



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: 8023/1011/2017

Dated: 02.04.2018

**In the matter of:-**

Shri Manish Gautam

Dy. Director (Legal)

Association for the Rights of Disabled Persons

BK - 2/94, Shalimar Bagh, New Delhi - 110088

R-7824

Complainant

Versus

Nava Nalanda Mahavihara

(Through the Registrar)

Nalanda - 803111, Bihar

Respondent

**Date of Hearing:** 22.03.2018

Present:

R-7825

1. Complainant - absent
2. Dr. S.P. Sinha, Registrar on behalf of respondent

**ORDER**

The above named complainant filed a complaint dated 19.04.2017 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding non implementation of the RPwD Act, 2016.

2. Complainant in his complaint submitted that Nava Nalanda Mahavihara, Bihar has published an advertisement for various teaching posts without providing reservation to persons with disabilities.

3. The matter was taken up with the respondent vide this Court's letter dated 01.09.2017 under Section 34 of the Rights of Persons with Disabilities Act, 2016. But despite reminder dated 15.11.2017, no reply has been received, therefore, it had been decided to hold a personal hearing in the matter.

4. During the hearing, complainant was absent. Representative of the respondent submitted written submission vide letter dated 20.03.2018 vide which apprised that Nava Nalanda Mahavihara was established by the Government of Bihar in 1951 and taken over by the Ministry of Human Resource

Development, Department of Culture, Government of India on 25.02.1994. At the time of taken over in 1994 the reservation register was not available and only two Lecturers were on the role of the University against the sanctioned position of 14 Lecturers and 05 Professors. Thereafter between 1994 till 2000, no more fresh appointments were made against both teaching and non-teaching Group A posts in different Departments including the teaching posts of Professor, Associate Professor and Assistant Professors. He further submitted that as per the letter dated 04.06.2014, 18 teaching posts were sanctioned in which 05 posts of Professors, 08 posts of Associate Professor and 05 posts of Assistant Professor were sanctioned in Group 'A' cadre. He further submitted that the Group 'A' posts in the Establishment requiring persons suffering from specific category of disability who can be employed in identified posts, has still to be determined in consultation with competent Medical Authorities and only thereafter a separate 100 point reservation roster register can be prepared, the University establishment would be undertaking the exercise to prepare the said for Group 'A' posts starting from the year 1996 and thereafter ensuring that disabled person fulfilling the eligibility criteria as well as suffering from the bench mark disability as prescribed by the DoP&T for effective reservation shall be followed in letter and spirit and in accordance with the 100 point reservation roster and every endeavor will be made to fill up the vacancy in Group 'A' posts as per the roster point for each of the category of disability.

5. In the light of the above, the case is disposed off with the following directions to the respondent:-
- to initiate action to fill up the backlog reserved vacancies as per DOP&T's instructions contained in their OM No. 36038/2/2008—Estt. (Res) dated 28.07.2011.
  - to indicate the points of the rosters against which the vacancies fall in all future advertisements.

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



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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: 7213/1011/2016

Dated: 02.04.2018

**In the matter of:-**

Shri Pavitra Singh  
 Quarter No. 50, Married Scholar Hostel  
IIT Guwahati, Assam

Complainant

Versus

Nuclear Power Corporation of India Ltd  
 (Through the Chairman-cum-Managing Director)  
 Nabhikiya Urja Bhawan, Anushakti Nagar  
Mumbai - 400094

Respondent

**Date of Hearing: 21.03.2018**

Present:

1. Complainant - absent
2. Shri Chandra Prakash Singh, DGM (HR) and Shri Utpal Kumar, DGM (Legal) on behalf of respondent

**ORDER**

The above named complainant filed a complaint dated 15.11.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding Special Recruitment Drive for persons with disabilities published by NPCIL.

2. Complainant in his complaint submitted that he had applied for the post of Scientific Officer - C, Scientific Officer - D and Executive Trainee in Nuclear Power Corporation Ltd, Mumbai against an advertisement of Special Recruitment Drive for PwDs and he had faced the inter-alia problems (i) NPCIL did not mentioned number of vacancies post wise, it was given only total number of vacancies 57 for various (three posts, Scientific Officer-C, Scientific Officer - D and Executive Trainee) when eligibility criteria and posts were different. (ii) He could not decide properly to ensure selection which post has maximum number of vacancies (iii) NPCIL organized separate written exam on the same venue for all undistributed post wise vacancies etc. (iv) After fake arrangement/system NPCIL required 50 - 50% vacancies saying that eligible candidates were not found (v) all documents were verified before interview and one interviewer took his personnel file and scattered his documents and commented on category.

3. The matter was taken up with the respondent vide this Court's letter dated 26.12.2016 under Section 33 of the Persons with Disabilities Act, 195.
4. In response, Dy. General Manager (HRM), Nuclear Power Corporation of India Ltd vide letter dated 13.01.2017 has inter-alia submitted that NPCIL had issued an Advertisement No. NPCIL/HRM/SRD/2015/04 in October 2015 for different categories of posts, which included a combined number of 57 posts of Engineers in three grades namely (a) Technical Officer (D) (b) Scientific Officer (C) and (c) Executive Trainee in different Engineering disciplines. He further submitted that Shri Pavitra Singh had applied for the three posts of Engineers (Mechanical Discipline) against the above advertisement. He had accordingly appeared for the on-line test on 28.02.2016 for the post of Scientific Officer/C as per his own choice, he was short-listed for being called for the personal interview for the post of Scientific Officer/C, based on the marks obtained by him in the on-line test. However, he was not found fit in the selection interview. He further submitted that out of the 57 vacancies in Group 'A' (Technical), NPCIL could fill only 14 Group 'A' (Technical) vacancies during first attempt of Special Recruitment Drive for PwDs. Therefore, vide their Second advertisement No. NPCIL/HRM/2016/05 backlog 43 vacancies were notified for the post of Technical Officer/C, Scientific Officer/C and Technical Officer/D. In accordance to para 19 of general conditions of the detailed advertisement, candidates were asked to apply for only one post as the online test for all posts shall be held simultaneously at various centers in a single day. In spite of this condition, Shri Pavitra Singh has applied for three posts against this advertisement. This time, Shri Pavitra has mentioned his category as General in all the three applications and the total number of year's of experience mentioned by him varies from post to post.
5. Complainant vide letter dated 15.03.2017 has inter-alia submitted that एन.पी.सी.आई.एल. ने पूरी तरह से गुमराह करने की फिर से कोशिश की है जबकि असल उत्तर 8 आर.टी.आई. के बाद भी एन.पी.सी.आई.एल., मुम्बई ने नहीं दिया। प्रार्थी का आगे कहना है कि तीन प्रकार की नियुक्तियाँ में अलग-2 पदों के लिए अर्हता भी अलग थी एवं परीक्षा भी एक ही वक्त पर अलग-2 थी, या तो सभी पदों के लिए एक ही परीक्षा होनी चाहिए थी या परीक्षा हर पद के लिए योग्यतानुसार अलग थी तो प्रतिवादी को अलग-अलग पदों के सामने पदों की संख्या दर्शित करनी चाहिए थी।
6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 21.03.2018. During the hearing, complainant was absent. Representative of the respondent submitted written submission vide letter dated 15.03.2018 vide which it was apprised that NPCIL notified unfilled 43 vacancies (29 HH and 14 OH) vide Advt. No. NPCIL/HRM/SRD/2016/05 under Special Recruitment Drive for Persons with Disabilities (second attempt). This time the posts advertised were Technical Officer/D, Scientific Officer/C and Technical Officer/C. It was clearly mentioned in para 19 under General conditions of detailed advertisement that the "the online test for all the posts advertised

(except for the post of Jr. Hindi Translator) shall be held simultaneously at various centres on a single day. As such, if a candidate happens to be eligible for more than one post, he/she may apply for only one post of his/her choice." Despite this, Shri Pavitra Singh had applied (indicating category as "General") for all the three posts viz Technical Officer/D, Scientific Officer/C and Technical Officer/C vide online applications. He was issued with eAdmit Cards for online test for all the three posts. It was categorically mentioned in the eAdmit Card that "the online test for all the posts advertised shall be held simultaneously at various centres in a single session. As such, if a candidate being eligible for more than one post, has applied for more than post, he/she may appear for online test for only one post of his/her choice. In that case, he must bring eAdmit card applicable for that post only". Shri Pavitra Singh appeared for online test held on 06.08.2017 for the post of Scientific Officer/C under Mechanical discipline as per his own choice.

5. After hearing and material available on record, the case is disposed off without any directions as response of the respondent is found satisfactory.



**(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.: 7231/1023/2016

Dated: 9.4.2018  
 Dispatch No. ....

In the matter of :

R-7461

Shri V.K. Gupta,  
 Advocate,  
 F-118, Dilshad Colony,  
 Delhi -110095  
 Email: <vkgupta118@gmail.com>

.....Complainant

**Versus**

The Chairman,  
 MMTC Limited,  
 Core-1, 'Scope Complex',  
 7, Institutional Area,  
 Lodhi Road,  
 New Delhi – 110 003

R-7462

.....Respondent

**Date of hearing : 21.02.2018, 21.12.2017, 31.07.2017 and 11.07.2017**

**Present :**

1. Shri V.K. Gupta, Complainant - Present
2. Shri Nitin Darmore, Advocate, Shri K.B. Lakra, Ms. Smita Singh and Shri Mohit Jain on behalf of Respondent.

**ORDER**

The above named complainant had filed complaints dated 04.12.2016 and 27.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against transfers and harassment of his son Shri Vikas Gupta, a person suffering from 79% locomotor disability.

2. The complainant submitted that his son Shri Vikas Gupta is suffering from 79% locomotor disability. Shri Vikas Gupta is employed as Dy. Manager in MMTC in Delhi under PH category. Due to his disability his son always needs an escort while travelling. His son is living with his parents and is totally dependent on them for daily chores. His son is married but unfortunately his wife abandoned him. His wife with her influential relatives is causing harassment and pressurizing the top management of MMTC Limited to cause harassment to his son. Once he was transferred on 04.05.2011 to Jaipur, but his establishment considered his request to retain him at Jaipur. On 23.07.2012, the complainant was transferred CBO Division (Night and Shift duties). This time his request was not considered by his establishment and he had to perform his duties till 09.01.2013 in CBO Division. On 18.07.2013 the complainant was put on General Election Duty of the

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on 04.05.2011 to Jaipur, but his establishment considered his request to retain him at Jaipur. On 23.07.2012, the complainant was transferred CBO Division (Night and Shift duties). This time his request was not considered by his establishment and he had to perform his duties till 09.01.2013 in CBO Division. On 18.07.2013 the complainant was put on General Election Duty of the Legislative Assembly in Delhi in 2013. After giving a representation to his office, his duties in General Elections was cancelled. On 29.11.2016, the complainant was directed by his office to report at Krishnapatnam (Telengana) immediately. His son's request to retain him at the place where he was posted was never considered by his establishment and he was forced to join duty at Krishnapatnam, Telengana whereas the transfer orders of the abled persons were cancelled by his department. The complainant filed a writ petition in Hon'ble Court of Delhi seeking quashing of said impugned transfer order. The Hon'ble High Court of Delhi stayed the transfer order and directed his establishment to withdraw the same. Upon the direction of the Hon'ble Court the said impugned transfer order was withdrawn.

3. The matter was taken up with the Chairman, MMTC Limited vide this Court's letter dated 06.02.2017.

4. The Addl. General Manager (P), MMTC vide letter no. MMTC/CO/P(SCI)/WP/2017 dated 06.03.2017 had stated that the complainant was in terms of Office Order No. SCI/274/2016 dated 16.11.2016 and was transferred from CO/Delhi to Krishnapatnam under Regional Office Vizag for a period of 3 months to supervise the arrival of Pulses at the Port. However, they further stated that taking compassionate view on the representation dated 29.11.2016, they decided to retain the complainant at his present place of posting.

5. A copy of the respondent's reply dated 06.03.2017 was sent to the complainant for his comments/rejoinder vide this Court's letter dated 26.04.2017.

