सही करने के लिए अधिकारियों ने धन का भुगतान करने को कहा जो शिकायतकर्ता द्वारा भुगतान किया गया और प्रतिवादी ने एक सप्ताह के अन्दर अंकतालिका की त्रुटि सही करके स्पीडपोस्ट से भेजने का आश्वासन दिया। जब उन्होंने अंक तालिका नहीं भेजा तब मुख्य आयुक्त के समक्ष शिकायत की गई। शिकायतकर्ता ने यह भी कहा है कि अंकतालिका के पिछले पृष्ठ पर जो निर्देश लिखे हैं उसमें तीन वर्ष का कोई जिक्र नहीं है। शिकायतकर्ता ने अंकतालिका को ठीक कराने के लिए पुनः अनुरोध किया।

6. पक्षकारों द्वारा प्रस्तुत तथ्यों को आलोक में दिनांक 24.07.2017 को 1200 बजे सुनवाई की तिथि सुनिश्चित की गई और पक्षकारों को निर्धारित समय एवं तिथि पर उपस्थित रहने के निर्देश दिए गए।

7. दिनांक 24.07.2017 को सुनवाई के दौरान प्रतिवादी पक्ष की ओर से उपस्थित प्रतिनिधि ने कहा कि नियमानुसार उम्मीदवार का नाम, जन्म तिथि, पिता का नाम/माता का नाम और दिनांक में सुधार, संस्थान में प्रवेश हेतु पंजीकरण की तिथि से तीन साल के भीतर किया जाता है। दृष्टिबाधित विकलांग छात्रों को होनेवाली असुविधाओं को विशेष रूप से ध्यान में रखते हुए शिकायतकर्ता सुश्री रुकैया नाज़ के माध्यमिक विद्यालय परीक्षा 2010 का अंक विवरणिका में संशोधन कर दिया गया है जिसे सुश्री रुकैया नाज़ संस्थान से, कुछ वांछनीय औपचारिकता पूर्ण करने के उपरान्त, प्राप्त कर सकती हैं।

8. शिकायतकर्ता को सलाह दी गई कि वे अपना संशोधित माध्यमिक विद्यालय परीक्षा 2010 का अंक विवरणिका प्रतिवादी संस्थान से प्राप्त कर लें। तदनुसार इस मामले का निपटारा किया गया।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

Expt

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

Case No.3259/1011/2014

R-7139

Dated 12.03.2018

**In the matter of:**

Dr. Nitesh Kumar Tripathi,  
 H.No.B-241, B-Block, Sant Nagar,  
 Burari, Delhi-110084  
 Email- [niteshtripathi85@gmail.com](mailto:niteshtripathi85@gmail.com)

.... Complainant

**Versus**

National Institute of Technology Karnataka,  
 Through: Registrar,  
 Srinivasnagar, Mangalore-575025

R-7140

.... Respondent

**Date of Hearing – 14.02.2017**

**Present:**

1. Dr. Nitesh Kumar Tripathi, complainant
2. Shri Soumen Karmakar, Asstt. Registrar, NIT Karnataka for respondent

**ORDER**

The complainant, a person with 65% locomotor disability filed a complaint vide email dated 10.12.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'PwD Act, 1995', against non-implementation of the Act by the respondent in the recruitment of various posts.

2. The complainant forwarded a copy of the Advertisement No.5213/NITK/Estt – Advt./2014/BI dated 09.12.2014 published by the respondent for recruitment of Technical Officer (03 posts), Medical Officer (01 post) and Security Officer (01 post). Out of the above five posts 01 post of Technical Officer was indicated to be reserved for OBC and rest of the posts were for unreserved category. The complainant's contention was that in the advertisement the respondent had not shown the exact number of seats for persons with disabilities under 3% of the reservation whereas the reservation was indicated for OBC and Unreserved categories. The respondent had not mentioned that for appointment preference would be given to persons with disabilities even where the reservation was not marked and suitable. The complainant requested that the respondent

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be directed to submit 100 point reservation roster for the persons with disabilities since 1995 till date, conduct special recruitment drive, take initiative for providing disabled friendly examination centre nearest possible to home town, full exemption from payment of application fee, age relaxation at least 10 years, travel expenses to attend interview along with escort and disabled friendly environment during interview.

3. The matter was taken up with the respondent vide this Court's letter dated 29.04.2015 to submit the comments along with details of posts filled since 01.01.1996 in Group 'A' & 'B' in the proforma and a certificate from the Liaison Officer certifying that the reservation roster for the persons with disabilities has been maintained as per DoP&T's instructions.

4. The respondent vide letter dated 06.07.2015 submitted their reply and intimated that being technical institution, maximum position (60%) in the non-teaching cadre is sanctioned for Technical staff carrying duties and responsibilities risky in nature. However, to accommodate persons with disabilities suitable positions are identified both in promotion and direct recruitment as per the guidelines of Government of India. 100 point separate reservation roster for persons with disabilities was in process. No application fee is charged from any of the applicant.

5. The formate submitted by the respondent indicated that out of 262 posts of Group 'A' only 03 OH candidates have been recruited since 1996. No recruitment of persons with disabilities was made out of 07 post of Group 'B', 55 posts of Group 'C' direct recruitment and 80 posts of Grup 'C' filled up through promotion.

6. The complainant in his rejoinder dated 09.08.2015 submitted that respondent did not commented on encouraging quotations, age relaxation, disabled friendly examination venue, travel allowance to candidates with disabilities and their escorts, etc. and reiterated his complaint.

7. In reply to the rejoinder dated 09.08.2015, the respondent vide their letter dated 12.05.2016 filed their comments and further submitted that as per instructions from the Ministry of HRD, steps were taken to fill up the backlog vacancies for the PwD candidates, separate 100 points Roster was prepared and backlog vacancy position since 01.01.1996 were calculated based on the Roster points. All the possible measures were taken to encourage the candidates with disabilities in accordance with the Government guidelines. In the notification dated 01.09.2015 for the Special Recruitment Drive for persons with disabilities, it was provided that no application fees would be collected and

the travel cost for appearing in written test and/or interview for to & fro journey by the shortest route would be reimbursed. Disabled friendly atmosphere at ground floor having facility of ramp, video conferencing and other basic amenities were also provided.

8. Further, in response to this Court's letter dated 29/30.09.2016, the respondent vide their letter dated 21.10.2016 submitted that as per the guidelines of Hon'ble Supreme Court of India, the notification was published for both teaching and non-teaching positions, whereas application were invited from all the categories of PwD candidates as mentioned in the Section 33 of the PwD Act, 1995. All possible efforts were made to recruit suitable candidates from all the categories from VH, HH, OH as per the backlog vacancy position from 01.01.1996. In spite of that no suitable candidate was found to be recruited against VH & HH category and only OH category candidates were applied and found suitable and recruited. The respondent further submitted that the category wise adjustment would be made against respective category in the future recruitment drive and filed a copy of the position after the special recruitment drive.

9. Upon considering the replies received from the respondent and the complainant the case was scheduled for personal hearing on 14.02.2017.

10. During the hearing on 14.02.2017, the representative for the respondent submitted, among other documents, a copy each of the Recruitment Details 2013-2017 (Teaching and Non-Teaching Posts), Notification dated 12.11.2015 inviting application for various posts and the Certificate dated 24.10.2016 issued by the Liaison Officer, NIT Karnataka verifying that the PwD Rosters (Lectures, Assistant Professors, Associate Professors, Professors and Non-Teaching faculties) are as per the prescribed format.

11. There appeared no violation and the case was disposed of.



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



सत्यमेव जयते

*extra*

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

Case No.: 6949/1141/2016

*R-7132*

Dated 12.03.2018

Suo-Motu

**In the matter of:**

Bureau of Civil Aviation Security,  
 [Through: The Dy. Commissioner (CA)]  
 "A" Wing, 1st – 3rd Floors,  
 Janpath, Janpath Bhawan, New Delhi-110001

.... Respondent No.1

Central Industrial Security Force,  
 [Through: Director General]  
 CISF Headquarters, Block 13, CGO Complex,  
 Lodhi Road, New Delhi-110003

*R-7138*

.... Respondent No.2

**Date of hearing: 23.05.2017**

Present:

1. Shri B.K. Singh, Dy. Commandant/OPS, CISF, Airport Sector Hqrs, New Delhi and Shri Manmohan Krishna Insp/E for respondent No.2.
2. None appeared on behalf of Respondent No.1
3. None appeared for the complainant.

**ORDER**

The Office of Ministry of Social Justice and Empowerment forwarded a newspaper clippings published in the "Times of India", Delhi on 02.09.2016 regarding humiliation of Shri Aditya Mehta, a person with locomotor disability (above-the-knee-amputee and having a prosthetic limb), a para-cyclist and silver medalists at 2013 Asian Paralympics, by security personnel at Indira Gandhi International Airport Delhi while taking the flight on his way home to Hyderabad.

2. As per the newspaper clipping, despite all that campaigning of the last four days, Shri Aditya Mehta was again asked to remove his prosthetic leg during security check at Delhi Airport. A sub-inspector behaved rudely and he did not have the courtesy to talk politely to take off his prosthetic limb for security check. The treatment by the security personnel was humiliating. The attitude, which forced Shri Mehta to remove his prosthetic limb, put him down terribly.

Page 1 of 4



Shri Mehta called for increased sensitivity at airports towards passengers with disabilities. When Shri Mehta asked the officials that Airports should have full body scanners, the officials told that they did not have the budget to buy such equipment.

3. This Court took up the matter with the Bureau of Civil Aviation Security (Respondent No.1) and Central Industrial Security Force (Respondent No.2) to inquire into the matter and submit their report.