6. The complainant vide his rejoinder letter dated 03.05.2017 submitted that the Respondent is not following the norms framed by the DoP&T in favour of employees with disabilities on their

promotion under their reserved category. The affected person was not being treated with normal employees and discriminated in one or other ways. The Respondent is not providing Special Casual Leave to the affected person for specific requirements relating to disabilities. The Respondent is not providing any time flexibility/relaxation to the affected person in office hours and also the Handicapped Allowance is not provided to the affected person. He further stated that the Respondent is not providing any financial assistance to the affected person for the purchase of Caliper/Shops and other assistive devices. He further stated that the Respondent is not taking any action against the grievances and request filed by the affected person in regard to the harassment and discrimination behavior of the staff/officer and management of the opposite party. The Respondent is not providing five increments as per the appointment letter/office order issued to him. The affected person was promised to give promotion in two years, which was denied to him. The Respondent is harassing and discriminating the affected person by violating all the rules and norms framed for the welfare of persons with disabilities and transferred him to Krishnapatnam, Telengana. He further stated that the near and dear ones of the Respondents are not transferred despite the transfer policy framed for them.

7. Upon considering replies of both the complainant and Respondent, a hearing was fixed on 11.07.2017 at 12:00 Hrs.

8. During the hearing, the Complainant reiterated his earlier submission filed in this Court vide his rejoinder dated 03.05.2017.

9. The Court took serious view for not deputing any representative by the Respondent for attending the hearing despite sending them Notice of Hearing dated 05.06.2017, well in advance.

10. The hearing was adjourned to 31.07.2017 at 12:00 Hrs.

11. During the hearing on 31.07.2017, the complainant vide his written submission dated 31.07.2017 had stated that his son, Shri Vikas Gupta, was appointed as Dy. Manager in MMTC Limited under PH category in the year 2007. The Respondent is causing harassment and



discrimination to the affected person by frequently transferring him against all cannons of law, just to save their near and dear ones from transfer policy. His son is suffering from 86% permanent locomotor disability in left lower limb and right upper limb and cannot travel without an escort. The Respondent is not following the norms framed by DoP&T for persons with disabilities in promotion under their reserved category. He submitted that no DPC has been arranged for the last many years to promote the affected person. His son is being treated with the normal employees and discriminated in one way or the other. At the time of appointment, his son was promised stroke promotion in two years. The Respondent is manipulating the 'Annual Confidential Report/Performance Report' of his son to harass, discriminate and denying him promotion. The confidential report of his son is de-graded by two steps, which is against all rules and laws. The complainant submitted that the Respondent is not providing Special Casual Leave to his son and not providing any time flexibility/relaxation to the affected person in office hours for performing his official duties. He submitted that the Respondent is not giving any Handicapped Allowance to the affected person as per Government guidelines. Earlier, the Respondent was providing the same but later on it was withdrawn without any sufficient cause and notice. The Respondent is also not providing any financial assistance to the affected person for the purchase of calliper/shoes and other assistive devices. The Respondent, with the intention to harass and discriminate the affected person, is not providing him five increments as per the appointment letter/office order issued to his son. As per the letter/office order, the basic pay of the affected person was fixed at Rs.9850/- (Pre-revised in year 2007) in the Scale of Rs.8600-250-14600 plus Rs.1250/-(including five increments of Rs.250/- each per month). Till April 2009, the affected person was drawing salary at the Basic Pay at Rs.9850/- and the same was reflected in his salary slip, but after pay revision, during the month of May 2009, the basic salary of the affected person on date of joining was fixed at minimum of Basic Pay of Rs.16,400/- in the Pay Scale of Rs.16,400-3%-40,500 (Revised) which is equivalent to old Basic Pay of Rs.8,600/- and not as per Rs.9,850/-. The complainant submitted that the pay of affected person should have been fixed proportionate to Rs.18,860/- (considering Basic Pay of Rs.16,400/- in the revised scale). He submitted that no action has been taken by the Respondent in fixation of the Basic Pay as per the new pay revision despite of various reminders to the Respondent for the last ten years. The Respondent has 1130

employees as on 31.12.2016, out of which there are only 21 employees with disabilities, who are working all over India. The complainant further submitted that the Respondent is threatening the affected person with dire consequences.

12. During the hearing, the representatives of Respondent vide their written submission dated 31.07.2017 has submitted that the present complaint is legally not maintainable and is liable to be dismissed as the complaint has been made by Shri V.K. Gupta instead of the affected person, i.e. Shri Vikas Gupta. The complainant has sought at prayer 'C' in his rejoinder, which was not there in the original complaint and hence, the same cannot be maintained in the instant rejoinder. The Complainant is seeking to challenge the transfer order of his son. The remedy to challenge the said transfer order does not lie before this Court. The complaint is thus liable to be dismissed. The instant complaint has been filed by the complainant with some ulterior motives as such the same is liable to be dismissed with heavy costs. The Respondent submitted that contents of para-1 are wrong and denied. Referring to paras 2 & 3 of the rejoinder, it is denied that the reply by the opposite party is an eye wash, incomplete, false, vexatious or has been filed with malafide intention as alleged in the paras under reply. The contents of para 4 are wrong and denied. It is denied that the Respondent is not following the norms framed by DoP&T in favour of handicapped/disabled employed under PH category. They submitted that the DoP&T guidelines are not binding on MMTC. It is further submitted that during the last 10 years of service, the affected person has been working at the same station where he reported for duty on 13.07.2007. The contents of para 5 are wrong and denied. They submitted that the ACR/Performance Report is based on the performance of Shri Vikas Gupta. The Respondent submitted that the contents of para 6 to 10 are wrong and denied. They submitted that MMTC has its own leave rules which are as per DPE guidelines. MMTC duly provide time flexibility and relaxation to the disabled employees considering the merit of each case. All allowance are covered under cafeteria post pay revision, w.e.f. 01.01.2007. MMTC has also been providing financial assistance/assistive devices to the disabled employees. However, in the instant case, they have received no such request from Shri Vikas Gupta. They further submitted that the allegations for harassment and discrimination is baseless and no such representation regarding harassment and discrimination was ever received

from Shri Vikas Gupta except the representation for retention of transfer, whereby the transfer order was withdrawn by MMTC. The Respondent submitted that the basic pay of the Complainant in the revised pay scale effective from 01.01.2007 has been fixed in terms of DPE guidelines. The allegations made in para 11 are false to the complainant's own knowledge. Referring to para 12, the Respondent submitted that due to unavoidable circumstances, the DPC for promotion of officers of all grades was not conducted timely. The DPC for 2012 for promotion from Dy. Manager to Manager was conducted in 2014. Accordingly, Shri Vikas Gupta along with other 63 Officers was promoted from Dy. Manager to Manager in February 2014.

13. The Court after hearing both the parties directed the Respondent to submit a copy of DPC Guidelines to this Court within 10 days of receipt of this Record of Proceedings in order to take a final decision on the case. The Court reserved the Order.

14. After considering the Respondent's letter dated 28.07.2017, a hearing was scheduled in the matter on 24.11.2017 at 12:00 Hrs. Due to administrative reasons and unavoidable circumstances, the said hearing was rescheduled to 21.12.2017 at 16:00 Hrs vide this Court's letter dated 16.11.2017.

15. During the hearing on 21.12.2017 the Complainant reiterated that the Respondent is causing harassment and discrimination to his son by frequently transferring him against all cannons of law, just to save their near and dear ones from transfer policy. His son is suffering from 86% permanent locomotor disability in left lower limb and right upper limb and cannot travel without an escort. The Respondent is not following the norms framed by DoP&T for persons with disabilities in promotion under their reserved category. He submitted that no DPC has been arranged for the last many years to promote the affected person. His son is being treated with the normal employees and discriminated in one way or the other. At the time of appointment, his son was promised stroke promotion in two years. The Respondent is manipulating the 'Annual Confidential Report/Performance Report' of his son to harass, discriminate and denying him promotion. The confidential report of his son is de-graded by two steps, which is against all rules and laws. The Respondent is not providing Special Casual Leave to his son. The Respondent is not providing any time flexibility/relaxation to the affected person in office hours for performing

his official duties. The Respondent is not giving any Handicapped Allowance to the affected person as per Government guidelines. Earlier, the Respondent was providing the same but later on it was withdrawn without any sufficient cause and notice. The Respondent is also not providing any financial assistance to the affected person for the purchase of calliper/shoes and other assistive devices. The Respondent, with the intention to harass and discriminate the affected person, is not providing him five increments as per the appointment letter/office order issued to his son. Till April 2009, the affected person was drawing salary at the Basic Pay at Rs.9850/- and the same was reflected in his salary slip, but after pay revision, during the month of May 2009, the basic salary of the affected person on date of joining was fixed at minimum of Basic Pay of Rs.16,400/- in the Pay Scale of Rs.16,400-3%-40,500 (Revised) which is equivalent to old Basic Pay of Rs.8,600/- and not as per Rs.9,850/-. The complainant submitted that the pay of affected person should have been fixed proportionate to Rs.18,860/- (considering Basic Pay of Rs.16,400/- in the revised scale). He submitted that no action has been taken by the Respondent in fixation of the Basic Pay as per the new pay revision despite of various reminders to the Respondent for the last ten years. The Respondent has 1130 employees as on 31.12.2016, out of which there are only 21 employees with disabilities, who are working all over India. The complainant further submitted that the Respondent is threatening the affected person with dire consequences.

16. During the hearing Representatives of Respondent submitted that they are giving all the financial benefits due to the complainant's son. They submitted that they will submit the following documents to this Court by first week of January 2018.

- 1) Pay revision guidelines from the Ministry and DP and
- 2) Pay fixation details of the complainant's son.

The representatives of Respondent further submitted that they will provide a copy of the listed documents that they submitted to this Court vide their letter dated 28.07.2017 to the complainant as well.

17. The next hearing was scheduled on 21.02.2018 at 15:00 Hrs.


18. During the hearing the complainant vide his written submission dated 21.02.2018 submitted that the opposite party has not cleared their intention, whether they have adopted the DoP&T/DPE guidelines or any other Government guidelines framed for the welfare of persons with disabilities. The Opposite Party is fabricating false evidences with the malafide intention to harass the affected person. In this contest, he has submitted that the Opposite Party is not providing even a single benefit as directed by DoP&T/DPE, Ministry of Commerce, Ministry of Social Justice and Empowerment or any other Government organizations for the welfare of persons with disabilities. The Opposite Party has not produced even a single document, which shows that they are providing any facilities framed by the Government for Persons with Disabilities to the affected person. One of the best example is that the Opposite Party has transferred the affected person from Delhi to Krishnapatnam (2000 Kms away from his home station) by violating all the Government guidelines issued by DoP&T vide O.M. No.36035/3/2013-Estt (Res) dated 31.03.2014. The Hon'ble High Court of Delhi vide Writ Petition bearing no. W.P.(C) 11437 of 2016 has rescued the affected person from the illegal action and activities of the Opposite Party. The affected person's performance is 'Outstanding' as reported by his reporting officer, but the Opposite Party with the malafide intention has degraded him by two level just to favour their near and dear ones.

19. During the hearing the representative of Respondent submitted that they have been complying with all the guidelines framed by the Government for its employees with disabilities and fixation of pay in line with DPE Guidelines/Instructions. The Learned Counsel for Respondent submitted that the Respondent has given the information on Pay Fixation of the Dy. Manager recruited in 2007-08 , Copy of Pay Revision Guidelines from DPE and Copy of Pay Fixation details in respect of Shri Vikas Gupta sought by the Court in the Record of Proceedings dated 11.01.2018 vide their letter dated 05.01.2018. The Legal Counsel for Respondent submitted that the Complainant cannot be permitted to introduce a new relief in his rejoinder which is not claimed in the main complaint. The actual grievance of the Complainant is to challenge the transfer order of his son for which the Complainant has to choose the proper forum. The Respondent is complying with all the guidelines framed by its Administrative Ministry & DPE since 13.07.2007, the affected

person has been working at the same station, where he had initially reported on joining the company, hence no question arises for discrimination or the affected person being treated not at par with normal employees. The affected person is provided ACR/Performance Report based on his performance by his Reporting Officer. The Learned Counsel submitted that the documents filed by them vide list of documents dated 28.07.2017 and 05.01.2018 were supplied to the Complainant along with the present application and proof whereof is being filed herewith.

20. The Court after hearing both the complainant and the Respondent on 21.02.2018, directed the Respondent to give extra four Casual Leave to Shri Vikas Gupta. As regards the salary part, no direction can be given to the complainant. The Court directed the Respondent that considering the disability of Shri Vikas Gupta, to ensure that he is posted near to his place of residence. The Court also directed the Respondent to incorporate/modify as per the DoP&T instructions in its DPC Guidelines and to form a general policy for persons with disabilities in the light of Rights of Persons with Disabilities Act, 2016. It was also directed that whatever is due to the complainant, being a person with disability, should be given to him as per the Rights of Persons with Disabilities Act, 2016. The Court directed the Respondent to submit the compliance report to this Court within 3 months from the date of issuance of this Order. As regards, the alleged discrimination and humiliation on Shri Vikas Gupta, 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, as provided under the Rights of Persons with Disabilities, Act, 2016, are infringed.