4. Respondent No.2 filed their reply dated 23.02.2017 and submitted that Shri Aditya Mehta approached on frisking booth on 30.08.2016 at about 1918 Hrs. for travelling to Flight No.6E-767 from Delhi. During frisking, the screener on-duty noticed the prosthetic leg of the complainant. The screener apprised him about the Civil Aviation Security Rules and guidelines on screening procedure of prosthetic limbs and requested for a separate security check. But the said passenger angrily stated that he would not allow his prosthetic leg to be removed for any screening. He also alleged similar harassment at Bangalore Airport earlier on the same issue. On refusal of Shri Mehta, the screener on-duty requested him to accompany him to the Inspector In-Charge of Security Hold Area (Pre-embarkation security checks supervision) who gave a patient hearing to Shri Mehta. The Inspector In-Charge took him to a separate private enclosure earmarked for physical checking of passenger with disabilities. Maintaining full privacy and dignity of the passenger, the prosthetic leg was examined visually and only checked through Explosive Trace Detector (ETD) without removing it from the passenger. At about 1929 hrs, the passenger proceeded for boarding the flight. During entire proceeding, ASG personnel were courteous and polite with him. Shri Mehta frequently travels through airports in country and is well aware about the screening procedure for persons with disabilities. As per Civil Aviation Security rules and guidelines, passengers with disabilities are not exempt from security check anywhere in the world, including India and they are required to undergo normal security procedures. The possibility of hiding pistol, knife, Improvised Explosive Device (IED) or any other prohibited items in the cavity of a prosthetic limb cannot be ruled out without screening through X-Ray machine, physical inspection or Explosive Trace Detector (ETD) checks, as the case may be. CISF, being Aviation Security Group (ASG) implements rules and regulations framed by the BCAS in

order to ensure fail proof security at the airports. Para 3.13 of BCAS Circular No.04/2014 clearly mentions that “If a person refuses to undergo screening, the frisking officer will inform the supervisor, who will direct what further action is to be taken. The concerned passenger will not be allowed entry past the screening point”. In the above incident, the CISF screener and officers were following the laid down guidelines and were polite, sensitive and cooperative while dealing with a passenger with disability. Most of the passengers with prosthetic limbs object or express unwillingness in removal of their prosthetic limbs for the purpose of screening through X-Ray machine. The matter has been taken up with Director General, BCAS to resolve the issue and review the existing guidelines with a suggestion to take into consideration worldwide practices or alternatively look for some other equipment which could be used to examine prosthetic limbs without removing them. Response from BCAS is still awaited.

5. Upon considering the reply from respondent No.2, the case was scheduled for personal hearing on 23.05.2017.

6. In the meanwhile, the respondent No.1 filed their reply dated 13.04.2017 and submitted that as per procedure [AVSEC Circular No.4/2014] ASG/CISF screener asked the passenger regarding X-Ray screening of his artificial leg without checking visually followed by check through ETD, and Shri Mehta seemed to be non-cooperative at the initial stage and picked up arguments with the ASG/CISF screening staff. No evidence could be gathered to show inhuman treatment as alleged by Shri Mehta. It transpired from the statements and CCTV footage that Shri Mehta with artificial limb initially denied/objected to remove his limb for screening through X-BIS. It is also evident that CISF / ASG screener straightway asked Shri Mehta to remove his artificial limb for screening through X-Ray which probably was the cause of anger of the passenger. BCAS agreed that removal of artificial limbs is a sensitive issue which ought to be handled delicately with empathy. Screeners should not straightway ask such passengers to remove artificial limbs for X-ray screening. ASG screeners may swab hands, mobility aids, equipment and other external medical devices of such passengers to test for explosives using explosives trace detection technology. Artificial limbs must undergo visual/physical inspection, HHMD check as well as explosive trace

detection testing at the first instance; and X-ray screening if not cleared in the proceeding tests.

7. During the hearing on 23.05.2017, the representatives of the respondent No.2 reiterated their reply already filed.

8. In view of the facts submitted by the parties, this Court is of the view that to follow the laid down procedure of AVSEC for safety and security, does not mean that the security personnel / officer concerned would remain insensitive towards the dignity and privacy of the passengers with disabilities where it is known to all that removal of prosthetic limb is a painful procedure. The respondent No.2 is advised that security personnel need to be more careful and sensitive towards passengers with disabilities particularly at the time of removing the prosthetic limb for x-ray screening, ETD detection and visual inspection. A training module should be designed and incorporated in the basic AVSEC course. Security point can be made informative enabling the passengers to inform the ASG/APSU of his/her prosthetic, his or her ability and of any need for assistance before screening begins. Security personnel should ensure that passengers with disabilities do not feel harassed & humiliated on the ground of disability. Respondent No.1 is advised to explore a feasibility to X-ray screen the passengers with disabilities without removing their prosthetic limbs.

9. The case is accordingly disposed of.



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



सत्यमेव जयते

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

Case No: 7670/1023/2017

R-7145

Dated : .03.2018

Dispatch No. ....

In the matter of :

Shri Sharabh Dubey,  
 11/7, Parbati Bagla Road,  
 Kanpur – 208 001  
 Email<sharabhdubey@gmail.com>

.....Complainant

**Versus**

The British India Corporation Limited,  
 (Through Chairman & Managing Director)  
 11/6, Smt. Parbati Bagla Road,  
 Kanpur – 208 001  
 Email<bickanur@bsnl.in

R-7146

.....Respondent

**Date of Hearings :** 20.12.2017, 10.01.2018 and 07.02.2018

**Present :**

1. Shri Sharabh Dubey, Complainant.
2. Shri Anurag, Advocate and Shri S.C. Gupta, Manager, Admn. – on behalf of Respondent

**ORDER**

Shri Sharabh Dubey, a person with 50% locomotor disability had filed a complaint dated 14.02.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding non-payment of Salary, harassment etc by his establishment.

2. The complainant submitted that his grievance is regarding non payment of arrears of salary and graded increment from the period 1.04.1992 to 1999 as per the pay scale Rs.1900-3225. An Illegal deduction of a sum of Rs.1.49 lakh being the amount recovered under the Land Revenue Act with regard to IDA from the period 1.4.92 to 1999 has been made. He submitted that his services in the year 2000 were arbitrarily/illegally transferred to NEWM Branch of BIC at Dhariwal without existence of any work for Secretarial Officer in the branch as the Secretarial Officers works only under the Company Secretary who sits at the registered office. Due to the intervention of the Allahabad High Court, the transfer order of BIC Management was stayed, but the he was not allowed to join duties at Head Office from the years 2000 to 2007 and suffered monetary loss apart from embarrassment. He was not given the facilities due to a person with disabilities. He submitted that the management is taking punitive actions against him instead of

....2/-

helping a person with disabilities. He submitted that the pay scale of the complainant was reduced from Rs.2200-3600 to Rs.1900-3225 till 2012. The annual graded increment from 1992-99 was detained. The rate of company's contribution to Provident Fund was reduced illegally by the BIC management. The complainant submitted that the BIC Management has not brought correct facts to the notice of the Hon'ble Minister of Textiles against him.

3. The matter was taken up under Section 59 of the Persons with Disabilities Act, 1995 with the Respondent vide letters dated 20.04.2017 and 31.05.2017.

4. The CMD, British India Corporation vide his letter dated 22.06.2017 had submitted that regarding non-payment of arrears of salary and graded increment from the period 1.4.92 to 1999 as per the pay scale Rs.1900-3225, the complainant was initially appointed as a Management (Trainee) in British India Corporation (BIC) w.e.f. 11.02.1991 for a period of 6 months vide letter dated 08.02.1991. His period of training was extended from time to time. During his training period, his request for regularization of his services was not agreed as BIC was referred to BIFR (1991) declared sick (1992) and there was ban on recruitment in BIC. The complainant and Shri Vinay Mishra, both Management Trainees in the meantime, filed an application before Labour Court for computation of an amount of Rs.1,61,264/- each as Industrial DA allowance from the date of their appointment, i.e. 11.02.1991 and 07.01.1991 respectively claiming that they were entitled to IDA. The Labour Court vide order dated 02.09.1999 decided the case in their favour and computed the amount of Rs.1,49,126/- only in each case. Both the Management Trainee including the complainant, however, individually gave affidavit to the company agreeing that they are prepared to accept pay scale of 1900-3225 in consideration of orders of Labour Court and they will not press for any arrears with reference to the above orders of the Labour Court and also would not raise any dispute before any Court in future in connection with any matter and threat they are satisfied with the decision of management. Accordingly the services of both the management trainee was placed in the pay scale of 1900-3225 vide memo dated 11.10.1999. However, both these employees filed application before Dy. Labour Commissioner on 23.03.2000 for realization of computed amount of Rs.1,49,126/-. By manipulating fictitious service of the summon, they got ex-party Order against BIC and Dy. Labour Commissioner. By manipulating fictitious service of the summon, they got ex-party order against BIC and Dy. Labour CMM. Issue ex-party recovery certificate with a copy sent to DM, Kanpur and ADM ((F&R), Kanpur city for execution. The complainant and Shri Vinay Mishra both Management Trainee did not joined Dhariwal upto 05.10.2007. On their request, they were allowed to resume duties at BIC-HO on 05.10.2007 allowing 75% of salary for the period of absence plus usual increments with following terms:-

....3/-

- i) They will withdraw all Court cases
- ii) Although they have not done any work or discharged any duties since 2000, the management as a special case allowed the payment of back wages @ 75%
- iii) The amount realized through Recovery Certificate in the year 2000 shall be deducted from the total payment made in respect of the back wages.

While calculation of salary etc., Accounts Deptt. Inadvertently allowed two upgradation instead of one general upgradation to both of them which was allowed to all employees in the year 2004. The benefits granted due to additional one upgradation granted over and above general upgradation was recovered in the year 2012 and general upgradation was neutralized in the year 2014 while calculating arrears of pay revision to comply with Hon'ble Court's Order. In view of the above facts, the request of the complainant for non-payment of arrears of salary and graded increment from the period 1.4.92 to 1999 as per the pay scale Rs.1900-3225 is not justified as on 11.10.1999 on submission of an undertaking to the company that he agrees to accept the pay scale in consideration of orders of Labour Court and he will not press for any arrear and would not also raise any dispute before any court vide memo dated 11.10.1999 his services has been placed in the pay scale of 1900-3225. As the complainant has already given an affidavit to the company agreeing that he has prepared to accept the pay scale of Rs.1900-3250 in consideration of order of the Labour Court and will press for any arrear or raise any dispute before any court in future and is satisfied with the decision of the management, his request for payment of a sum of Rs.1.49 lakhs deducted with regard to IDA for the period from 01.04.1992 to 1999 is devoid of any merit. The complainant was transferred to BIC Branch at Dhariwal on administrative ground. He was appointed in Jr. Officer cadre on terms and conditions to be governed by the rules and regulation of the corporation. He was never designated or assigned any specialized work, therefore his contention of transfer without existence of any secretarial work in Dhariwal is without any merit. As regards the reduction of pay scale of the complainant from Rs.200-3600 (till 2012) to Rs.1900-3225, the Respondent submitted that the complainant was transferred to NEWM Branch, Dhariwal on 05.06.2000 but did not comply the order and also did not perform the duties in the company from 05.06.2000 to 05.10.2007. Thereafter, on his request, the management allowed him on duty from 05.10.2007 allowing 75% salary with usual increment for the period of non performing duty, at the time of calculating the arrear of the non-performing duty, his scale was shown Rs.2200-100-3600 in spite of Rs.2000-90-3440. As regards the reduction of Company's PF contribution, the Respondent submitted that employer contribution towards PF which was affected on total salary drawn by the employee has been reduced as per RPFC notification. The issue raised by the complainant that company has not issued any letters between 2000-07 and he daily reported for duty are baseless and not as per the records. On complainant's transfer to Dhariwal on administrative ground on 05.06.2000, he failed to join NEWM Br. Dhariwal

upto 2007. The increment from 2012-16 has been released after taking corrective action of neutralizing one grade upgradation which was wrongly granted to him by the Accounts Deptt. The complainant was placed in the pay scale of Rs.1900-3225. As per company rules, he is entitled for LTC is to be taken into consideration after completion of one year of service. The LTC released to him on 03.11.1999 was wrongly done.

5. The Complainant vide his rejoinder dated 30.06.2017 had submitted that as regards the non-payment of arrears of salary and graded increments from 01.04.1992 to 1999, certain facts have been concealed by the management. BIC Management has nowhere mentioned that his training period was extended from 1991-1994 and no letter or any other communication to the effect that his further period was extended or appointment confirmed was issued to him thereafter till 1999. As BIC was satisfactory on his performance, he should have been confirmed after the expiry of his probationary period, i.e. 10.05.1994. He submitted that in a number of cases, the Hon'ble Supreme Court of India had decided that the period of probation cannot be prolonged indefinitely. There is a contradiction in the statement of BIC where on the one hand he stated that there was a ban on appointment and on the other hand it says that regularization was effected in the year 1999. In the year 2002-2003, Shri K.C. Bajpai, CS & CLO and one Shri M.K. Verma were appointed and many other labourers were appointed as Supervisor. He submitted that the BIC Management's allegation that the complainant manipulated fictitious service of the summons and got an order against BIC, is categorically denied and has been leveled with a malicious motive. As regard, the transfer order to join NEWM Branch of BIC at Dhariwa, this being a punitive in nature and was stayed by the Order of High Court of Allahabad. For imposition of major penalty no show cause notice or any other step / action was taken by the BIC Management. He had been harassed by BIC since 1991 in one way or other. Since the transfer order was punitive in nature, therefore, on the complainant's writ petition no. 298083 of 2000 before the High Court of Allahabad, the court passed order as per Annexure B. However, BIC Management took 8 years to comply with the orders of the High Court which itself is an indication revealing the gravity of the prejudiced in sensitive to the persons with disabilities for whom there are rules that their place of work should not be more than 8 Kms for the place of their residence. Till date the complainant is not aware which facilities have been extended to him by the BIC Management. The BIC's Management with regard to the reduction in provident fund is not at all satisfactory. He further submitted that the pay scale of 2200-100-3600 was allowed to the complainant and a sum of Rs.55,501/- as arrears was credited to this bank account but deducted the said amount from his salary. He submitted that after he obtained stay from High Court Allahabad regarding his transfer to Dhariwal, was not allowed to resume duties from 2000 to 2007. He has prayed this Court to pass following orders;

- 1) Arrears of salary with increment from the period 1992 to 1999.
- 2) Recovery of amount of Rs.1.49 lacs under Law Revenue Act.
- 3) Amount representing due to lowering of two grades – deduction made arbitrarily.
- 4) Arrear arising out of the reduction in the rate of employers' contribution of provident fund.

6. After considering the Respondent's reply dated 22.06.2017 and Complainant's rejoinder dated 30.06.2017, a hearing was scheduled on 22.11.2017 at 12:00 Hrs.

7. Due to unavoidable circumstances, the hearing scheduled for 22.11.2017 was rescheduled to 20.12.2017 at 11:00 Hrs

8. During the hearing the representatives of Respondent reiterated the submissions made by them earlier in their letter dated 22.06.2017.

9. As the Complainant was not present during the hearing, the Court adjourned the next hearing to 10.01.2018 at 15:00 Hrs.

10. During the hearing the complainant submitted that he was not paid salary and increment from the period 01.04.1992 to 1999 as per the pay scale Rs.1900-3225. An Illegal deduction from him for a sum of Rs.1.49 lacs being the amount recovered under the Land Revenue Act by the complainant with regard to IDA from the period 1.4.92 to 1999. His services in the year 2000 were arbitrarily/illegally transferred to NEWM Branch of BIC at Dhariwal without existence of any work for Secretarial Officer in the branch as the Secretarial Officers work only under the Company Secretary who sits at the registered office. Due to the intervention of the Allahabad High Court, transfer order of BIC Management was stayed, but he was not allowed to join duties at Head Office from the years 2000 to 2007 and suffered monetary loss apart from embarrassment. He was not given the facilities due to an employee with disabilities. He submitted that the management is taking punitive actions against him instead of helping a person with disability. His pay scale was reduced from Rs.2200-3600 (till 2012) to Rs.1900-3225 which continued in 2012. He submitted that the rate of company's contribution to Provident Fund was reduced by the BIC management illegally. He submitted that the management detained not only annual graded increment from 1992-99 but also detained the same from 2012-2016 which was released only after great persuasion on 08.11.2016. On 03.11.1999, the BIC released the LTC of the complainant by which it is quite evident that the complainant was a confirmed employee till date which the BIC has



been denying throughout in view of the fact that they have made the complainants grade effective from 08.11.1999 instead of 01.04.1992 and not released any increment from 01.04.1992 to 1999.

11. During the hearing the Learned Counsel on behalf of Respondent vide his written submission dated 10.01.2018 submitted that the complainant was appointed as Management Trainee w.e.f. from 11.02.1991 for a period of six months vide letter dated 08.02.1991. In the year 1991, BIC was referred to BIFR and subsequently declared sick in 1992. As the company became sick, the recruitment was banned in the company vide ministerial order dated 16.07.1992. Subsequently, the petitioner was not made permanent and only extension were given from time to time as evident from Memos dated 12.08.1991 and 22.09.1992. In the year 1999, the petitioner raised the labour dispute at Kanpur. The Labour Court vide its Order dated 02.09.1999 ordered to pay Rs.1,49,126/- as computed by it for the IDA allowances for the period from 11.02.1991. However, there was no order as to the regularization of the complainant. The complainant and respondent company entered into a compromise. The complainant accordingly gave an affidavit dated 11.10.1999 wherein the petitioner agreed for the regularization on the pay scale of 1900-3225 and will forgo the claim in pursuance to the Labour Court order dated 02.09.1999. The said affidavit and its terms were accepted by the respondent company and the complainant was regularized w.e.f. 11.10.1999 on the pay scale of 1900-3225. Despite the settlement agreement and de-horse the terms of the settlement, the petitioner after being regularized pressed for the payment as ordered by the Labour Court and filed recovery proceeding. The respondent was thereon forced to pay the amount of Rs.1,49,126/- despite the agreement to the contrary. The complainant vide the office order dated 05.06.2000 was transferred from the BIC, Kanpur to its unit at NEWL, Dhariwal, Punjab and relieved with immediate effect. The complainant then moved to the Hon'ble High Court against the transfer order and obtained stay of the transfer order on 12.07.2000. After the order of the Hon'ble High Court, the complainant neither joined back the BIC, Kanpur nor joined at NEWL Dhariwal and remained absent from 05.06.2000 till 05.10.2007. Due to circumstantial reasons and for the welfare of the complainant, the complainant entered into a settlement with the respondent company. On the request of the complainant, and on agreed

terms, the respondent company vide Memo order dated 05.10.2007 and 11.10.2007 wherein he was allowed to join back BIC, Kanpur with 75% arrear of the wages for the period he remained absent. The respondent company being a sick unit, gave general upgradation on 01.02.2004 to its entire employee. The same was given to the complainant and benefits were paid to the complainant. However, the unintentional mistake was done wherein the arrear was calculated at the higher pay scale of 2200-3600 whereas the complainant was eligible for pay scale of 2000-3440. The mistake was subsequently noted after the order of Hon'ble Supreme Court and corrected. The Hon'ble Supreme Court vide Order dated 13.02.2014 allowed notional fixation of IVth pay commission from 01.01.1992 and Vth pay commission from 01.01.1997. After the order of the Hon'ble Supreme Court, the Ministry vide its letter dated 13.03.2014 nullified the general upgradation and allowed the pay commission as allowed by the Hon'ble Supreme Court. The same was approved in the Board Meeting took place on 28.03.2014 and resolved to implement the order of the Hon'ble Supreme Court dated 13.02.2014. The complainant was given due benefit of the order of the Hon'ble Supreme Court. However, the amount paid in view of the general upgradation was nullified as it was done throughout the company and in relation to all its employees. The complainant was paid all his dues after due correction and computation. The complainant was given all benefits as applicable to him as per the rules and laws applicable.

12. The next hearing was accordingly scheduled on 07.02.2017 at 11:00 Hrs.

13. During the hearing the complainant reiterated his submission made earlier during the hearing on 10.01.2018.

14. During the hearing the Learned Counsel for Respondent reiterated the submission by them in their dated 10.01.2018.

15. As regards, the alleged discrimination of the complainant by the Respondent, as stated by the complainant, this Court within its ambit and scope of jurisdiction exercisable under the Rights of Persons with Disabilities Act, 2016 and relevant rules, advised the Respondent to be more sensitive towards persons with disabilities and to ensure a conducive and accessible work environment for the complainant in specific and for the persons with disabilities, in general and provide him a level playing field, so that no rights are infringed. As regards the other grievances of

the Complainant regarding arrears of salary for the period 1992 to 1999, recovery of amount of Rs.1.49 lakhs, lowering of two grades, deductions made arbitrarily, arrear arising out of the reduction in the rate of employer's contribution of Provident Fund etc, the Court advised the Complainant to pursue these matters with the Labour Court.