21. 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: 7025/1011/2016

Dated: 03.04.2018

In the matter of:-

Prof. Anil K. Aneja

Vice President

All India Confederation of the Blind

Braille Bhawan, Near Rajiv Gandhi

Cancer Hospital, Sector - 5, Rohini

Delhi - 110085

Complainant

Versus

Navodaya Vidyalaya Samiti

(Through the Commissioner)

B - 15, Institutional Area, Sector - 62

Noida, Dist. - Gautam Budh Nagar

Uttar Pradesh - 201309

Respondent

Date of Hearing: 14.03.2018

Present:

1. Complainant - absent
2. Dr. R.K. Singh, Assistant Commissioner & Shri Krishen Gaur, Section officer on behalf of respondent

### ORDER

The above named complainant filed an e-mail dated 03.10.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding violation of Persons with Disabilities Act, 1995.

2. Complainant in his complaint inter-alia submitted that Navodaya Vidyalaya Samiti has issued an advertisement in September 2016 for filling up substantial number of vacancies on the posts of Assistant Commissioner (2 vacancies), Principal (40 vacancies), PGT (880 vacancies), TGT (660 vacancies), Miscellaneous categories (255 vacancies), TGT (3<sup>rd</sup> language) (235 vacancies), thus a total of 2072 vacancies were advertised vide the said advertisement. He further submitted that the NVS has merely stated in the impugned advertisement that the reservation for persons with disabilities would be as per Government Rules. This leaves a lot of ambiguity in the advertisement with respect to reservations for persons with disabilities because specific vacancies for specific disability sub-categories have not been earmarked on posts except for the post of Assistant Commissioner.

3. The matter was taken up with the respondent vide this Court's letter dated 19.10.2016 under Section 33 of the Persons with Disabilities Act, 1995.

4. In response, Assistant Commissioner (Estt.I), Navodaya Vidyalaya Samiti vide letter dated 18.11.2016 has submitted that NVS advertised total vacancies of 937 posts (PGTs 514 and TGTs 423). Reservation @3% on the aforesaid vacancies related to the persons with disabilities came to 28. Offer of Appointments were issued in respect of 28 persons. Similarly, with regard to recruitment of PGT (Computer Science), there were total vacancies 224. Against that, 3% reservation for persons with disabilities came to 07. Samiti offered appointment to ten (10) candidates belongs to PwD category eligible & available in the merit list. In this way, Samiti has been adhering to the reservation policies of persons with disabilities. He further submitted that some ambiguity appears in the recent advertisement. In the recent advertisement total posts of 2071 (i.e. Assistant Commissioner -2, Principal – 40, PGTs-880, TGTs-660, Misc. category Teachers 255 & Regional Language Teachers-235) have been advertised and against these vacancies reservation due as per Govt. of India guidelines the requisite percentage 3% will be ensured, subject to eligibility and availability of the candidates in the merit list. It is, further, to mention here that in the advertisement dated 10 – 16 September 2016 under para 3 titled as mode of selection against sub-para (c) Samiti has expressly stated that it will follow the reservation guidelines of Govt. of India for recruitment of persons with disabilities. It is also to submit that due concessions with regard to age relaxation, exemption for application fee etc. are being extended to the persons with disabilities.

5. Complainant vide rejoinder dated 12.12.2016 has inter-alia submitted that it is clear from the reply of the respondents that the reservation provisions for persons with disabilities have not been followed in the proper manner in the earlier recruitments. This can be seen from the fact that the respondents have a practice to calculate reservation on the total number of vacancies advertised whereas, the correct manner of providing reservation for persons with disabilities, as per para 14 of DOPT OM dated 29.12.2015 is to provide separate reservations group-wise on the basis of the vacancies arising in an Establishment. Further, it appears from the reply of the respondents that they have also violated the provisions of Para 15 and 07 of the said OM.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant dated 12.12.2016, the personal hearing was scheduled on 05.03.2018. During the hearing, complainant was absent. Representative of the respondent submitted written submissions vide letter dated 05.03.2018 wherein it was apprised that in recruitment drive for which advertisement was published by the Samiti in September, 2016 against 02 vacancies of Assistant Commissioner, 01 PH candidate has been shortlisted for appointment. Against 56 vacancies of Principals, 02 PH candidates (01 OH, 01 VH) were shortlisted for appointment. Against 838 vacancies of PGTs, 31 PH candidates (21 OH, 10 VH as available in merit list) have been shortlisted for appointment. Against 851 vacancies of TGTs, 28 PH



...3....

candidates have been shortlisted for appointment. Against 63 vacancies of Lib. (Misc. category teacher), 02 PH candidates have been shortlisted. For rest of the posts of Misc. category Teachers and TGT III Language, interviews and verification is yet to be done. 3% reservations for PH will be ensured in these posts also as done in Assistant Commissioner, Principal, PGTs, TGTs, Librarian posts. Further, an advertisement for recruitment to 659 vacancies of non-teaching posts have been published by the Samiti in Employment News dated 11 – 17<sup>th</sup> November, 2017. In the said advertisement, it has been mentioned that 31 posts are reserved for PH candidates which shows that Samiti is ensuring 3% reservation and 1 – 100 cycle point for PH in recruitment. They further submitted that due concessions with regard to age relaxation, exemption for application fee etc. are being extended to the persons with disabilities adhering to the Govt. of India guidelines and rules for reservation of persons with disabilities in recruitment and they are given posting in home state despite his/her position in merit list.

7. After hearing and material available on record, the case is disposed off without any directions as response of the respondent is found satisfactory.



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



सत्यमेव जयते

Exba

**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.: 7545/1031/2017

Dated 03/04 2018

In the matter of:

R-7463

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 Board of Examination,  
 [Through: Executive Director],  
 Medical Enclave, Ansari Nagar,  
 Ring Road, New Delhi-110029  
 Email - [mail@natboard.edu.in](mailto:mail@natboard.edu.in)

R-7464

.... Respondent

Date of hearing: 19.12.2017

Present:

None appeared from the parties

**ORDER**

The above named complainant a person with 65% locomotor disability (lower limb-crutch user) filed a complaint vide email dated 21.01.2017 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 entrance examination of DNB CET December 2015 and July 2016 for admission in various Post Graduate DNB Medical courses.

2. The matter was taken up with the respondent vide this Court's letter dated 24.05.2017 to submit their comments.

3. The respondent filed their reply vide letter dated 26/27.06.2017 and inter-alia intimated that the issues raised by the complainant are arising from the email dated 15.03.2014 of Dr. Nitesh Kumar Tripathi (complainant) and the contents of the email dated 29.05.2017 registered as new case No.7545/1031/2017 are the same as that which were made by the complainant vide email dated 02.12.2013 and 29.04.2014 which were registered as Case No.816/1031/2014 and 1323/1040/2014 respectively by this Court. The respondent also filed copies of the replies in those cases. The respondent submitted that

since above referred cases have been disposed of; the instant case may accordingly be disposed of by this Court. The respondent further intimated that all NBE exam centres are students friendly more so for the candidates with disabilities and provides adequate infrastructure at the Test Centres. NBE follows uniform procedure in AIPGMEE, NEET-PG and DNB-CET in respect of candidates with disabilities.


4. The complainant filed his rejoinder, vide email dated 17.09.2017 to the aforesaid reply of the respondent, and submitted that the respondent did not answer as per the issues raised by him in his original complaint. He alleged as under and requested for a personal hearing in the matter –

- (i) NBE has not amended their policy to provide disabled friendly examination at the pater adopted by UPSC.
- (ii) NBE has not lowered the cut off marks for NEET PG candidates in accordance with the M/o Health & Family Welfare's OM F.No.V.11025/18/2017-MEP dated 24.05.2017 due to which half of the reserved seats for candidates with disabilities remained unfilled.
- (iii) NBE is not empowered to waive off the examination fee for the applicant with disabilities, so this issue be taken to M/o H&FW.
- (iv) NBE has provided the statics of the candidates with disabilities just for year 2014, the details for the years 2015, 2016 and 2017 are needed to prove the participation of the applicants with disabilities in the era of RPWD Act, 2016.
- (v) NBE should follow the provisions of the RPWD Act, 2016 without further loss of time.

5. The case was scheduled for hearing initially on 22.11.2017, but due to administrative reasons and unavoidable circumstances, the hearing was rescheduled on 19.12.2017 at 1100 Hrs. and vide letter dated 16.11.2017 parties were informed to appear before the Court on the date and time scheduled for hearing.

6. During the hearing on 19.12.2017, none of the parties appeared.

7. In terms of Rule 38(4) of the Rights of Persons with Disabilities Act, 2016, the case is dismissed on default.

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



सत्यमेव जयते

Ex 102

**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.: 7393/1141/2017

R-7465

Dated 03/04 2018

**In the matter of:**

Dr. Nitesh Kumar Tripathi,  
 House No.B-241, B-Block,  
 Sant Nagar, Burari, Delhi - 110086  
 Email – [niteshtripathi85@gmail.com](mailto:niteshtripathi85@gmail.com)

.... Complainant

**Versus**

Department of Heavy Industry (AEI Section),  
 [Through: Secretary]  
 Ministry of Heavy Industries & Public Enterprises,  
 Room No.356, Udyog Bhawan,  
 New Delhi-110011

R-7466

.... Respondent No.1

Dy. General Manager (CRM),  
 Maruti Suzuki India Limited,  
 1, Nelson Mandel Road,  
 Vasant Kunj, New Delhi-110070

R-7467

.... Respondent No.2

Date of hearing: 04.12.2017

**Present:**

1. Smt. Simmi Narnaulia, Under Secretary, for respondent No.1
2. Shri Gaurav Kaushik, Dy. Manager –Legal, Maruti Suzuki India Limited for respondent No.2
3. None appeared for complainant.

**ORDER**

The above named complainant a person with 65% locomotor disability (lower limb-crutch user) filed a complaint vide email dated 24.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'PwD Act, 1995', regarding non-implementation of the Act, 1995 at Maruti Suzuki India Ltd. (MSIL) and Ministry of Heavy Industries & Public Enterprises in supply of disabled friendly cars.

2. The complainant submitted that he wanted to purchase a car Vitara Brezza from MSIL but the said model was not in the list of draft affidavit provided by the respondent No.2. The complainant contended that –

- (i) All persons with disabilities have right to mobility without any kind of discrimination on the ground of disability, therefore, the mandatory clause of having a Driving License must be deleted to get a disabled friendly car and this must be equally applicable for all kind of persons with disabilities;
- (ii) MSIL has discriminated the right of purchasing capacity of a person with disability by giving a limited number of version and models of cars for persons with disabilities.
- (iii) The cars are available only in diesel variant which is also discrimination.
- (iv) There is a provision that persons with disabilities are bound to not to have new car within 10 years as he must not have taken benefits in last 5 years and must not get a new disabled friendly car in next 5 years but when this clause was added then the validity of RC (Registration Certificate) for a car was 15 years but at present time this has been reduced to 10 years so the time frame of getting tax benefit for persons with disabilities must be reduced rationally.
- (v) It should not be mandatory for persons with disabilities to visit a showroom and have offline booking as most of the showrooms are not accessible for all kind of persons with disabilities. So selection and booking and getting all kinds of benefits including insurance of the car must be online so that persons with disabilities must enjoy the benefits as meant for them.

3. The matter was taken up with the respondents vide this Court's letter dated 06.04.2017 for submission of their comments.

4. No reply/comment was received from Respondent No.1, however, they vide letter dated 12.05.2017 forwarded the matter to respondent No.2 to furnish their comments.

5. Respondent No.2 vide their letter dated 24.05.2017 filed their reply that MSIL never put any restriction on anybody to purchase any vehicle manufactured by them. Any person can approach any of the authorized dealers of MSIL to purchase the Maruti range of vehicles. As regards the vehicle for disable persons, MSIL has made at its state of the art modern integrated manufacturing facilities with 1.5 million Maruti Suzuki family cars every year. Out of these models and their variants, those with automatic transmission can also be driven by persons with left leg disability as the same does not require left leg to operate the vehicle. Rest of the contents of complaint of the complainant does not relate to MSIL and are to be best responded by the concerned Government department.