16. The case is disposed of accordingly.



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



सत्यमेव जयते

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

संख्या 7322 / 1023 / 2016

R-7248

दिनांक: 14/03.2018

श्री अरविंद कुमार  
 प्रेमलाल बहेरवार  
 ग्राम चिचटोला  
 पो. कावराबाँध, तह. आमगाँव  
 जि. गोंदिया, महाराष्ट्र

... वादी

बनाम

आयुध निर्माणी, रक्षा मंत्रालय  
 (द्वारा : महाप्रबन्धक)  
 मुरादनगर, जि. गाजियाबाद  
 उत्तर प्रदेश-201206

R-7249

... प्रतिवादी

सुनवाई की तिथि - 08.02.2018

उपस्थित- श्री अरविंद कुमार, वादी की तरफ से  
 - श्री ओमवीर सिंह, प्रतिवादी की तरफ से  
 - श्री वी. शंशाक कुमार, अधिवक्ता, प्रतिवादी की तरफ से

आदेश

श्री अरविंद कुमार, 40 प्रतिशत दृष्टि दिव्यांग ने उनको बिना किसी कारण एवं पूर्व सूचना के सेवा से हटाये जाने से संबंधित शिकायत दिनांक 16.12.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में दायर की ।

2. अधिनियम की धारा 59 के अन्तर्गत इस न्यायालय के पत्र दिनांक 20.06.2017 द्वारा मामले को प्रतिवादी के साथ उठाया गया ।

3. उप महाप्रबन्धक/प्रशासन ने पत्र संख्या ई.-11/ए./स्थापना दिनांक 11.07.2017 द्वारा इस न्यायालय को सूचित किया कि आयुध निर्माणी मुरादनगर द्वारा विज्ञापन सं. darp 10201/11/2129/1415 दिनांक 14-20.02.2015 के द्वारा प्राईमरी अध्यापकों की रिक्तियों {UR - 05 + OBC - 03(03 LV Horizontal) Total =08} से संबंधित विज्ञापन प्रकाशित किया गया था । लिखित परीक्षा व Teaching Skill Test के आधार पर अभ्यर्थियों का चयन किया गया था । श्री अरविंद कुमार प्रेमलाल बहेटवार को अन्य पिछड़ा वर्ग/वी.एच.(एल.वी.) के लिए आरक्षित रिक्ति चयनित किया गया था । तदनुसार, श्री अरविंद कुमार प्रेमलाल बहेटवार को दिनांक 03.03.2016 से प्राईमरी अध्यापक के पद पर नियुक्ति प्रदान की गयी थी ।

बाद में, उपरोक्त प्राईमरी अध्यापक की भर्ती से संबंधित लिखित परीक्षा की उत्तर कुंजी में त्रुटियों के प्रकाश में आने के कारण, उपरोक्त भर्ती प्रक्रिया के द्वारा नियुक्त किये गये प्राईमरी अध्यापकों की भर्ती निरस्त करते हुए सभी नियुक्त प्राईमरी अध्यापकों की सेवा समाप्त करने का निर्णय लिया गया । तदनुसार, नियुक्ति पत्र में उल्लेखित नियम और शर्तों के पैरा 2(सी) में दिये गये प्रावधानों के अंतर्गत श्री अरविंद कुमार प्रेमलाल बहेटवार को एक माह का वेतन प्रदान करते हुए सभी नियुक्त प्राईमरी अध्यापकों की सेवा समाप्त कर दी गयी ।

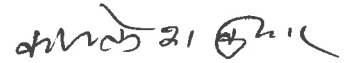
पृष्ठ 2

तथा दोहराया कि इन प्राईमरी अध्यापकों की भर्ती निरस्त कर दिये जाने के परिणामस्वरूप रिक्त हुए पदों {UR – 05 + OBC – 03(03 LV Horizontal) Total = 08} को पुनः सीधी भर्ती के माध्यम से भरा जायगा, जिसमें सभी पात्र अभ्यर्थी पुनः आवेदन कर सकते हैं।

4. प्रतिवादी के पत्र दिनांक 11.07.2017 एवं वादी के रिज्वाईडर दिनांक 07.08.2017 के जांचोपरान्त मामले में दिनांक 08.02.2018 को 11.00 बजे सुनवाई निर्धारित की गई।

5. नियत तिथि को मामले की सुनवाई सम्पन्न की गई।

6. सुनवाई के दौरान प्रतिवादी के प्रतिनिधि द्वारा उल्लेखित बयान के मद्देनजर चूंकि सम्पूर्ण परीक्षा को निरस्त किया गया था जिसके परिप्रेक्ष्य में मामले में दिव्यांगजन अधिकार अधिनियम, 2016 के किसी प्रावधान का कोई उल्लंघन प्रतीत नहीं होता है। मामले को यहीं बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

01/

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

संख्या 7322/1023/2016

R-7248

दिनांक: 14/03.2018

श्री अरविंद कुमार  
 प्रेमलाल बहेरवार  
 ग्राम चिचटोला  
 पो. कावराबाँध, तह. आमगाँव  
 जि. गोंदिया, महाराष्ट्र

... वादी

बनाम

आयुध निर्माणी, रक्षा मंत्रालय  
 (द्वारा : महाप्रबन्धक)  
 मुरादनगर, जि. गाजियाबाद  
 उत्तर प्रदेश-201206

R-7249

... प्रतिवादी

सुनवाई की तिथि - 08.02.2018

उपस्थित- श्री अरविंद कुमार, वादी की तरफ से  
 - श्री ओमवीर सिंह, प्रतिवादी की तरफ से  
 - श्री वी. शंशाक कुमार, अधिवक्ता, प्रतिवादी की तरफ से

आदेश

श्री अरविंद कुमार, 40 प्रतिशत दृष्टि दिव्यांग ने उनको बिना किसी कारण एवं पूर्व सूचना के सेवा से हटाये जाने से संबंधित शिकायत दिनांक 16.12.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में दायर की ।

2. अधिनियम की धारा 59 के अन्तर्गत इस न्यायालय के पत्र दिनांक 20.06.2017 द्वारा मामले को प्रतिवादी के साथ उठाया गया ।

3. उप महाप्रबन्धक/प्रशासन ने पत्र संख्या ई.-11/ए./स्थापना दिनांक 11.07.2017 द्वारा इस न्यायालय को सूचित किया कि आयुध निर्माणी मुरादनगर द्वारा विज्ञापन सं. davp 10201/11/2129/1415 दिनांक 14-20.02.2015 के द्वारा प्राईमरी अध्यापकों की रिक्तियों {UR - 05 + OBC - 03(03 LV Horizontal) Total =08} से संबंधित विज्ञापन प्रकाशित किया गया था । लिखित परीक्षा व Teaching Skill Test के आधार पर अभ्यर्थियों का चयन किया गया था । श्री अरविंद कुमार प्रेमलाल बहेटवार को अन्य पिछड़ा वर्ग/वी.एच.(एल.वी.) के लिए आरक्षित रिक्ति चयनित किया गया था । तदनुसार, श्री अरविंद कुमार प्रेमलाल बहेटवार को दिनांक 03.03.2016 से प्राईमरी अध्यापक के पद पर नियुक्ति प्रदान की गयी थी ।

बाद में, उपरोक्त प्राईमरी अध्यापक की भर्ती से संबंधित लिखित परीक्षा की उत्तर कुंजी में त्रुटियों के प्रकाश में आने के कारण, उपरोक्त भर्ती प्रक्रिया के द्वारा नियुक्त किये गये प्राईमरी अध्यापकों की भर्ती निरस्त करते हुए सभी नियुक्त प्राईमरी अध्यापकों की सेवा समाप्त करने का निर्णय लिया गया । तदनुसार, नियुक्ति पत्र में उल्लेखित नियम और शर्तों के पैरा 2(सी) में दिये गये प्रावधानों के अंतर्गत श्री अरविंद कुमार प्रेमलाल बहेटवार को एक माह का वेतन प्रदान करते हुए सभी नियुक्त प्राईमरी अध्यापकों की सेवा समाप्त कर दी गयी ।

पृष्ठ 2

तथा दोहराया कि इन प्राईमरी अध्यापकों की भर्ती निरस्त कर दिये जाने के परिणामस्वरूप रिक्त हुए पदों {UR - 05 + OBC - 03(03 LV Horizontal) Total = 08} को पुनः सीधी भर्ती के माध्यम से भरा जायगा, जिसमें सभी पात्र अभ्यर्थी पुनः आवेदन कर सकते हैं।

4. प्रतिवादी के पत्र दिनांक 11.07.2017 एवं वादी के रिजवाइंडर दिनांक 07.08.2017 के जांचोपरान्त मामले में दिनांक 08.02.2018 को 11.00 बजे सुनवाई निर्धारित की गई।

5. नियत तिथि को मामले की सुनवाई सम्पन्न की गई।

6. सुनवाई के दौरान प्रतिवादी के प्रतिनिधि द्वारा उल्लेखित बयान के मद्देनजर चूंकि सम्पूर्ण परीक्षा को निरस्त किया गया था जिसके परिप्रेक्ष्य में मामले में दिव्यांगजन अधिकार अधिनियम, 2016 के किसी प्रावधान का कोई उल्लंघन प्रतीत नहीं होता है। मामले को यहीं बन्द किया जाता है।

कमलेश कुमार पाण्डेय

(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

Extra

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

Case No.: 8212/1141/2017

Dated 14.03.2018

In the matter of:

R-7437

Shri Mintu Chakraborty,  
 S/o Sri Kajal Chakraborty,  
 North Durga Nagar, Rabindra Pally,  
 1<sup>st</sup> By Lane, Post-Rabindra Nagar,  
 Kolkata - 700065  
 Email – [mintuchakraborty258@gmail.com](mailto:mintuchakraborty258@gmail.com)

.... Complainant

**Versus**

National Institute for Locomotor Disabilities (Divyangjan)  
 [Through: The Director]  
 B T Road, Bonhooghly, Kolkata - 700 090,  
 E-mail: [mail@nioh.in](mailto:mail@nioh.in)

R-7438

.... Respondent

Date of hearing: 08.02.2018

Present:

1. Shri Mintu Chakraborty, complainant, his father Shri Kajal Chakraborty and his mother Smt. Sarbani Chakraborty
2. Shri Pravin Kumar, Asst. Professor (PT), Shri Pankaj Bajpai, Associate Professor (OT) & DDA(O), National Institute for Locomotor Disabilities (Divyangjan), Kolkata for respondent

**ORDER**

The above named complainant, a person with 56% locomotor disability (Cerebral Palsy & Quadriplegia) filed a complaint dated 09.09.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding physical assault, refusal of treatment, harassment / negligence / torture while he was admitted for physiotherapy at National Institute of Locomotor Disabilities, Kolkata (NILD) by the respondent.