6. In his rejoinder vide email dated 17/18.09.2017 to the reply of respondent No.2, the complainant submitted nothing has been answered by the respondent on the issues raised

by him. He also forwarded a copy of the email dated 19.08.2017 received from the respondent No.2. As per the email, a person with disability cannot avail the benefits of the Tax relaxation on the disabled friendly car. He had booked a disabled friendly variant of Maruti Dzire at Rana Motors on 08.06.2017 and scheduled date of delivery was 17.08.2017 but he had not been given the vehicle and deprived his fundamental right under PwD Act 1995. He requested for delivery of the vehicle and a chance for personal hearing. In the email dated 19.08.2017, the respondent No.2 intimated the complainant that –

*“....The Government of India has announced the biggest Tax reform in India with the roll out of Goods and Service Tax (GST) w.e.f. 1<sup>st</sup> July, 2017. With the lunch of GST most of the taxes like Excise duty, Infrastructure Cess, Auto Cess, NCCD, CST, VAT, Service Tax etc. will get subsumed into the single TAX i.e. GST.*

*Accordingly, there is a revision in the policy guidelines for AGS and AT Vehicles available under scheme for customers with Physical Disability (with left leg disability). Please note that in view of the above, the earlier scheme for the vehicles under scheme for Customers with Physical Disability (with left leg disability) is withdrawn.*

*We are currently working on developing new guidelines as per the new tax regime and will be communicating the revised scheme shortly.*

*We humbly request you to kindly bear with us in the meantime.”*

7. In view of the facts mentioned above, the case was listed for hearing on 04.12.2017 and Notice of Hearing dated 14.11.2017 was issued to the parties to appear before the Court. Respondent No.1 was advised to submit their comments on the following issues:-

- (i) With reference to reply received from Respondent No.2 dated 24.05.2017.
- (ii) Rejoinder filed by complainant dated 17/18.09.2017
- (iii) Reply given by respondent No.2 to complainant.

8. Respondent No.1 filed their reply dated 30.11.2017 and submitted that MSIL in their letter dated 24.05.2017 has stated that out of various variants of cars manufactured by them, those with automatic transmission can also be driven by persons with left leg disability as the same does not require left leg to operate the vehicle. All these models are available for anyone through their authorized dealers. As such, there is no bar on complainant to purchase the vehicles from MSIL. No comment was offered on the rejoinder dated 17/18.09.2017. The concessional rate of GST was informed to be at 18% available to persons with disabilities w.e.f. 01.07.2017. It was further informed that Department of Heavy Industry (DHI) issues certificates for availing concessional rates of GST (erstwhile Excise Duty Concession) on purchase of car by persons with disabilities. Any person with disability with requisite documents can obtain such certificate from DHI. The complainant has already been intimated vide letter No.12(13)2017-AE(11968) dated

21.11.2017 that if he has difficulties in getting Manufacturer Certificate, he can obtain RTO Certificate from the Transport Authority in terms of the Notification No.12/42/2015-AEI dated 2<sup>nd</sup> May, 2016.

9. During the hearing on 04.12.2017, the complainant did not appear. However, he vide email dated 04.12.2017 intimated that he had some health issues so it is difficult for him to attend the hearing from around 50 km away.

10. The representative of respondent No.1 relied on the reply/comment filed by respondent No.1 vide letter dated 30.11.2017.

11. The representative of respondent No.2 reiterated their reply and added that the car was ready for delivery but the complainant was not taking the delivery of the car.

12. In view of the above, there appeared no dispute of concessional rate of GST which has been decided by the Government i.e. 18% w.e.f. 01.07.2017 for the persons with disabilities. The complainant may take the delivery of the vehicle. The respondent is advised to ensure that their showrooms are accessible for persons with disabilities.

13. 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: 7055/1024/2016

Dated : 04.04.2018  
 Dispatch No. ....

In the matter of :

R-7818

Shri Subikumar S.,  
 Panniyarakonathu Veedu,  
 Madhupalam,  
 Thiruvallam P.O.,  
 Thiruvananthapuram,  
 Kerala- 695 027.

.....Complainant

Versus

The CGMT & Chairman ( Circle High Power Committee )  
 O/o the Chief General Manager Telecom,  
 Bharat Sanchar Nigam Limited,  
 Kerala Circle,  
 Thiruvananthapuram – 695 033

.....Respondent

R-7819

Date of Hearing : 06.03.2018

Present :

1. Complainant – Absent
2. Shri B. Makesh, A.G.M. on behalf of Respondent

**ORDER**

The above named complainant, a person with 40% locomotor disability had filed a complaint dated 07.10.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, against denial of appointment on compassionate ground and on relaxation of normal Recruitment Rules.

2. The Complainant had submitted that his father Shri S. Sasidharan a regular Mazdoor expired on 14.10.2008 survived by his wife, two daughters and two son. The elder daughter is married and living separately. His mother is receiving a family pension of Rs.4451/- + D.A. An application for his compassionate appointment on 05.11.2009. The High Power Committee constituted for compassionate ground appointment met on 26.06.2010. He was informed vide letter dated 24.07.2010 that the family of the ex-employee had not been found to be living in

....2/-



indigent condition. His mother again on 31.01.2011 submitted an application to reconsider the Complainant's case on compassionate ground appointment. The Circle High Power Committee met on 06.02.2016 and rejected his mother's request once again.

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 29.12.2016;

4. The DGM (HR), BSNL Kerala Circle vide his letter no. ES/9-23/2009/16 dated 03.06.2017 submitted that in order to bring uniformity in assessment of indigent condition of the family for offering compassionate ground appointment, weightage point system was issued by BSNL as per letter No. 273-15/2005-Pers.IV dated 27.06.2007. BSNL vide its letter No. 273-18/2005-Pers.IV dated 22.10.2013 clarified that while applying the weightage point system, the pre-revised pension (i.e. pre-2007) should be considered along with actual terminal benefits received by the family of the deceased employee. A fresh welfare officer report was obtained for consideration of High Power Committee of Circle office to assess the present situation of the family. The case of the applicant for Compassionate Ground Appointment was considered by the Circle High Power Committee in its meeting held on 29.03.2017 to evaluate the case on the touchstone of the totality of the financial conditions prevailing in the family and the Committee examined the case in detail on all aspects. The Circle High Committee observed that the weightage point scheme takes into account various items such as dependents' weightage, basic family pension granted, left out service of the deceased/invalidated/missing officials, terminal benefits granted whether the applicant is residing in own house/rented house and deducts the negative points based on other source of income of the family etc. as well as for belated applications. The Committee observed that the presence of unmarried daughter and handicapped dependents in the family of the applicant were given due weightage as per the scheme. However, as per the scheme the points under 'Dependent' factor was limited to 30 and the applicant got only 50 points. Thus even though all the realities in the family have been duly considered, as per the Respondent, the applicant cannot be given additional weightage points under the scheme. The Respondent further submitted that as per the weightage point system followed in BSNL for compassionate ground appointment in the organization, only those cases that receive 55 or above points are recommended for appointment. In the case of complainant, the total weightage point comes to 50 only. Therefore, the Competent Authority did not find the case of the complainant justified for appointment on Compassionate Ground basis.

5. The complainant vide his rejoinder dated 14.09.2017 had submitted that the BSNL is conveniently denying the indignant condition of his family. The weightage point has been granted by the BSNL without looking into the miserable situation of his family which has more than one

person with disability. The inspection report of the family position of the complainant has been given by the Welfare Officer. In this report, they have not given any consideration to the physical disabilities of his and his mother. It is also disappointing that the Circle High Power Committee has not reckoned the dismal condition of the family members. The BSNL has not tried to appraise the hard realities prevailing in the family of deceased employee. The complainant has referred to the para no. 6.5 of the reply of BSNL. The BSNL authority has restricted the dependent weightage to maximum 30 points otherwise he was eligible for 35 points. If there is no restriction, he is eligible or 55 points which is the minimum requirements of points for the compassionate grounds appointment. He further submitted that the BSNL Kerala Circle appointed more than 248 persons on compassionate grounds during 2008-2017. He submitted that as per Section 33 of PwD Act, 1995, the BSNL authorities should have appointed at least 7 persons with disabilities ( 1% VH + 1% HH+1% OH=3%) to carry out the reservation policy, but it did not appoint any disabled person on compassionate ground during the period 2008-2017.

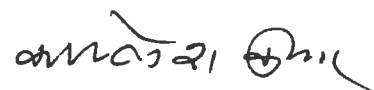
6. After considering Respondent's reply dated 03.06.2017 and Complainant's rejoinder dated 14.09.2017, a personal hearing was scheduled on 06.03.2018.

7. The Complainant was absent during the hearing.

8. During the hearing the representative of Respondent submitted that as per the weightage point system followed in BSNL for compassionate ground appointment, only those cases that receive 55 or above points are recommended for appointment. In the case of complainant, the total weightage point comes to 50 only. Therefore, the Competent Authority did not find the case of the complainant justified for appointment on Compassionate Ground basis.

9. The Court after hearing, advised the Respondent that though there is no violation of any provisions of any Rights of Persons with Disabilities Act, 2016, but considering the disability of the Complainant, he may be considered for appointment as a regular employee by the BSNL.

10. 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

Case No: 8583/1022/2017

भारत सरकार / Government of India

Dated : 04.4.2018

Dispatch No. ....

In the matter of :

R-7558

Dr. V. Kalyanaraman,  
Principal,  
Kendriya Vidyalaya,  
Madhanagopalapuram,  
Perambalur  
Tamil Nadu – 621 212  
Email<kvperambalur@yahoo.in>

....Complainant

Versus

Kendriya Vidyalaya Sangathan,  
(Through the Commissioner),  
18, Institutional Area,  
Shaheed Jeet Singh Marg,  
New Delhi – 110 016

R-7559

.....Respondent

Date of Hearing : 13.03.2018

Present :

1. Shri V. Kalyanaraman, Complainant
2. Shri Varun Mitra, Asstt. Commissioner and Shri J.K. Gupta, SO, On behalf of Respondent

## ORDER

The above named complainant, a person suffering from 60% hearing impairment had filed a complaint dated 01.08.2017 under the Rights of Persons with Disabilities Act, 2016 regarding his transfer to Kendriya Vidyalaya Gill Nagar, Chennai.

2. The Complainant submitted that he has been working as Principal in Kendriya Vidyalaya Perambalur, Tamil Nadu since 17.06.2016. He completed one year in this station and is thus eligible for transfer as per the notification for the transfer for Principals of Kendriya Vidyalaya Sangathan. He gave representation for this transfer through proper channel to the Commissioner, KVS, New Delhi. He further submitted that the transfer list published at the KVS website on 31.07.2017 reveals that no priority is given to him under persons with disabilities norms. He submitted that transfer was given to a non disabled employee within the Station, i.e. KV Tambaram No.2 to KV Tambaram No.1 (Chennai) that could have been given to him. The complainant has requested for transfer to Kendriya Vidyalaya Gill Nagar, Chennai against the clear vacancy which is going to fall shortly.

....2/-

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 31.10.2017.

4. The Asst. Commissioner (Estt.1), Kendriya Vidyalaya Sangathan (HQ) vide his dated 26.12.2017 submitted that on the request of Dr. V. Kalyanaraman, he was transferred from KVS, Mandsaur to KVS, Perambur vide their letter dated 06.06.2016. The Respondent also submitted that the distance between the complainant's native place (Trichy) is 57 Kms from his present place of posting at Perambur while the Gill Nagar is 326 Kms from his native place. The Respondent submitted that another employee, a Principal, who is a patient of 'Chronic auto immune disease system lupus Erythematisus' and who is under treatment in Chennai, was transferred to Gill Nagar, Chennai. Therefore, the Respondent expressed their inability to consider the request of transfer of the complainant to Gill Nagar, Chennai.

5. The Complainant vide his letter dated 28.12.2017 submitted that his native place is Trichy. Earlier his family was living at Salem and Madurai. His daughters are studying in Chennai and his family is presently residing in Chennai. Being a person with disability and without the help of his family members, he is facing mental and physical difficulties and mental tension in the small city of Perambur. The complainant requested for his transfer to any Kendriya Vidyalaya Schools in Chennai. He submitted that the service of his Hearing Aid is available in Chennai.

6. After considering Respondent's reply dated 26.12.2017 and Complainant's rejoinder dated 28.12.2017, a personal hearing was scheduled on 13.03.2018.

7. During the hearing, the Complainant submitted that his family is presently settled in Chennai where his two daughters are studying. He was transferred from Mandsaur to Perambur. He submitted that he may be transferred to Chennai so that he can take the help of his family members in day to day activities.

8. During the hearing the representatives of Respondent submitted that the Complainant was transferred from KVS, Mandsaur to KVS, Perambur in the year 2016. The Respondent submitted that another employee who is a Principal was transferred to Gill Nagar, Chennai, as he was under treatment in Chennai and therefore, the Complainant's request for transfer to Gill Nagar, Chennai could not be considered.

9. After hearing both the Complainant and the Respondent, the Court directed the Respondent in the light of instructions issued from time to time by DoP&T to give preference in posting to the Complainant, being a person with disability, to any Kendriya Vidyalaya Schools in Chennai even if the Complainant does not fulfill the criteria of completion of five years at the present station.

10. The case is disposed off.



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



सत्यमेव जयते

Exba

**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.: 7400/1033/2017  
 8347/1141/2017

Dated 4/6/2018

**In the matter of:**

Shri Gajendra Vishwakarma  
 M.Phil., Ph.D (Statistics), FSES,  
 Assistant Professor,  
 Department of Applied Mathematics,  
 Indian School of Mines, Dhanbad-826004  
 Email – [vishwagk1@gmail.com](mailto:vishwagk1@gmail.com)

R-7567

9/6/2018

.... Complainant No.1  
 (Case No.7400/1033/2017)

Shri Shailendra Kumar  
 Guest Faculty,  
 Dept. of Mathematical Sciences,  
 Bundelkhand University, Jhansi (U.P.)  
 Email – [shailendr.social@gmail.com](mailto:shailendr.social@gmail.com)

R-7568

.... Complainant No.2  
 (Case No.8347/1141/2017)

**Versus**

Indian Institute of Information Technology,  
 Through: Director,  
 Deoghat, Jhalwa, Allahabad – 211012

R-7569

.... Respondent

Date of hearing: 18.09.2017

Present: None of the parties appeared

**ORDER**

The above named complainants filed complaints vide emails dated 26.12.2016 and 10.07.2017 respectively under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995), regarding waiver of tuition fee for students with disabilities at par with SC/ST students by the respondent;

2. Initially the complainant No.1 submitted that after announcement of the fees revision of IITs by Ministry of Human Resources Development, Council of NITs also revised the tuition fee subject to the protecting of interests of the socially and economically backward students. He alleged that the Administration of IIIT Allahabad (An Institute of national importance and centrally funded by MHRD, Govt. of India) waived off the tuition fee to SC/ST category's B. Tech. students, but no tuition fee waiver has been given to the students with disabilities. As per the ruling of MHRD, Government of India, whatever fee will be charged from SC/ST category's students, the same fee will be charged from the

students with disabilities. The complainant No.1 further alleged that he communicated with respondent's administration, but they were not ready to give the fee waiver to the students with disabilities.

3. This Court, vide letter dated 05.05.2017, took up the matter with the Director, Indian Institute of Information & Technology, Allahabad (respondent) to submit their comments.

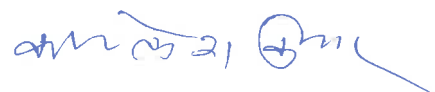
4. The respondent vide letter dated 24.05.2017 filed their reply and intimated that the decision pertaining to the waiver of the tuition fee for certain category should be accorded or not is taken by the Board of Governor. As such, the Board of Governor did not resolve the waive-off the fee for the candidates with disabilities. The respondent further intimated that the grievance of Dr. Gajendra Vishwakarma (complainant No.1) would be put up before the right forum.

5. In the meanwhile, a similar complaint was received from Shri Shailendra Kumar (complainant No.2) which was clubbed with this case and it was decided to hold a personal hearing in the matter. The case was listed for hearing on 18.09.2017 and the parties, vide Notice of Hearing dated 23.07.2017, were advised to appear before this Court on the date and time scheduled for hearing.

6. During the hearing on 18.09.2017, none of the parties appeared before the Court.

7. This Court is of the view that the respondent should be sensitive to the students with disabilities and to consider waiving off the tuition fees for them at par with SC/ST students and immediately issue a notice in this regard for information to the students of the Institute. Let a copy of this order be endorsed to the Secretary, Department of Higher Education, Ministry of Human Resource Development for taking appropriate action to sensitize the respondent towards the rights of students with disabilities of the Institute.

8. The case is accordingly disposed of.

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

Copy to:

The Secretary,  
Department of Higher Education,  
Ministry of Human Resource Development,  
Shastri Bhawan, C-Wing,  
Dr. Rajendra Prasad Road, New Delhi-110001



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.: 8366/1031/2017 *R-7596*

Dated *9/04/20* 2018

**In the matter of:**

Shri Rahul Kumar Upadhyay,  
 C/o Meenakshi Upadhyay,  
 B-10, Lucknow Compound,  
 Near Aptech Computer Institute,  
 Mahavir Park Extension, Samad Road,  
 Centre Point, Aligarh-202001 (UP)  
 Email – [rkfor1@gmail.com](mailto:rkfor1@gmail.com)

.... Complainant

**Versus**

Aligarh Muslim University,  
 (Through: Registrar)  
 Aligarh (UP)

*R-7592*

.... Respondent

**Date of hearing: 05.03.2018**

Present:

1. Prof. M. Masroor Alam, Prof. of Civil Engg. College, Shri Salman Siddique, Asstt. Controller, Aligarh Muslim University, for respondent.
2. None appeared for complainant

**ORDER**

The above named complainant, a person with 42% locomotor disability, filed a complaint dated 01.08.2017 with this Office under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding denial of admission to MBA/MBA(IB) course 2017-18 despite securing second highest marks (59.00) and non-implementation of Section 32 of the Rights of Persons with Disabilities Act, 2016 by Aligarh Muslim University (the respondent);.

2. The complainant submitted that he appeared in M.B.A. Entrance Examination in the Aligarh Muslim University on 07.05.2017 and secured 59 marks but he was not called for Interview/Group Discussion. In reply to RTI application, the University vide letter dated 28.07.2017 informed to him that three students were called for interview in MBA/MBA(IB) course 2017-18 and there marks were – 73.00, 50.75 and 46.50. The complainant contention was that as per merit he should have been selected as he secured 59 marks, which was second highest. Further, total out of 224 seats, only 03 candidates



with disabilities were selected whereas as per 5% reservation policy, at least 11 candidates with disabilities should have been selected for admission.

2. This Court, under Section 75 of the Act, took up the matter with the respondent, vide letter dated 11.08.2017 advising them to submit their comments with regard to the admission to MBA course in the present context for Academic Session 2017-18 along with the following information/documents to this Office:

- (i) The number of the total seats for admission to M.B.A./MBA(IB) course 2017-18;
- (ii) The total marks obtainable in written and interview separately as “qualifying marks” for Gen./OBC/SC/ST/PWDs and any further relaxation, if any, given to candidates with disabilities;
- (iii) The list all the candidates with disabilities, appeared for admission to M.B.A./M.B.A.(IB) course (2017-18) and marks secured by them, separately in written test and interview;
- (iv) The list of the selected candidates with disabilities, with marks secured by them, separately in written test and interview;
- (v) Was reservation to persons with disabilities effected in respect of written test for MBA/MBA(IB) Course (2017-18)? If not, then what was the reason for non-compliance?
- (vi) What is present status of the seats with respect to persons with disabilities in the said course for Academic Session 2017-18?
- (vii) Is there any seat still lying vacant for candidates with disabilities in the said course?

3. The respondent, vide letter dated 24.08.2017, submitted their reply point-wise, as under:

- (i) The total intake at different location for MBA/MBA(IB) were intimated to be as under –

Course	Study location	Intake
M.B.A.	AMU, Aligarh	60
	AMU Center, Malappuram	60
	AMU Center, Murshidabad	60
	AMU Center, Kishanganj	60
M.B.A. (IB)	AMU, Aligarh	20
PG D.I.B.F.	AMU, Aligarh	20
Total		280

- (ii) The final selection is made on the basis of merit which is determined on the basis of marks obtained in the Written Admission Test & Interview / Group Discussion of student. Number of candidates called for Interview / Group Discussion was three times of the total intake in order of written test merit irrespective of any Special Category.

- (iii) Total 38 candidates with disabilities appeared.
  - (iv) Out of total 38 candidates with disabilities only 03 candidates were selected.
  - (v) There is provision for admitting persons with disabilities over and above the sanctioned intake only if the candidates with disabilities scored minimum cut off marks in the written test for appearing in interview/Group Discussion.
  - (vi) In the written text for MBA/MBA(IB), the minimum cut off marks in General Category was 67.75, while for Internal Category, it was 44.75. Only 03 candidates with disabilities scored more than the cut off marks in internal category and all of them were called for Interview/Group Discussion. All three were offered admission. Since no candidates with disabilities could clear the minimum cut off marks in General Category, no one was called for Interview / Group Discussion.
  - (vii) The seats were still lying vacant.
4. Upon considering the above reply of respondent, the case was listed for personal hearing on 10.10.2017.
  5. During the hearing on 10.10.2017, the complainant reiterated his complaint.
  6. The representative of the respondent reiterated their reply and clarified that as per the policy of the Aligarh University, General candidates are the candidates who are not from within the Aligarh Muslim University. The complainant was also from General Category. Since he could not score the cut of marks for General Category, i.e. 67.75, he was not called for interview.
  7. From the perusal of the reply dated 24.08.2017 and the submission of the representative of the respondent, this Court observed that in the written test for MBA/MBA(IB), the minimum cut off marks in General category was 67.75, while for internal category, it was 44.75. Only 03 candidates with disabilities scored more than the cut off marks in internal category and all of them were called for Interview/Group Discussion. All three were offered admission. Since no candidates with disabilities could clear the minimum cut off marks in General Category, as per the policy of the Aligarh Muslim University, no one was called for Interview / Group Discussion. The seats were still lying vacant.
  8. After hearing the parties, vide Record of Proceedings dated 21.11.2017, the respondent was advised to submit the following information/documents, else the order would be passed on the basis of the documents available on record –

(1) Copy of policy / guidelines prepared for Internal Category / General Category.

(2) List consisting of minimum cut off marks for both the categories.

9. In compliance, the respondent filed their reply dated 15.12.2017 enclosing therewith the following documents:

- (1) List consisting of minimum cut off marks for Internal Category and General Category.
- (2) Copy of the Guidelines pertaining to admission of PWDs.

10. Two lists were furnished – General Merit List and Internal Merit List, containing names of the candidates selected for interview, their roll numbers, marks secured for admission to MBA/MBA(IB)/PGDI BF for Session 2017-18. For Guidelines, “*Important Rules for filling up seats reserved (03% over and above the approved intake, wherever applicable) for persons with disabilities*” were furnished. From the perusal of the Guidelines, there appeared no mention of General category and Internal category and the Cut off marks i.e. 67.75 and 44.75 respectively as mentioned by the respondent in their reply dated 23/24.08.2017.

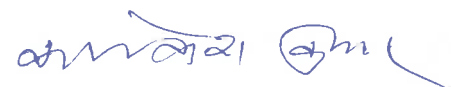
11. Upon considering the aforesaid reply filed by the respondent, the case was again scheduled for hearing on 05.03.2018.

12. During the hearing on 05.03.2018, the representative relied upon the reply filed by the respondent. But the representative failed to submit/show any guidelines/rules regarding the General category and Internal category before the Court.

13. From the documents filed by the respondent, there appears irregularities in selection of the candidates for admission to MBA/MBA(IB)/PGDI BF for Session 2017-18; and violation of their own Guidelines/Rules in terms of the Guidelines/Rules furnished by the respondent on record. The respondent has deprived the legitimate right of the complainant for his admission to MBA/MBA(IB) course for Session 2017-18 despite scoring 59.00 marks. The respondent has not approached before this Court sensitively towards the complainant though the seats are still lying unfilled.

14. In view of the facts mentioned in the preceding paragraphs, the respondent is advised that the complainant Shri Rahul Kumar Upadhyay be given admission to the MBA/MBA(IB) course for Session 2017-18. Respondent is further advised to implement the RPWD Act, 2016 which has been enacted w.e.f. 19<sup>th</sup> April, 2017. Since the seats in the aforesaid course are lying vacant, the respondent may also consider to fill up the same preferring the eligible candidates with disabilities.

15. 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: 7417/1013/2017

Dated: 10.04.2018

In the matter of:-

Shri Anuj Kumar Gupta  
S/o Shri Ramesh Chand Gupta  
R/o H.No. - 1724, Gauri Pura  
Brahmpuri, Meerut - 250002 U.P.