2. The complainant had submitted that he was born as a cerebral palsy child. He started treatment at NILD from 2005 and his ASC number for 2017 is 124623. He learnt standing, walking and brisk walking under the active therapy of Shri C.R. Samanta at NILD. After retirement of Shri Samanta the authority of NILD stopped his treatment and denied to come. He requested the Director, NILD and all other concerned to continue his treatment as he has gained much strength and developed the ability of walking under the guidance and treatment of Shri Samanta, but the Director was not ready to listen his request. As a result his condition deteriorated. He approached the State General Hospital for further treatment, but he was referred back to NILD. Only after the interference of the

Page 1 of 4



Hon'ble Minister of State, Agriculture and Farmer Welfare, his treatment was further started at NILD. He was being tortured at NILD by the Director and HoD, PT Dept. They did prescribe everything, but he was not being given the prescribed therapy effectively. The Director would refuse to him and keep him waiting for hours. The Director would tell his mother that he is a mental case, take him to psychiatrist. On 6<sup>th</sup> September, 2017, there were no doctor in the OPD at NILD and most of the disabled patients were waiting since morning. At 3 O'clock he along with other patient decided to meet the Director, but as usual he refused to meet.

3. On taking up the matter, the respondent filed their reply dated 10.11.2017 and intimated that the complainant has been misguided (by the NILD Staff Association). The complainant's attitude has changed due to which this problem has been cropped up for the last few months. The complainant does not agree with the prescribed programme and always insists and creates pressure to the professionals to provide him "Trade Mill Therapy" which is not prescribed by the doctors and therapist of NILD. It is his everyday routine and often he goes for hot discussion with the professionals. Even after all out efforts made by the concerned departments, the complainant and his mother remained unsatisfied. A committee, consisting of senior professionals from various relevant fields, was constituted to examine the case of the complainant. In the meeting held on 28.06.2017, all the members were present but the complainant and his mother did not turn up. However, the recommendations made by the committee. The complainant denied to follow the recommendations and insisted for Trade Mill Therapy. NILD never had allowed or shall never allow any therapy of the patient's choice. NILD is committed to follow the Medical guidelines. Regarding the incident on 6<sup>th</sup> September, 2017, the Director had come to office at about 3.00 pm after attending a court case and found that the complainant and his mother along with a few patients and their attendants were shouting why the doctors were not available in the OPD. The Director called the in-charge of services and discussion was going on inside the room. All on a sudden the complainant forced open the glass door of the Director's room resulting he faced hand injury also. He was given proper treatment.

4. The complainant, in his rejoinder dated 15.12.2017 to the reply of respondent, refuted that he has been misguided by the staff association of NILD; and the reply filed by the respondent is baseless. He reiterated that the Trade Mill Therapy helped him like magic. He as a lay man do not understand about medical science but being a sensible patient he can understand that what is helping him to improve his ability. So the statement the Director, "seeking own choice therapy" is also false and baseless. The Institute is behaving with him differently. At present physiotherapy is not being provided to him

properly, only formality is being done, which he intimated to the Director but he is not ready to listen or talk. He was never asked to appear before such committee and asked the respondent to put strict proof of the same. On 08.11.2017, he was physically assaulted in the Director's Office.

5. Upon considering the aforesaid facts submitted by the parties, the case was scheduled for personal hearing on 08.02.2018 at 1430 Hrs.

6. During the hearing on 08.02.2018, the complainant's mother reiterated the complaint and alleged that no proper treatment is being given to his son, only formalities is done and he is harassed and humiliated by the Director, NILD. She intimated that when his son was unable to walk he has been given Trade Mill Therapy by Shri C.R. Samanta and under his able guidance, proper monitoring and care he could be able to walk. Then why the Trade Mill Therapy cannot be given at this time.

7. The representative of the respondent relied upon the reply already filed before this Court. However, he submitted that the complainant has never been denied or stopped the treatment. He has been given the treatment as prescribed and determined by the Doctors and Physiotherapy Department, his attendance may be verified. The patient is forcing the consultant to write the treatment of his own choice.

8. In the light of the facts mentioned above and after hearing both the parties this Court is of the view that the respondent should consider to prescribe the Trade Mill Therapy to the complainant/patient with due care, proper monitoring and guidance under able therapist, as the complainant had been given the Trade Mill Therapy at that time when he was unable to walk. The respondent is further advised to inform the action taken to this Court within 15 days from the date of receipt of this Order.

9. A copy of this Order be also endorsed to the Secretary, Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment for necessary action.

10. The case is accordingly disposed of.

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

Copy to:

The Secretary,  
Department of Empowerment of Persons with Disabilities (Divyangjan)  
Ministry of Social Justice and Empowerment,  
5<sup>th</sup> Floor, B-II, Pt. Deen Dayal Antyodaya Bhawan,  
CGO Complex, Lodhi Road, New Delhi-110003



सत्यमेव जयते

012

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

केस सं. 8122/1023/2017

R-7252

दिनांक: 14.03.2018

के मामले में :-

श्री आनंद कुमार यादव  
 शंकर नगर  
 राधाकृष्णन मंदिर के पास  
 बिलासपुर, छत्तीसगढ़

—वादी

**बनाम**

रेलवे बोर्ड  
 (द्वारा: सचिव)  
 रेल भवन, नई दिल्ली

R-7253

—प्रतिवादी सं. 01

दक्षिण पूर्व मध्य रेल  
 (द्वारा : मंडल रेल प्रबन्धक)  
 बिलासपुर, छत्तीसगढ़

R-7254

—प्रतिवादी सं. 02

दक्षिण पूर्व मध्य रेल  
 (द्वारा: वरिष्ठ मंडल कार्मिक अधिकारी)  
 बिलासपुर, छत्तीसगढ़

R-7255

—प्रतिवादी सं. 03

सुनवाई की तिथि: 05/03/2018

उपस्थित: श्री आनन्द कुमार यादव — वादी की तरफ से  
 मंडल कार्मिक अधिकारी/दक्षिण पूर्व मध्य रेल, बिलासपुर — प्रतिवादी की तरफ से  
 विधि अधिकारी/दक्षिण पूर्व मध्य रेल, बिलासपुर — प्रतिवादी की तरफ से  
 चीफ विधि सहायक/दक्षिण पूर्व मध्य रेल, बिलासपुर

**आदेश**

श्री आनंद कुमार यादव, 100 प्रतिशत दृष्टि दिव्यांग ने उनकी दिव्यांगता के कारण धारित पद से निम्न पद पर पदस्थ किए जाने से संबंधित शिकायत दिनांक 18.04.2017 दिव्यांगजन अधिकार अधिनियम, 2016(इसके बाद अधिनियम कहा जाएगा) के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत इस न्यायालय के पत्र दिनांक 09.11.2017 द्वारा उपरोक्त प्रतिवादियों के साथ उठाया गया ।

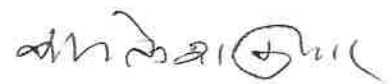
3. वरिष्ठ मंडल कार्मिक अधिकारी, दक्षिण पूर्व मध्य रेलवे ने पत्र सं. पी/बिलासपुर/विकोटीकृत /न्यायालय/विकलांगजन/1 दिनांक 08.12.2017 द्वारा निम्न प्रस्तुत तथ्य किए:-

(1) यह कि श्री आनंद कुमार यादव के चिकित्सकीय आधार पर विकोटीकृत होने के पश्चात् न तो उनका मूल वेतन और न ही वेतनमान कम किया गया । कार्यालय द्वारा जारी ज्ञापन संख्या दिनांक 25.07.2005 में स्पष्ट उल्लेख है कि उनका वेतनमान पूर्ववत की तरह रुपये 3200 से रुपये 4900 रहेगा तथा वे अपना वेतन पार्सल क्लर्क के अधिसंख्य पद के अधीन प्राप्त करेंगे । इसके साथ ही उन्हें उद्घोषक के रूप में पदस्थापित किया जायेगा ।

पृष्ठ 2

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6. मामले को नियत तिथि को सुना गया ।
7. सुनवाई के दौरान दोनों पक्षों ने अपने पूर्व में इस न्यायालय में प्रस्तुत तथ्यों को दोहराया ।
8. दोनों पक्षों को सुनने के बाद प्रतिवादियों को निर्देशित किया गया है कि वादी को दिव्यांगजन अधिकार अधिनियम, 2016 के प्रावधानों के अनुसार पूर्ववर्ती तिथि से उनको सभी पद लाभ दिए जाए और यह सुनिश्चित किया जाए कि दिव्यांगजन के संवैधानिक अधिकारों का हनन न हो । उचित कार्यवाही करने के उपरान्त अनुपालना रिपोर्ट इस न्यायालय को 90 दिन के भीतर भेजे ।
9. इसके साथ ही इस केस का निपटारा किया जाता है ।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

extra

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

Case No.: 8292/1031/2017 **R-7448**

Dated 14.03.2018

**In the matter of:**

Shri N.S.S. Naga Raj.  
 B-803, Panchnand Heights,  
 Taloja, Sector 9, Mumbai-410208  
 Email – [nssnr27@yahoo.co.in](mailto:nssnr27@yahoo.co.in)

.... Complainant

**Versus**

Indian Institute of Management Indore,  
 [Through: The Director]  
 Prabandh Shikhar, Rau-Pithampur Road,  
 Indore-453331 (MP)

**R-7449**

.... Respondent

Date of hearing: 08.01.2018

**Present:**

1. Shri N.S.S. Naga Raj, complainant
2. Shri Bhupendra Pandey, Officer Admissions IIM Indore and Shri Vikrant Singh Bais, Advocate for respondent

**ORDER**

The above named complainant, father of Shri N.S. Karthkeya Pavan Kalyan (N.S.K.P. Kalyan) who is a person with 100% visual impairment, filed a complaint vide email dated 12.07.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter as the 'Act' regarding non-implementation of the Act in the admission of his son to IMP (5 years course – 2017-22) by the respondent.

2. The complainant submitted that his son N.S.K.P. Kalyan, a person with 100% visual impairment, who got 91.1% in 12<sup>th</sup> class examination appeared for IPM (5years course - 2017-22) [Application No.AT7000025] on 16th May, 2017 at Hyderabad. He was selected for Written Ability Test and Personal interview. Written Ability Test & Personal Interview was held on 18th June, 2017 at Hyderabad and he did well. Provisional admissions for IPM 2017-22 were declared on 3rd July, 2017 in that he was not selected. He feared that the respondent did not take any candidate admission under VI quota. Institute reserves 3% admission under PWD quota.

3. Section 32 of the Rights of Persons with Disabilities Act, 2016 provides as under:

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“32. (1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent. seats for persons with benchmark disabilities.

(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.”