Complainant

Versus

Union Public Service Commission  
(Through the Registrar)  
Dholpur House, Shahjahan Road, New Delhi

Respondent No. 01

Office of Chief Adviser Cost  
(Through the Chief Adviser Cost)  
Department of Expenditure, Ministry of Finance  
'C' wing, 2<sup>nd</sup> Floor, Lok Nayak Bhawan, Khan Market, New Delhi

R-7828 Respondent No. 02

Date of Hearing: 26.03.2018

Present:

1. Shri Anuj Kumar Gupta - Complainant
2. Shri Pankaj Gupta, Director, Shri Rakesh Pandey, Dy. Director, Shri Shailesh Kumar, Under Secretary and Shri Bhagwan Dass, Section Officer on behalf of respondents

### ORDER

The above named complainant filed a complaint dated 25.12.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding violation of Section 33 of the Persons with Disabilities Act, 1995 by UPSC & Department of Expenditure.

2. Complainant in his complaint submitted that Department of Expenditure, Ministry of Finance had published two advertisements through UPSC vide advertisement 06/2015 dated 28.03.2015 and advertisement No. 51/2016 dated 16.01.2016 for 12 and 24 posts of Assistant Director (Cost) respectively. The posts were marked suitable for PH - BL, OL, OA & HH. He further submitted that a Computer Based Recruitment Test (CBRT) for the 36 posts were conducted by UPSC on 19-03-2016 at various centres all over India for which results have been declared on 02.05.2016. Out of 36 vacancies, the O/o Chief Advisor (Cost) has not made provision for the reservation of any vacancy for PwDs. He further submitted that he is the only candidate in PH category who has qualified both the recruitment test and interview.

3. The matter was taken up with the respondent vide this Court's letter dated 27.01.2017 under Section 33 of the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
4. In response, Under Secretary, UPSC vide letter dated 06.03.2017 has inter-alia submitted that the recruitment process for the subject posts was carried out by the Commission on the basis of requisition received from the Ministry of Finance. The Commission only recommends candidates against the vacancies mentioned in the requisition received from different Ministries.
5. Director (Admn)/CPIO O/o the Chief Adviser Cost vide letter dated 27.02.2017 has inter-alia submitted that when the issue relating to reservation for persons with disabilities came up to notice of their office, relevant provisions in this regard were gone through. On perusal of said provisions, it merged that though the Act under reference came into force w.e.f. 01.01.1996, the Ministry of Social Justice & Empowerment for the first time identified the jobs/posts suitable to be held by PwD and the physical requirement for such jobs/posts vide notification dated 31.05.2001. This list was subsequently revised by them superseding earlier notification vide notification dated 18.02.2007 and 29.07.2013. Incidentally, in all the three notifications, there was no specific mention of the post of Assistant Director (cost) or any other post similar to this job profile probably due this understanding though the post of Assistant Director (cost) was kept suitable for PwD as was before the enactment of Act, no specific reservation was made due to specific job requirement of the post even after enactment of the Act under reference. He further submitted that earlier on receipt of complaint of Shri Anuj Kumar Gupta, the matter was examined in detail and it was inter-alia proposed to provide specific reservation for PwDs and work out number of posts required to be reserved for persons with disabilities right from the year 1996 in the entry grade of Assistant Director (Cost) in ICoAS. Presently, the proposal is under submission to the administrative department viz. Ministry of Finance, Department of Expenditure for seeking approval of the competent Authority in this regard. After the proposal is approved, requisite action will be taken expeditiously for filling up backlog vacancies in the grade of Assistant Director (Cost) from persons with disability by undertaking special recruitment through UPSC.
6. The above reply was forwarded to the complainant on 26.04.2017 for submission of his rejoinder. Complainant vide rejoinder dated 16.03.2017 has inter-alia submitted that the O/o Chief Advisor (Cost) has already admitted that there is no appointment to PwD. In the last, he has submitted that he is the only candidate in the persons with disabilities category, qualifying both the recruitment test and interview, therefore, Chief Advisor Cost be directed to give appointment to the applicant as Assistant Director (Cost), making provision for the reservation of posts for the persons with disabilities

7. During the hearing, complainant reiterated his earlier written submissions and representative of the respondent submitted written submission vide letter dated 26.03.2018 which apprised that recently, the Competent Authority in the Ministry of Finance, Department of Expenditure has approved the proposal of filling up ten vacancies in the grade of Assistant Director (cost) in the Indian Cost Accounts Services (ICoAS). The said vacancies include the four backlog vacancies pertaining to persons with disabilities. Requisite proposal for making recruitment against these posts is being finalized and will be submitted to UPSC shortly.

8. In the light of the above, the case is disposed off with the following directions to the respondent:-

- a. to initiate action to fill up the backlog reserved vacancies as per DOP&T's instructions and maintain reservation roster for persons with disabilities according to the DOP&T's instructions.
- b. to submit the progress report after completion of recruitment process.



**(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: 6463/1011/2016

Dated: 10.04.2018

**In the matter of:-**

Shri Pratik Hanmant Nikam  
 C5, Premraj Residency  
 Anand Nagar, Old Sangvi  
 Pune, Maharashtra – 411027

Complainant

Versus

Intelligence Bureau  
 (Through the Director)  
 35, Sardar Patel Marg, New Delhi

Respondent

**Date of Hearing:** 11.01.2017, 20.02.2017, 20.03.2018 and 05.04.2018

Present:

1. Complainant – absent
2. Shri S.K. Mishra, Joint Dy. Director and Shri V.K. Vashishth, Assistant Director on behalf of respondent

**ORDER**

The above named complainant filed a complaint dated 23.05.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding identify the post of Personal Assistant in Intelligence Bureau for persons with visual impairment.

2. Complainant in his complaint submitted that Intelligence Bureau is not providing reservation to persons with visually impaired for the post of Personal Assistant. He has requested to identify the post of Personal Assistant in IB for visually handicapped candidates as the post of Personal Assistant is identified for persons with Low vision as per Notification No. 16 – 15/2010-DD-III dated 29.07.2013 for Group 'B' posts.

3. The matter was taken up with the respondent vide this Court's letter dated 20.07.2016 under Section 33 of the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

....2....

4. In response, Joint Dy. Director, Intelligence Bureau vide letter dated 26.08.2016 has inter-alia submitted that the work in IB involves technical/operational commitment coupled with arduous and hazardous nature of duties in extremely difficult mountainous terrains, far flung border areas and extremist infested areas wherein personnel with good physique and health find it difficult to do full justice to the assigned work. With all India posting liability, even those posts which are identified as Ministerial/stenographic cadre are not suited for the persons with disability. Keeping in view the arduous and hazardous nature of duties of the post, a proposal was taken up with Ministry of Social Justice and Empowerment for exemption from Disability Act, 1995.
5. The above reply was forwarded to the complainant on 15.09.2016 for submission of his rejoinder. Complainant vide rejoinder dated 09.10.2016 has inter-alia submitted that the nature of jobs for Personal Assistant in IB is identified as suitable for VH candidates as per the Notification No. 16 – 15/2010-DD-III dated 29.07.2013
6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 11.01.2017. During the hearing, Prof. Anil Aneja stated that in advertisement issued by the Intelligence Bureau in January 2016 for the post of Personal Assistant no reservation was provided to persons with disabilities and it was clearly mentioned that the posts are not reserved for persons with disabilities, hence, they need not apply for the same. Whereas the post of Personal Assistant in Group 'B' is identified as suitable for persons with visual impairment vide Notification No. 16-15/2010-DD-III dated 29.07.2013 at Sl. No. 139, 140, 141, 142, 143, 144 & 145. Therefore, the advertisement issued by Intelligence Bureau is challengeable. Representative of the respondent reiterated his written submission. After hearing the both parties, the respondent was directed to submit the detailed reply with regard to final outcome of the Committee constituted by Intelligence Bureau and the status of exemption sought from D/oEPwD with regard to the post of Personal Assistant in Intelligence Bureau. The case was again re-scheduled for hearing on 20.02.2017 but both parties were absent. Again case listed on 20.03.2017. During the hearing the representative of the complainant submitted that whether the respondent had applied for exemption before issuance of the advertisement for recruitment to the post of Personal Assistant by the Intelligence Bureau, the proof of the same to be submitted by the respondent. The representative of the respondent relied on the reply dated 20.02.2017 filled by the respondent in compliance of the direction given by this Court. As per the reply, the Committee constituted by IB has identified 24 posts including the Post of Personal Assistant in which exemption is required keeping in view the functioning of the department. The Committee has further proposed that 1% reservation be given to OH category in the ranks of Steno, ACIO-I/GEQD, JSA and Canteen Clerk, the respondent is not against giving reservation to persons with disabilities (OH), but owing to operational/functional requirement that IB is constrained to restrict entry of few specific category of persons with disabilities. Based on the report



of the Committee, the respondent stated to have applied for exemption in 24 posts of IB to the Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice and Empowerment. The respondent was directed to submit the proof whether he has applied for exemption to Department of Empowerment of Persons with Disabilities and submit a copy of reply received from the Department of Empowerment of Persons with Disabilities.

7. During the hearing on 05.04.2018 neither complainant nor his representative appeared and representative of the respondent submitted written submissions wherein it has been mentioned that a proposal was taken up with the Government on 29.10.2014 seeking exemption from Disability Act, 1995 in 40 ranks of IB. Later, a meeting of Inter Departmental Committee was held under the Chairmanship of Joint Secretary, DoEPwD on 26.05.2015. The Committee desired to know the exact number of posts and detailed post-wise justification for seeking exemption. Accordingly, proposal was re-examined and revised proposal sent to the Director, MoSJ&E on 15.05.2017 seeking exemption in 22 ranks. Again a meeting of Expert Committee was held on 26.10.2017 under the Chairmanship of Joint Secretary, DoEPwD. The meeting ended up with a suggestion that IB should re-visit the issue and provide reservation to extent possible and seek exemption only in deserving cases with more elaborate justification of operational work. The desired documents such as copies of (i) letter dated 29.10.2014 sent to MoSJ&E seeking exemption in 40 ranks (ii) minutes of Expert Committee held on 26.05.2015 under the Chairmanship of Joint Secretary, DoEPwD (iii) subsequent letter dated 15.05.2017 sent to MoSJ&E seeking exemption in 22 ranks and (iv) minutes of Expert Committee held on 26.10.2017 has been submitted by the respondent.

8. In light of the above, the grant of exemption from the purview of Section 33 of the Act shall be considered by an Inter-Departmental Committee set up by the Ministry of Social Justice and Empowerment. Therefore, case is disposed of with the direction to the respondent to provide reservation and clear the backlog vacancies also.



**(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

केस सं. 7599 / 1022 / 2017

दिनांक: 16.04.2018

के मामले में :-

श्री शिव कुमार  
 ग्राम सीमला, पो. मुराहर  
 तहसील चान्दपुर, जिला बिजनौर

—वादी

बनाम

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

—प्रतिवादी

सुनवाई की तिथि: 06.03.2018

उपस्थित — श्री तिकेन्द्र सिंह — वादी की तरफ से  
 प्रतिवादी की तरफ से कोई उपस्थित नहीं हुए

आदेश

श्री शिव कुमार, 40 प्रतिशत अस्थि दिव्यांग ने उनका उनके गृह स्थल के समीप स्थानांतरण करवाने से संबंधित प्रतिवेदन दिव्यांगजन अधिकार अधिनियम, 2016(इसके बाद अधिनियम कहा जाएगा) के अंतर्गत इस न्यायालय में दायर किया ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत इस न्यायालय के पत्र दिनांक 24.05.2017 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 14.07.2017 एवं 10.11.2017 भी प्रेषित किए गए ।

3. प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में मामले में सुनवाई निर्धारित की गई ।

4. सुनवाई के दौरान प्रतिवादी की तरफ से कोई उपस्थित नहीं हुए जबकि वादी की तरफ से उनके प्रतिनिधि ने प्रस्तुत होकर उल्लेखित किया कि उनके पारिवारिक एवं वादी की शारीरिक स्थिति के कारण उनका स्थानांतरण उनके गृह नगर के समीप किया जाए ।

5. उपरोक्त मामले को इस सलाह के साथ बन्द किया जाता है कि वादी अपने स्थानांतरण हेतु अपने नियोक्ता को नियमानुसार आवेदन करें ताकि उनका नियमानुसार स्थानांतरण संभव हो सकें ।

(डा. कमलेश कुमार पाण्डेय)  
 मुख्य आयुक्त



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.: 7701/1141/2017 **R-7833**

Dated 2018

**In the matter of:**

Shri R. Balasubramanian,  
 D.No.19, Plot No.56, II Main Road,  
 Secretariat Colony,  
 Adambakkam, Chennai-600088,  
 Email – [baaalu\\_2000@yahoo.com](mailto:baaalu_2000@yahoo.com)

.... Complainant

**Versus**

Department of Heavy Industry, (AEI Section),  
 [Through: Secretary],  
 Ministry of Heavy Industries & Public Enterprises,  
 Room No.356, Udyog Bhawan,  
 New Delhi-110011

**R-7834**

.... Respondent No.1

M/s Maruti Suzuki India Limited,  
 [Through: Dy. General Manager (CRM)]  
 1, Nelson Mandel Road,  
 Vasant Kunj, New Delhi-110070

**R-7835**

.... Respondent No.2

**Date of hearing: 16.01.2018**

Present:

1. Smt. Simmi Narnaulia, Under Secretary, for respondent No.1
2. Shri Gaurav Kaushik, Dy. Manager – Legal, Maruti Suzuki India Ltd. For Respondent No.2

**ORDER**

The above named complainant a person with 80% locomotor disability (lower limbs) filed a complaint vide emails dated 25.02.2017 and 26.02.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding denial of delivery of booked vehicle Maruti Dzire Car (Automatic) Vxi with Excise Duty concession by the respondent No.1.