4. The matter was taken up with the respondent vide letter dated 20.07.2017 and advised to submit their with regard to the admission to IPM course along with the following information/documents to this Office:

- (i) number of the total seats for admission to IPM;
- (ii) total marks for written and interview, qualifying marks for Gen./OBC/SC/ST/PWDs and relaxation, if any, given to candidates with disabilities;
- (iii) list of the total number of candidates with disabilities appeared for admission in IPM and marks secured by them;
- (iv) list of the selected candidates with disabilities with marks secured by them.

5. The respondent filed their reply dated 09.08.2017 and submitted that at the time of admission process for IPM 2017 started, the rules related to the Rights of Persons with Disabilities Act, 2016 were not notified hence admission process were conducted as per PwD Act, 1995. Admission as per the provisions of new Act would be done from IPM 2018 onwards. The total intake for IPM 2017-18 batch was 121 and as per PwD Act, 1995, 04 seats were reserved for candidates with disabilities. All 04 seats have been filled up as per the admission process and IPM 2017 course has commenced w.e.f. 01.08.2017. The qualifying marks for Written Ability Test (WAT) & Personal Interviews (PI), shortlisted candidates, category wise is as under:

Category	Quantitative Ability (minimum qualifying marks)	Verbal Ability (minimum qualifying marks)	Total applicants (Qualified for WAT and PI)
General	40	100	396
NC-OBC	24	64	228
SC	16	48	176
ST	8	24	90
PWD (DA)	8	24	32

A total of 32 candidates with disabilities were shortlisted for WAT & PI, out of which 29 candidates appeared including Shri N.S.K.P. Kalyan. The respondent submitted the lists of candidates with disabilities – Table No.1: Candidates score in Aptitude Test and Table No.2: Candidates score in Personal Interview (with parameters – AVG P1, AVG P2, AVG P3, AVG P4 and AVG 5). Shri N.S.K.P. Kalyan could score in Aptitude Test – 88 marks and in Personal Interview - AVG P1, he scored 0 (zero) marks.

6. In reply to the aforesaid reply of respondent, the complainant filed his rejoinder dated 22.08.2017 and submitted that his son scored total 88 marks whereas other candidates who scored lesser marks than him was admitted to the course. In personal interview (P5) his son has awarded '0' marks whereas he has scored 01. The complainant claimed that his son was victim of something wrong. He further claimed that none of the candidates in the list secured more than 16 marks whereas Ms. Anushka Jain secured 19 marks. He has requested that clarifications may be sought from IIM Indore.

7. In reply to the rejoinder dated 22.08.2017, the respondent vide letter dated 29.09.2017 intimated that as mentioned in the Admission procedure, the eligible pool for State-4 {i.e. short-listing for Written Ability Test (WAT) and Personal Interview (PI)} is created considering only the candidates having positive raw scores and a minimum mark in each of the two sections of aptitude Test. The minimum cut off mark in each section would be based on the categories of applicants. The Aptitude Test score is only one of the three components used for the computation of Composite Score based on which a merit is prepared and provisional offers are given. The interview parameters are – P1- Subject Knowledge; P2- General Awareness; P3- Communication Skills; P4- Analytical skills and orientation; and P5- Overall suitability. As per Admissions procedure, a consistent and minimum performance in the different parameters of Personal Interview (PI) is expected from a candidate, which is decided by Admissions Committee. Candidates not meeting the minimum performance in any of PI parameters are not considered for the next stage of selection process. A total of 852 candidates appeared for WAT & PI process, out of which 292 were not found eligible because they did not meet with the minimum performance in PI parameters. Across the categories, a total of 6 candidates, out of 292 were found ineligible for further process because their average P5 score was zero (0). Shri N.S.K.P. Kalyan is not the only candidate who was found ineligible.

8. Shri N.S.K.P Kalyan filed affidavit dated 12.11.2017 to the reply dated 29.09.2017 of respondent. He submitted that he answered all the questions put into him in the Personal Interview and despite his best performance, the respondent denied admission under guise of allotting zero marks in P5 unreasonably and in unjust manner. He further alleged that the candidate bearing Application No.AT7000260 was awarded exorbitantly in the parameters of P1 to P5 to ensure that the candidate is made eligible for next level of selection process which is not justifiable. Had he been awarded at least 1.00 marks he would have topped the list of composite score and could have been selected for next level of selection process.

9. Upon considering the above facts, the case was scheduled for personal hearing on 08.01.2018 at 1600 Hrs.

10. During the hearing the complainant reiterated his complaint.

11. The representative of the respondent relied upon the replies filed by the respondent. In the reply dated 03.01.2018, the respondent submitted that the candidate No.AT7000260 and Shri N.S.K.P. Kalyan were interviewed by different panels in different cities. There is no possibility of any interview panel knowing the marks awarded by other interview panels. The allegation of complainant that the selected candidate, one Anushka Jain, secured "exorbitantly 19 marks" is most unjust and unseemly. The Interview Panel is composed of three highly qualified professors chosen for academic capability as well as the highest possible standard of objectivity, neutrality and moral integrity. One of the members of the panel is an external member. There is no conceivable reason why any of the members of the interview panel would favour one candidate over another. Except for a bald assertion, there is no objective material on the record to show that they acted with bias or on any extraneous motive. The Director of the Institute will not, as a matter of unvarying policy as well as propriety, override the marks awarded by the interview panel or sit in appeal over their evaluation. In the absence of even an iota of evidence of bias, it is also highly improper.

12. In the light of the facts mentioned in the preceding paragraphs, there does not appear any irregularity done by the respondent that Shri N.S.K.P. Kalyan was found ineligible for the next stage of selection process. Thus, no violation. However, respondent is advised to be more sensitive towards the rights of persons with disabilities.

13. The case is accordingly closed.



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





सत्यमेव जयते

014

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

संख्या 6132/1024/2016

दिनांक: 14/03.2018

सौ. चन्द्रकला विष्णु लगाडे  
 247/2/2, ताथेड बिल्डिंग  
 पूनम हाईट(पश्चिम), पूणे - 411023

R-7250

... वादी

बनाम

महानगर टेलीफोन निगम लिमिटेड मुंबई  
 (द्वारा : महाप्रबन्धक)  
 कार्यालय महा प्रबन्धक दक्षिण  
 सिटी टेलि. एक्स., एच.एस. मार्ग  
 मुंबई - 400001

R-7257

... प्रतिवादी

सुनवाई की तिथि - 12.02.2018

उपस्थित- श्री पी.पी. चन्द्रसिरे, प्रतिवादी की तरफ से  
 - वादी की तरफ से कोई प्रस्तुत नहीं हुआ

आदेश

सौ. चन्द्रकला विष्णु लगाडे, 60 प्रतिशत अस्थि दिव्यांग ने उनके पति के पेंशन एवं विशेष निवृत्ति में से आधी राशि दिलवाने से संबंधित शिकायत निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में दायर की ।

2. अधिनियम की धारा 59 के अन्तर्गत इस न्यायालय के पत्र दिनांक 26.05.2016 द्वारा मामले को प्रतिवादी के साथ उठाया गया ।

3. उप प्रबन्धक(कार्य), दक्षिण, महानगर टेलीफोन निगम लिमिटेड, मुंबई ने पत्र संख्या एस/06/उ. प्र.(कार्य)दक्षिण/व्ही.एन.एल./2016-17 दिनांक 06.06.2016 द्वारा इस न्यायालय को सूचित किया कि श्री व्ही.एन. लगाडे, कार्य सहायक, स्टाफ नं. 30318 जिनकी स्वेच्छा-सेवानिवृत्ति दिनांक 01.09.2014 हो गई है। कर्मचारी की स्वेच्छा-निवृत्ति के समय पारिवारिक विवरण में सभी फॉर्म में श्रीमती चन्द्रकला विष्णु लगाडे का नाम दिया गया है ।

अतः कर्मचारी की सेवापंजी रिकॉर्ड के अनुसार कर्मचारी से प्राप्त निम्नलिखित पारिवारिक विवरण आपके जानकारी एवं उचित कार्रवाई हेतु अग्रेषित किया गया ।

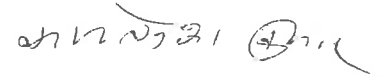
अनु.क्र.	वर्ष	पारिवारिक विवरण
1	1982	श्रीमती चन्द्रकला विष्णु लगाडे
2	1997	श्रीमती रानुका विष्णु लगाडे
3	2005	श्रीमती चन्द्रकला विष्णु लगाडे
4	2009	श्रीमती चन्द्रकला विष्णु लगाडे
5	01.09.2014	श्रीमती चन्द्रकला विष्णु लगाडे

4. दोनों पक्षों द्वारा प्रस्तुत दस्तावेजों के जाचोपरांत मामले में दिनांक 12.02.2018 को 14.00 बजे सुनवाई निर्धारित की गई ।

पृष्ठ 2

5. नियत तिथि को मामले की सुनवाई सम्पन्न की गई।

6. सुनवाई के दौरान प्रतिवादी के प्रतिनिधि ने अवगत कराया कि शादी का रिकॉर्ड उनके कार्यालय में नहीं रखा जाता है तथा सेवानिवृत्ति के उपरान्त पेंशन भी दूसरे विभाग द्वारा प्रदान की जाती है और सर्विस बुक रिकॉर्ड के अनुसार पारिवारिक विवरण में लगभग सभी फार्म में सौ० चन्द्रकला विष्णु लगाड़े का नाम आता है। चूंकि इस मामले में अधिनियम के किसी प्रावधान का कोई उल्लंघन प्रतीत नहीं होता है, अतः मामले को तदानुसार बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

extra

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

Case No.: 1144/1031/2014

R-7435

Dated 15.03.2018

In the matter of:

Dr. Nitesh Kumar Tripathi,  
 H.No.B-241, B-Block, Sant Nagar,  
 Burari, Delhi-110084  
 Email- [niteshtripathi85@gmail.com](mailto:niteshtripathi85@gmail.com)

.... Complainant

*Versus*

All India Institute of Medical Sciences (AIIMS)  
 [Through: Director]  
 Ansari Nagar East, Gautam Nagar,  
 New Delhi – 110029

R-7436

.... Respondent

Date of hearing: 13.07.2017

Present:

1. Dr. Nitesh Kumar Tripathi, complainant
2. Dr. Sanjeev Lalwani, Professor & Registrar and Dr. O.P. Sharma, Assistant Controller (Exam), AIIMS, New Delhi for respondent

**ORDER**

The above named complainant a person with 65% locomotor disability (lower limb-crutch user) filed a complaint vide email dated 13.03.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995) regarding non-implementation of the PwD Act, 1995 in the admission to MBBS & PG courses by the respondent.

2. The complainant had submitted that -

(1) AIIMS –Delhi did not shown the exact number of reservation status and there was no relaxation in eligibility criteria while according to the directions of the Apex Court, Ministry of Health & Family welfare relaxed 5% marks in entrance examination for persons with disabilities. NEET PG entrance is considering the same but AIIMS was not considering the relaxation in cut off marks for persons with disabilities which is not only the violation of the PwD Act but also a practice against the directions of the Apex Court of India ultimately for the deprivation of the rights of persons with disabilities.

(2) There was no concern at AIIMS Delhi for the 100 point reservation roster for persons with disabilities. Roster as well as Special Recruitment Drive was being conducted for the SC/ST/OBC but not for the PwDs, so at least 3% seats must be reserved for them under the PwD Act 1995. The complainant requested for 100 point reservation roster for persons with disabilities since 1995 and for conducting Special Recruitment Drive.

(3) According to the directions of the Apex court as well as norms of the Medical council of India persons having disability in lower limbs from 50%-70% are considered as PH-1 along with first priority in seat allotment & if such candidates are not available then candidates with limit of disability as 40%-50% are given the last preference.

3. Under Section 59 of the Act, this Court, vide letter dated 27.06.2014, took up the matter with the respondent and advised him to submit comments ensuring that the legitimate rights of persons with disabilities are not infringed.

4. The Registrar, AIIMS vide letter dated 31.07.2014 submitted their reply point-wise and inter-alia submitted as under: –

**“Point No.1** *It is to be informed that following provision with regard to reservation status and relaxation in eligibility criteria for OPH Candidates is notified in the prospectus for admission to MBBS Course as well as PG Course in the Institute every year:*

(a) **MBBS Course**

(i) *A 3% reservation for Orthopaedic physically handicapped shall be provided on horizontal basis, in the seats available.*

(ii) **Criteria for OPH**

*The candidate must possess valid document certifying his/her physical disability conforming to the judgement of Supreme Court of India i.e. with the approval of the Ministry of Health & Family Welfare, Govt. of India vide letter No.18018/2/2009-ME(P-1) dated 17.02.2009 it has been decided that while providing reservation in admission to medical course in the first instance candidates with disability of lower limbs between 50% to 70% shall be considered and in case candidates are not available of such candidates in that category then the candidates with disability of lower limbs between 40% to 50% will also be considered.*

(iii) **The minimum aggregate of the marks are as under:**

General and OBC candidates	: 60% marks
SC/ST/OPH candidates	: 50% marks

(iv) **Minimum Cut off marks in the Entrance Examination:**

General category candidates	: 50% marks
OBC candidates	: 45% marks
SC/ST categories	: 40% marks

*The above is also applicable for OPH candidates of respective category.*

(b) PG Course**Orthopaedic Physically Handicapped:****a) For MD/MS SEATS : (3%)**

*For Indian National 3% reservations for orthopaedic physically handicapped shall be provided on horizontal basis, in the seats available as per their rank in the merit. If requisite number of suitable candidates are not available to fill up the seats reserved for the Scheduled Castes, the same are filled in out of the candidates belonging to the Scheduled Tribes and vice versa. In case suitable candidates are not available from the above three reserved categories and orthopaedically handicapped, the vacant seats will be filled by the candidates from the general category.*

**b) Minimum Cut off Marks for entrance examination**

*The minimum cut off marks for eligibility for an orthopedically physically handicapped candidate will depend on whether the candidate belongs to SC/ST or OBC/General category. If the handicapped candidate belongs to the SC/ST or OBC/General category, the cut off marks/eligibility criteria will be as those applicable to the respective category.*

**c) Other Criteria for Orthopaedic Physically handicapped:**

*The candidate must possess a valid document certifying his/her physical disability conforming to judgment of Supreme Court of India i.e.:*

*With the approval of the Ministry of Health & Family Welfare, Govt. of India vide letter No.18018/2/2009-ME(P-1) dated 17.02.2009 it has been decided that while providing reservation in admission to medical course in the first instance candidates with disability of lower limbs between 50% to 70% shall be considered and in case candidates are not available of such candidates in that category then the candidates with disability of lower limbs between 40% to 50% will also be considered for admission subject to the outcome in the Writ Petition (Civil) 184/2005-Dr. Kumar Sourav Vs UOI & others pending in the Supreme Court of India.*

**Point No.2** *In this case the complainant has alleged that 100 Point reservation roster is not being maintained. This is not true. We are providing 3% reservation as per the provisions of 100 point reservation roster for persons with disabilities. As regards special recruitment drive and maintaining backlog of vacancies it is to be informed that no seats are kept vacant and backlog is not maintained for any category i.e. SC/ST/OBC including OPH candidates. In case sufficient number of candidates are not available/do not opt to seats offered such vacant seats are filled from unreserved category candidates. Thus, there is no practice of maintaining backlog for various categories in all academic courses.*

**Point No.3** *We are following the directions of Apex Court and it can be made out as is evident from the contents of our prospectus referred to above."*

5. The complainant filed his rejoinder dated 21.08.2014 and submitted that respondent was not following the direction of Hon'ble Apex Court according to which the minimum qualifying marks for OPH General category candidate must be 45% instead of 50%. Ministry of Health and Family Welfare is enforcing the same but AIIMS was not implementing. AIIMS was not providing relaxation in marks for PwD since 1995 and not filling up the backlog. He requested that the respondent be directed to implement the

recommendation of the 6<sup>th</sup> CPC for exemption from application fee, maintenance of 100 point reservation roster in all most all kinds of the recruitments, to provide disabled friendly atmosphere and allowing travel expenses with an escort while attending interview.

6. This Court vide letter dated 09.02.2015, forwarded the rejoinder filed by the complainant to the respondent for filing their comments thereto.

7. The respondent filed their comments dated 25.03.2015/06.05.2015 to the rejoinder dated 21.08.2014 of the complainant and submitted that –

(1) In the Prospectus for MBBS course for the year 2014 and 2015, the minimum cut off marks required for OPH candidates of respective category were - 50% for OPH General category; 45% for OPH-OBC (non-creamy); and 40% for OPH-SC/ST category. As this requires approval of various Committees, AIIMS may decide to consider the relaxed standard for OPH General category, if the sufficient number of persons with disabilities are not available on the basis of the general standard to fill the vacancies reserved for them. As soon as the same are considered and such relaxed standard are approved, the same will be implemented.

(2) As regards, not filling up backlog for persons with disabilities, the OPH candidates are either not available or they remain absent during counseling for recruitment in various specialties/super specialties. When the OPH candidates are available, AIIMS tries their best to give opportunities without compromising on the objective of the Institute for high standard of medical education.

(3) In the prospectus and advertisement most of the concerns of the petitioners were addressed. Academic Section had no policy to allow travelling allowance for attending interviews to the candidates with disabilities and with an escort. Being a policy matter it was needed to be decided for the whole of the Institute.

8. The complainant in his rejoinder dated 10.06.2015 reiterated his complaint.

9. However, this Court again forwarded the rejoinder dated 10.06.2015 filed by the complainant to the respondent for submission of comments thereto.

10. The respondent filed their reply dated 10.10.2016 and submitted that they follow 3% reservation for OPH category in PG course as well as MBBS as the candidate possess a valid documents certifying his/her physical disability conforming to the judgement of Hon'ble Supreme Court of India. i.e.

“(a) With the approval of the Ministry of Health & Family Welfare, Govt. of India vide letter No.18018/2/2009-ME (P-1) dated 17.02.2009, it has been decided that while providing reservation in admission to medical course in

the first instance candidates with disability of lower limbs between 50% to 70% shall be considered and in case candidates are not available or such candidates in that category then the candidates with disability of lower limbs between 50% to 70% will also be considered for admission subject to the outcome in the Writ Petition (Civil) 184/2005 – Dr. Kumar Sourav Vs. UOI & others pending in the Supreme Court of India.

- (b) The disability certificate should be issued by a duly constituted and authorized Medical Board of the State or Central Govt. Hospitals/Institutions.
- (c) The constitution of the Medical Board will be on consultant each from disciplines of Orthopaedics, Physical Medicine & Rehabilitation and Surgery.”

11. The complainant filed his rejoinder dated 01.04.2017 to the reply dated 10.10.2016 filed by respondent and reiterated his demand as submitted in his original complaint.

12. Upon considering the above mentioned facts, the case was scheduled for personal hearing on 13.07.2017 at 1500 Hrs. and vide Notice of Hearing dated 30.06.2017, the parties were advised to appear before the Court for hearing at the scheduled date and time.

13. During the hearing on 13.07.2017, the complainant reiterated his complaint.

14. The representative of the respondent also relied upon the replies already filed by the respondent and added that an OPH Centre is made in each city where the examination is being conducted, which is fully accessible and disabled friendly.

15. In the light of the facts submitted in the preceding paragraphs, this Court observed that the OPH candidates of General category are deprived of relaxation as the cut off marks for candidates of General category and OPH candidates of General category is 50% in the entrance examinations. The respondent is advised to consider providing relaxation in cut off mark to 45% instead of 50% for OPH candidates of General category in the entrance examinations for MBBS and PG courses. The respondent is further advised to ensure implementation of the Rights of Persons with Disabilities Act, 2016 for persons with disabilities.

16. The case is accordingly disposed of.



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



सत्यमेव जयते

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

Case No: 6384/1022/2016

Dated : 22.03.2018  
 Dispatch No. ....

In the matter of :

R-7428  
 Shri Shankar Lal Gupta,  
 Junior Engineer (Civil),  
 PWD Flat No.1,  
 Type -III, H-Block,  
 Policy Colony,  
 Ashok Vihar Phase-1,  
 Delhi - 110 052

..... Complainant

**Versus**

Central Public Works Department,  
 (Thru Dy. Director General (Coord) NRF),  
 East Block-1, Level-7,  
 R.K. Puram,  
 New Delhi - 110066

R-7429

..... Respondent

Date of Hearing : 16.03.2018

**Present :**

1. Shri Shankar Lal Gupta, Complainant.
2. Shri I.D. Yadav, Executive Engineer and Shri Rajesh Kumar, O.S., On behalf of Respondent.

**ORDER**

The above named complainant, a person with 58% locomotor disability had filed a complaint dated 24.02.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding his transfer to the office nearest to his place of residence, i.e. (1) CSQ, CPWD LAB or A Division.