2. The complainant submitted that on 21.03.2016, he booked a vehicle - Maruthi Dzire Car (Automatic) Vxi model through Khivraj Motors, Chennai, one of the dealers of / Maruti Suzuki India Limited (respondent No.2). Being a person (both legs) with 80% disability he wished to avail excise duty and on 27.03.2016 applied for Manufacturer Certificate to Maruti Suzuki India Ltd. (Respondent No.2). But he received no reply from



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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**

respondent No.2. He also applied to the Department of Heavy Industry, Ministry of Heavy Industries and Public Enterprises (Respondent No.1) for issuance of Excise Duty Concession Certificate. Respondent No.1 issued Excise Duty Concession Certificate No. 16(78)/2016 dated 01.08.2016 for purchase of car Swift Dzire (Automatic) by the complainant. He submitted the Excise Duty Concession Certificate to M/s. Khivraj Motors on 12.08.2016. Subsequently, on 27.10.2016, he also submitted the Affidavit and Indemnity Bond as required by the dealer. On 27.01.2017, the respondent No.2 through email intimated the complainant to apply for Manufacturer Certificate and the same mail was reiterated by M/s Khivraj Motors on 28.01.2017. He alleged that despite submission of all the requisite documents, the respondent No.2 is harassing him with regard to Excise Duty Concession and citing modified guidelines issued by the respondent No.1 on 21.04.2017. The complainant also mentioned that the respondent No.2 through their email dated 22.02.2017 intimated the complainant that "you may avail excise duty refund after purchase of vehicle, directly from the concerned authority and there is no requirement of issuance of manufacturer's certificate."

3. The matter was taken up with the respondents on 07.06.2017 for submission of their comments.

4. The respondent No.2 filed their reply dated 24.07.2017 and narrated the procedure to avail 'Concession on Excise Duty at the time of sale'; 'Concession on Excise Duty after the sale of vehicle'; and alleged that complainant willfully with mala fide intentions manipulated, distorted and twisted the guidelines set by the Government of India vide Notification dated 21.04.2016 issued by respondent No.1, which is only applicable in cases of retrofitment, after sale and not prior to sale. The complainant was asking for the Excise Duty benefit (on the basis of the Excise Duty Concession Certificate No. 16(78)/2016 issued by the respondent No.1 on 01.08.2016) under the notification dated 21.04.2016 which was not even issued on the date of booking i.e. 21.03.2016. Later on the complainant cancelled his earlier booking of old Swift Dzire and made a fresh booking in the month of April, 2017 for new Swift Dzire (for which he had first time approached MSIL in the month of January, 2017). The complainant had been duly responded and apprised with the process to avail the statutory exemption, as desired by him. He was informed vide email dated 06.02.2017 that in cases where excise duty concession was sought at the time of purchase, there is a statutory requirement of issuance of



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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**

Manufacturer's Certificate to the persons with left leg disability who are buying Maruti vehicle with automatic transmission.

5. The complainant in his rejoinder / comments dated 27.11.2017 to the reply submitted by the respondent No.2. reiterated his complaint and added that he had not cancelled the booking of old Swift Dzire but had changed the booking to new Swift Dzire and got the delivery of car during September, 2017. He also stated that as the Excise Duty has been dispensed with the advent of GST, the GST concession applicable for persons with disabilities has not been provided to him.

6. Upon considering the aforesaid facts mentioned above, the case was listed for hearing on 16.01.2018.

7. During the hearing on 16.01.2018, the complainant did not appear.

8. The representative of Respondent No.1 submitted that the Excise Duty Concession Certificate for the Car Swift Dzire (Automatic) was issued to the complainant on his request under condition No.28 of Central Government Notification No.12/2002-Central Excise dated 17.03.2012.

9. The representative of respondent No.2 reiterated relied upon the reply already filed on record. He confirmed that the complainant had cancelled his earlier booking and booked the new Swift Dzire delivery of which was made in September, 2017.

10. As regards, providing concessional rate of GST on the new car purchased by the complainant in September, 2017 is concerned, he may process his claim in terms of the Notification No.12(42)/2015-AEI dated 21.04.2016 read with the Corrigendum dated 02.05.2016 issued by the respondent No.1.

11. The case is accordingly disposed of.

*(Signature)*

(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: 8159/1011/2017

R-7821

Dated: 10.04.2018

#### In the matter of:-

Shri Vikas

C/o Neeraj Pathak

Bijethua Rajapur, Mangrava

Sultanpur, U.P. - 228161

Complainant

Versus

Agricultural Scientists Recruitment Board

(Through the Director)

Krishi Anusandhan Bhawan -I, Pusa

New Delhi -110012

R-7822

Respondent

Date of Hearing: 26.03.2018

#### Present:

1. Complainant – Shri Vikas
2. Shri Vampad Sharma, Under Secretary and Shri Anand Singh, Assistant Section Officer on behalf of respondent

#### ORDER

The above named complainant filed a complaint dated 14.06.2017 before the Chief Commissioner for Persons with Disabilities under the Persons Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding recruitment to the post of Agricultural Research Scientist 2016.

2. Complainant in his complaint submitted that he has qualified Agricultural Research Scientist (ARS) 2016 and National eligibility test (NET) 2017 exam by 53.11% marks (cut off for general 45% and the Divyang 35%) in fisheries resource management subject, but result showing that he is not qualified for appearing in ARS Mains Exam because he is Divyang and there is no reservation for Divyang in his subject (fisheries resource management). ASRB mentioned in cancellation list that his subject not suitable for Divyang.

3. The matter was taken up with the respondent vide this Court's letter dated 24.10.2017 under Section 34 of the Rights of Persons with Disabilities Act, 2016.

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4. In response, Under Secretary (Personnel), Indian Council of Agricultural Research vide letter dated 04.01.2018 has inter-alia submitted that Shri Vikas had applied for the post of ARS Scientist under ARS discipline of Fisheries Resource Management (FRM) in Agricultural Research Service (ARS) Examination 2016. He appeared in ARS Preliminary Examination 2016 under UR category. He further submitted that he secured more than the cut-off marks for UR category in FRM discipline. However, while scrutiny of the candidature of qualified candidates, ASRB noticed that Shri Vikas is a Divyang candidate whereas FRM discipline has not been identified as suitable for reservation for Divyang candidates. Accordingly, the ASRB declared his candidature as invalid for ARS-2016 Examination for the reason that Shri Vikas belongs to Divang OC category but FRM discipline has not been notified as suitable for OC category. He was suitably informed by the ASRB.

5. Complainant vide letter dated 14.12.2017 has inter-alia submitted that he qualified the ARS preliminary exam 2017 and get more than cut off marks for main exam but Indian Council of Agricultural Research put him in cancellation list as not eligible candidate and given reason that his subject not suitable for handicapped while previously they recruited PH and that handicapped person still doing their job. He further submitted that during the mater degree he got handicapped reserved seat and no flexibility had given to him, even during sea trip for fishing operation they taken him along with the normal students, then, why are ASRB segregating him from normal students during the job opportunity.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 26.03.2018. During the hearing, complainant reiterated his written submissions. Representative of the respondent submitted written submissions vide letter dated 26.03.2018 which reiterated that as the posts under FRM discipline are not identified suitable for Divyang candidates, therefore, even though Shri Vikas scored more marks than the cut-off marks of UR category candidates for FRM disciplines in ARS Examination 2016, could not be considered in FRM discipline as the discipline itself is not identified suitable for Divyang candidates. If the discipline of FRM would have been identified as suitable for Divyang candidates, Shri Vikas would have been allowed to appear in ARS Main Examination 2016. Thus there is no bias on the part of ASRB while not considering his candidatures in the discipline which is not identified as suitable for Divyang candidates. He further submitted as per Section 34 of the Rights of Persons with Disabilities Act, 2016 and in view of notification of rights of persons with disabilities Rules – 2017 by Ministry of Social Justice and Empowerment, GOI vide GSR 591 (E) dated 15.06.2017, the Council has already constituted a high level Committee vide OM No. 21 (28)/2017-Per-IV dated 28.07.2017 with terms of reference (A) review the existing list of ARS Disciplines identified as suitable for providing reservation to Persons with Disability (PWD) in ARS Examination conducted for recruitment to ARS-Entry Level Scientists. (B) Review the whole procedure of earmarking of vacancies for ARS Examination in identified ARS disciplines to PwDs and give its recommendations to update this procedure as per the latest policy of

Govt. of India in the matter. (C) Any other issue related to or incidental to provision of reservation of PwD in ARS examination. The Committee is in final stage of completing its works and report is expected by next month.

7. After hearing and material available on record, the case is disposed off with the directions to provide reservation to persons with disabilities as per Section 34 of the Rights of Persons with Disabilities Act, 2016 as final recruitment process of 2016 has been completed.



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

Copy to:



The Director (DD – III)  
Department of Empowerment of Persons with Disabilities (Divyangjan)  
Ministry of Social Justice & Empowerment  
5<sup>th</sup> Floor, Block B – I, B – II & B – III  
Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi -110003





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**

केस सं. 1022/1081/2014

दिनांक: .04.2018

**के मामले में :-**

डा. सुनील कुमार सिंह  
मु. लक्ष्मीपुर, वार्ड सं. 6  
ब्लॉक रोड, रोसडा  
समस्तीपुर, बिहार

R-7612

—वादी

**बनाम**

इंडियन ऑयल कार्पोरेशन लिमिटेड  
(द्वारा : अध्यक्ष)  
निगमित कार्यालय  
3079/3, जे.बी.टी.टो मार्ग  
सादिक नगर, नई दिल्ली

R-7613

—प्रतिवादी सं. 01

इंडियन ऑयल कार्पोरेशन लिमिटेड  
(द्वारा : महाप्रबन्धक(रिटेल सेल्स)  
पंजीकृत कार्यालय: 'इंडियन ऑयल भवन'  
जी-9, अली यावर जंग मार्ग  
बांद्रा(पूर्व), मुंबई-400051

R-7614

—प्रतिवादी सं. 02

**सुनवाई की तिथि:** 06.03.2018

**उपस्थित** — वादी की तरफ से कोई उपस्थित नहीं हुए

श्री एस. के. शर्मा, ईडी, बीएसओ — प्रतिवादी की तरफ से

श्री एम. धीमान, जीएम(आर.एस.)—प्रतिवादी की तरफ से

श्री अजय कुमार, सी.एम. (आर.एस.), बी.एस.ओ. —प्रतिवादी की तरफ से

श्री तरुण कुमार, एस.एम.(आर.एस.) —प्रतिवादी की तरफ से

**आदेश**

श्री सुनील कुमार सिंह, 90 प्रतिशत अस्थि दिव्यांग ने उनको आवंटित आउटलेट कम्पनी द्वारा मूलभूत सुविधाएं प्रदान कर शुरू नहीं करने से संबंधित शिकायत दिनांक 02.02.2014 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 (इसके बाद अधिनियम कहा जाएगा) के अंतर्गत इस न्यायालय में दायर किया ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत इस न्यायालय के पत्र दिनांक 24.10.2014 द्वारा प्रतिवादी सं. 01 के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 18.06.2015 एवं 16.12.2015 भी प्रेषित किए गए ।

3. महाप्रबंधक(रिटेल सेल्स), इंडियन ऑयल कार्पोरेशन लिमिटेड, मुंबई ने पत्र सं. 4031/एम/बीएसओ/1691 दिनांक 31.12.2015 द्वारा निम्नवत टिप्पण भेजे:—