2. The Complainant submitted that he is posted in Land Management at Bhiron Road, T. Junction, Near Pragati Power Station, New Delhi. His residence is PWD Staff Quarters in Ashok Vihar Phase -1, Delhi which is about 19 Kms from his residence. He is finding very difficult to travel from one place to another due to his disability. He has completed six years in PWD.

....2/-



3. The matter was taken up with the Respondent under Section 59 Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 vide letter dated 27.03.2017.

4. The Executive Engineer, CPWD vide his letter dated 06.04.2017 submitted that the Complainant was transferred from PWD to CPWD under routine transfer under Zone 'A'. Before posting an employee, he is being asked about his preference of posting in advance. The Complainant has given his option for transfer from PWD to CPWD. The Respondent further submitted that if the Complainant is not satisfied with his transfer, then he can give a fresh option for his transfer.

5. The Complainant vide his rejoinder that 06.12.2017 has submitted that his establishment has confirmed that his transfer was a routine transfer and he was transferred from PWD to CPWD after putting 6 years of service. He submitted that there are many employees who have completed 8 years of their tenure in PWD and are still working there. He had requested for his transfer near to his place of residence.

6. During the hearing the Complainant submitted that he is presently posted in Land Management at Bhairon Road T. Junction near Pragati Power Station, Delhi. He is away from Zone 3 for two years. He is living in PWD Quarters in Ashok Vihar Phase-1, Delhi. He is finding it difficult to travel daily from his residence to his office due to his disability. He had requested for his posting either in Ashok Vihar or Inderlok.

7. The Respondent reiterated their earlier submissions and submitted that the Complainant was transferred from PWD to CPWD under routine transfer in Zone 'A'. Before posting an employee, he is being asked about his preference of posting in advance. The Complainant was transferred as per the option given by him.

8. After hearing both the Complainant and the Respondent, the Court advised the Respondent to consider to post the Complainant near to his place of residence.

9. The case is disposed off.

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



सत्यमेव जयते

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

Case No. 7389/1102/2017

R-7454

Dated: 26.03.2018

**In the matter of :**

✓ Shri Yamuna Prasad Gupta  
guptayamunaprasad@gmail.com

-Complainant

**Versus**

Canara Bank  
 (through: the Chairman & Managing Director)  
 Head Office  
 112, J.C. Road, P.B.No. 6648  
 Bangalore-560002

R-7455

-Respondent No. 01

Canara Bank  
 (through: the Branch Manager)  
 Branch Burari, New Delhi

R-7456

-Respondent No. 02

**Date of Hearing:** 13.02.2018

**Present:** Shri Yamuna Prasad Gupta of behalf of the Complainant  
 Shri Abhishek Raina, Advocate on behalf of the Respondent  
 Shri R Murugesan, AGM, Canara Bank on behalf of the Respondent  
 Shri Avnish Kushwaha, Manager, Canara Bank on behalf of the Respondent  
 Shri Dal Chand Singh, Canara Bank on behalf of the Respondent

**ORDER**

Shri Yamuna Prasad Gupta, a person with 100% visual impairment filed a complaint dated 23.02.2017 regarding harassment by Branch Manager on account of cheque authentication under Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (which is replaced as the Rights of Persons with Disabilities Act, 2016).

2. Reserve Bank of India (RBI) vide Master Circular No. DBOD No. Leg.BC.21/09/07.006/2014-15 dated 01.07.2014 advised to all Scheduled Commercial Banks (Excluding RRBs) that Banks should ensure that all the banking facilities such as **cheque book facilities including third party cheques, ATM facility, Net banking facility, locker facility, retail loans, credit cards etc.**, are invariably offered to the persons with disabilities including visually challenged without any discrimination.

3. In accordance with the above RBI's guidelines, the matter was taken up with the Respondent vide this Court's letter dated 22.03.2017 followed by reminder letter dated 18.08.2017.

4. The Manager, Canara Bank Branch Burari vide letter dated 01.09.2017 has informed that the complainant is a Valuable customer of their branch since long. One day he came to branch for withdraw money. As per Bank guidelines Visually Impaired illiterate person have to be witness of his/her thumb impression. So they were not able to cash his cheque without witness of his thumb impression.

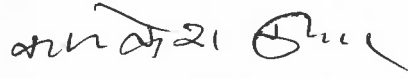
Pg. 2

5. Upon considering Respondent above mentioned reply dated 01.09.2017, it has been decided to hold a personal hearing in the matter and accordingly a Notice of Hearing dated 08.01.2018 issued to the parties.

6. The matter was heard as per schedule on 08.01.2018.

7. Canara Bank's Circular: 69/2016 dated 06.02.2016 stated that "*Cash payments to a blind person should always be made in the presence of a person known to the Bank who should also sign as a witness. While such witnesses should preferably customers of the Bank, a Bank official other than the paying cashier may also sign as a witness*". Which is contradicted to above RBI guidelines?

8. After hearing all the parties, the Respondent Bank was advised to provide all the banking facilities to the complainant, Shri Yamuna Prasad Gupta as per extant norms and follow the RBI guidelines in the letter and spirit and they were agreed for the same. The case is disposed off with the direction that customers/persons with disabilities shall not be deprived of their legitimate rights and their sensitivity should be maintained.

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



सत्यमेव जयते

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

Case No: 6908/1024/2016

Dated : 27.03.2018  
 Dispatch No. ....

In the matter of :

Shri Subrata Banik,  
 64/6, Garfa Main Road,  
 Jadavpur,  
 Kolkata,  
 West Bengal – 700 075

R-7432

.....Complainant

Versus

Bharat Sanchar Nigam Limited,  
 (Through the Chairman),  
 Bharat Sanchar Bhawan,  
 Harish Chandra Mathur Lane,  
 Janpath,  
 New Delhi – 110 001

R-7433

.....Respondent

Date of Hearing : 06.03.2018

Present :

1. Shri Subrata Banik, Complainant
2. Shri Sheo Shankar, DGM and Shri S.P. Bhatta, AGM (Estt.I), On behalf of Respondent.

**ORDER**

The above named complainant, a person with 55% locomotor disability had filed a complaint dated 31.08.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding stopping payment of Transport Allowance at double the normal rate.

2. The Complainant submitted that he had been drawing the Transport Allowance at Rs.1000/- per month till July 2015. The payment of Transport Allowance was stopped w.e.f. August 2015. He approached the designated authority to get a clarification of the BSNL Order in this regard. His prayer was regretted without stating any specific reason.

3. The matter was taken up with the Respondent under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, vide letter dated 17.11.2016.

...2/-

4. The Asstt. General Manager (Est. I), BSNL, New Delhi vide his letter no 15-1/2014-PAT(BSNL) dated 21.07.2017 had submitted that BSNL being a CPSE is following the DPE guidelines for payment of Transport Allowance to Blind or Orthopedically handicapped employees. He stated that the DPE OM states that 'Physically handicapped (blind or Orthopedically handicapped with disability of lower extremities) employees of CPSEs following Industrial Dearness Allowance (IDA) pattern of pay scales, can be extended the benefits of Transport Allowance as envisaged in para 2(1) of Deptt. Of Expenditure's O.M. dated 29.08.2008 provided it is within the ceiling of 50% of the basic pay prescribed for perks and allowances. Therefore, he submitted that PH employees (with disability of upper extremities) employees of BSNL are not eligible to draw Transport Allowance at double the normal rates prescribed for other employees. Hence, the complainant who has disability of upper extremity is not eligible to get Transport Allowance at double the normal rate.

5. The complainant vide his rejoinder dated 11.08.2017 submitted that employees of Central Public Enterprises (CPSEs) who are on CDA pattern of pay scale and are PH (blind or Orthopedically handicapped with disability of lower extremities), employees of CPSEs following IDA pattern of pay scales can be extended the benefit of Transport Allowance as envisaged in para 2(ii) of Deptt. Of Expenditure's OM dated 29.08.2008 provided it is within the ceiling of 50% of the basic pay prescribed for perks and allowances as indicated in para 10 of DPE OM dated 26.11.2008 read with DPE OM dated 01.06.2011.

6. After considering Respondent's reply dated 21.07.2017 and Complainant's rejoinder dated 11.08.2017, a personal hearing was scheduled on 10.01.2018.

7. During the hearing the Complainant was absent. However, the complainant vide his fax letter dated 09.01.2018 had informed the Court that he had been to Rajasthan on 23.12.2017 and returned only on 07.01.2018. He submitted that he received the Notice of Hearing on 08.01.2018 only. He tried to procure the Railway Ticket to Delhi on 09.01.2018, but could not get it as most of the trains for Delhi were cancelled.

8. During the hearing no one on behalf of Respondent was present. The Court took serious view of the fact that the Respondent did not even took pain to inform the Court about their inability to participate in the hearing.

9. The Court scheduled the next hearing on 06.03.2018 at 11:00 Hrs.

10. During the hearing the Complainant submitted that after the pay revision, the Double Transport Allowance was stopped after August 2015. He made several representations to the management informing about this but his representations were rejected both by the Circle Office and the Corporate Office.

11. The representatives of Respondent submitted that BSNL being a CPSE follows the DPE guidelines for payment of Transport Allowance to Blind or Orthopedically handicapped employees of BSNL. With the approval of the competent authority, BSNL had issued an Office Order No. 15-1/2014-PAT(BSNL) dated 11.07.2014 according to which blind or Orthopedically handicapped (with disability of lower extremities) employees of BSNL are eligible to draw Transport Allowance at double the normal rates prescribed for other employees, which shall, in no case be less than Rs.1,000/- per month w.e.f. 11.07.2014. Accordingly the complaint of Shri Subrata Banik, Sr. TOA who has disability of upper extremity was examined by the BSNL West Bengal Circle and he was not paid the Transport Allowance at double the normal rate. The issue of Transport Allowance to the Orthopedically handicapped employees of BSNL (with disability of upper extremities) was examined in the light of Ministry of Finance, Department of Expenditure O.M. No.21-1/2011-E.II (B) dated 05.08.2013 and it was decided with the approval of the competent authority to endorse the same to their field units for purpose of grant of Transport Allowance to Orthopedically handicapped employees of BSNL (with disability of upper extremities). The representatives of Respondent informed this Court that their Office had taken a decision vide Order No. 15-1/2014-PAT(BSNL) dated 15.02.2018 to give Transport Allowance at double the normal rate to the Complainant and other BSNL employees subject to a maximum of Rs.1,000/- w.e.f. 11.07.2014.

12. The case is disposed off.

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