रिटेल आउटलेट लोकेशन — रोसरा(बीएसएनएल कार्यालय से एस.के. कॉलेज, थातिया की ओर, रोसरा से बेगुसराय एसएच रोड पर) हेतु दिनांक 25.10.2010 को पीएच श्रेणी के अंतर्गत विज्ञापन प्रकाशित किया गया था । दिनांक 21.06.2011 को इस लोकेशन हेतु डॉ. सुनील कुमार सिंह को एलओआई जारी किया गया । एलओआई की शर्तों के अनुसार, डॉ. सुनील कुमार सिंह द्वारा एलओआई की तारीख से दो महीनों के अंदर विज्ञापित क्षेत्र के लिए 45 मी. X 45 मी. आकार का उचित प्लॉट उपलब्ध कराना था ।

भूमि मूल्यांकन समिति(एलईसी) द्वारा एलओआई धारक द्वारा प्रस्तावित भूमि के मूल्यांकन उपरांत मापी गई भूमि का आकार 40 मी. X 40 मी. पाया गया । यह विज्ञापन में निर्धारित प्लॉट के आकार, अर्थात् 45 मी.X 45 मी. से कम था । तथापि, एलओआई धारक द्वारा दिए गए आश्वासन के आधार पर रिटेल आउटलेट को जल्दी कमीशन करने के लिए आईओसी द्वारा एनओसी हेतु आवेदन कर दिया गया । दिनांक 10.11.2014 व 05.08.2015 के अनुस्मारकों बावजूद एलओआई धारक ने अभी हाल ही में विज्ञापन की शर्तों में निर्धारित आकार की भूमि का प्रस्ताव दिया है और हमने उन्हें सम्पूर्ण दस्तावेज उपलब्ध कराने का अनुरोध किया है ताकि जमीन के मालिकाना हक की जांच करवाकर आगे की कार्रवाई की जा सके ।

4. उप-महाप्रबन्धक(रिटेल सेल्स), इंडियन ऑयल कार्पोरेशन लिमिटेड, मुंबई ने पत्र सं. 4031/एएम/बीएसओ/1073 दिनांक 22.11.2016 द्वारा निम्नवत टिप्पण दिए हैं:-

- डॉ. सुनील कुमार ने दिनांक 16.09.2015 के पत्र के माध्यम से आईओसीएल को यह सूचित किया कि अब वो 45 मी.X 45 मी. आकार के वांछित प्लॉट का प्रस्ताव देने की स्थिति में है और लीज पर जमीन देना चाहते हैं। तथा, लीज हेतु कोई अपेक्षित किराया उद्धृत नहीं किया गया था ।
- एलओआई धारक को संशोधित प्रस्ताव देने हेतु अनुरोध किया गया था ताकि जमीन की दर पर मोल-भाव किया जा सके । एलओआई धारक से लीज किराया हेतु संशोधित प्रस्ताव दिनांक 24.10.2016 को प्राप्त हुआ है।
- बिहार राज्य कार्यालय(बीएसओ) ने दिनांक 11.11.2016 को नामित समिति(एलईसी) के माध्यम से जमीन का मूल्यांकन पूरा किया है और एलईसी ने रिटेल आउटलेट की स्थापना हेतु प्रस्तावित प्लॉट को उपयुक्त पाया है। बिहार राज्य कार्यालय द्वारा शीघ्र कलेक्टर कार्यालय में अनापत्ति प्रमाण पत्र (एनओसी) हेतु आवेदन प्रस्तुत किया जाएगा ।
- जिला कलेक्टर से अनापत्ति प्रमाण पत्र और अन्य आवश्यक लाइसेंस प्राप्त होने पर रिटेल आउटलेट की स्थापना की जाएगी ।

5. प्रतिवादी के पत्र दिनांक 31.12.2015 एवं 22.11.2016 तथा वादी के पत्र दिनांक 02.05.2016 और 12.01.2017 के मद्देनजर मामले में व्यक्तिगत सुनवाई दिनांक 06.03.2018 को 16.00 बजे निर्धारित की गई तथा मामले को नियत तिथि को सुना गया ।

6. सुनवाई के दौरान वादी की तरफ से कोई प्रस्तुत नहीं हुए जबकि प्रतिवादी की तरफ से उपस्थित प्रतिनिधियों ने न्यायालय को आश्वस्त किया कि उक्त आउटलेट को जिला कलेक्टर से आवश्यक अनापत्ति प्रमाण पत्र मिलने के उपरान्त यथाशीघ्र शुरू कर दिया जाएगा ।

7. मामले का निपटारा इस निर्देश के साथ किया जाता है कि प्रतिवादी मामले में आवश्यक कार्यवाही कर, कृत कार्यवाही से इस न्यायालय को 90 दिन के भीतर अवगत कराएं कि वादी के आउटलेट को शुरू किया गया है अथवा इसमें सम्भवतः अभी कितना अतिरिक्त समय लगेगा । यह भी सुनिश्चित किया जाए कि दिव्यांगजन अपने संवैधानिक अधिकारों से वंचित न रह जाए ।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त



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

केस सं. 8879/1022/2017

R-7773

दिनांक: 13.04.2018

के मामले में :-

श्रीमति पूनम राजी  
पत्नी श्री ऋतुराज राजी  
ई-5220, सैक्टर-11  
राजाजीपुरम, लखनऊ  
बनाम

-वादी

भारतीय डाक विभाग  
(द्वारा : चीफ पोस्टमास्टर जनरल)  
उत्तर प्रदेश परिमण्डल, हजरतगंज  
लखनऊ

R-7774

-प्रतिवादी

सुनवाई की तिथि: 22.03.2018

उपस्थित - श्री विजय कान्त श्रीवास्तव, अधिवक्ता - वादी की तरफ से  
श्री हिमांशु राजी, वादी तरफ से  
श्री आर.पी. गिरि, सहायक अधीक्षक, डाकघर(स्टाफ) प्रतिवादी की तरफ से

### आदेश

श्रीमति पूनम राजी पत्नी श्री ऋतुराज राजी, 100 प्रतिशत अस्थि दिव्यांग ने उनके पति को मिर्जापुर से लखनऊ स्थानांतरण करवाने से संबंधित प्रतिवेदन दिनांक 13.11.2017 दिव्यांगजन अधिकार अधिनियम, 2016(इसके बाद अधिनियम कहा जाएगा) के अंतर्गत इस न्यायालय में दायर किया ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत इस न्यायालय के पत्र दिनांक 15.12.2017 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 14.07.2017 एवं 10.11.2017 भी प्रेषित किए गए ।

3. सहायक पोस्टमास्टर जनरल(अमला), भारतीय डाक विभाग, कार्यालय चीफ पोस्टमास्टर जनरल, उत्तर प्रदेश परिमण्डल, लखनऊ ने अपने पत्रांक स्टाफ/आर-38/रितुराज राजी/इन/लखनऊ/4 दिनांक 08.01.2018 द्वारा सूचित किया कि श्री रितुराज राजी, डाक सहायक मिर्जापुर मण्डल का स्थानान्तरण सम्बन्धी प्रकरण लखनऊ मण्डल की प्रतीक्षा सूची में क्रम संख्या 73 पर अंकित है, जिसकी सूचना कर्मचारी की पत्नी को उनके कार्यालय के समसंख्यक पत्र दिनांक 23.11.2017 द्वारा पूर्व में ही दी जा चुकी है। भविष्य में प्रतीक्षा सूची के आधार पर मामले का अग्रिम निस्तारण नियमानुसार किया जायेगा ।

4. वादी ने अपने पत्र दिनांक 18.01.2018 द्वारा निम्न प्रार्थनाएं उल्लेखित की :-

- उनकी दो छोटी-छोटी पौतिया हैं जिनकी आयु क्रमशः 03 वर्ष एवं 02 वर्ष है जिनको लेकर वह लखनऊ में पति के बगैर निवास करती है इस वजह से उनको अनेक कठिनाईयों का सामना करना पड़ता है।
- जब तक उनके प्रार्थना पत्र में उल्लिखित सभी पहलुओं/निवेदन पर विचार न किये जाये तब तक उनके प्रार्थना पत्र को इस प्रकार अधूरी/अस्पष्ट सूचना प्रेषित कर प्रकरण को अनावश्यक रूप से बन्द न करें । उक्त शिकायत के निष्पादन के पूर्व उन्हें भी अपना पक्ष रखने का समय प्रदान किया जाये ।
- इत्यादि ।

5. दोनों पक्षों के लिखित दस्तावेजों के अवलोकन उपरान्त. नोटिस दिनांक 09.02.2018 द्वारा मामले में दिनांक 22.03.2018 को 12.00 बजे व्यक्तिगत सुनवाई निर्धारित की गयी एवं नियत तिथि को मामले को सुना गया ।
6. कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापन सं0 ए-बी 14017/41/90-स्था.(आर.आर) दिनांक 10.05.1990 एवं ए-बी 14017/16/2002-स्था.(आर.आर.) दिनांक 13.03.2002 के अनुसार निःशक्त कर्मचारियों को प्रशासनिक बाध्यताओं के अधीन जहां तक संभव हो उनके निवास स्थान के नजदीक पदस्थ किया जाना चाहिए।
7. कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापन सं0 36035/3/2013-स्था.(आरक्षण) दिनांक 31.03.2014 के पैरा '2 (एच)' के अनुसार जहां तक संभव हो, विकलांग व्यक्तियों को आवर्ती स्थानांतरण नीति/स्थानांतरण में छूट दी जा सकती है और जिस कार्य में उनका वांछित प्रदर्शन प्राप्त हो, उन्हें उस कार्य में रहने की अनुमति दी जा सकती है। इसके अलावा प्रशासनिक बाध्यताओं को ध्यान में रखते हुए निःशक्त व्यक्तियों को स्थानांतरण और पदोन्नति के समय तैनाती के स्थान में प्राथमिकता देनी चाहिए । निःशक्त व्यक्तियों के मामले में तैनाती की जगह के चुनाव पर विचार करने की प्रथा जारी रखी जा सकती है । व्यवहार्य जहां उनकी सेवाओं का बेहतर उपयोग किया जा सकें, उन्हें उक्त कार्य में बनाए रखा जा सकता है।
8. उपरोक्तानुसार प्रतिवादी को निर्देश दिया जाता है कि वादी के पति श्री ऋतुराज राजी के स्थानांतरण सम्बन्धी प्रकरण को प्राथमिकता देते हुए मामले में यथोचित कार्यवाही कर, कृत कार्यवाही से इस न्यायालय को 45 दिनों के भीतर अवगत करवाया जाये ।
9. तदानुसार मामले को बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त



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

केस सं. 6010/1022/2016

दिनांक: 13.04.2018

के मामले में :-

R-7778

श्री विकास गुप्ता  
 सहायक अध्यापक  
 छावनी प्राथमिक विद्यालय  
 सदर बाजार, रानीखेत, जिला अल्मोड़ा  
 उत्तराखण्ड

—वादी

बनाम

रक्षा विभाग, रक्षा मंत्रालय  
 (द्वारा : सचिव)  
 कमरा सं. 101-ए, साउथ ब्लॉक  
 नई दिल्ली

R-7779

—प्रतिवादी

सुनवाई की तिथि: 27.03.2018

उपस्थित — श्री विकास गुप्ता — वादी की तरफ से  
 प्रतिवादी की तरफ से कोई प्रस्तुत नहीं हुए

आदेश

श्री विकास गुप्ता, 50 प्रतिशत अस्थि दिव्यांग ने दिव्यांग कर्मचारियों को उनके गृहनगर के नजदीक छावनी परिषद् में स्थानांतरित करने के प्रावधान करवाने से संबंधित प्रतिवेदन दिनांक 24.02.2016 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 (जो अब दिव्यांगजन अधिकार अधिनियम, 2016 हो गया है) के अंतर्गत इस न्यायालय में दायर किया ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत इस न्यायालय के पत्र दिनांक 24.04.2016 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 14.09.2016 एवं 14.12.2016 भी प्रेषित किए गए ।

3. वादी ने अपने पत्र दिनांक 01.12.2017 द्वारा उल्लेखित किया कि उनकी दिव्यांगता की रोकथाम व सही ईलाज व सामान्य जीवन यापन करने के लिए काफी वर्षों से उनके गृह नगर के नजदीक छावनी परिषद् में पर्याप्त प्रमाण-पत्रों के साथ स्थानांतरण करने के प्रार्थना कर रहे हैं लेकिन उन्हें प्रावधान न होने का हवाला देकर अभी तक कोई राहत प्रदान नहीं की है । जबकि कई छावनी परिषद् कर्मचारियों को इस तरह की राहत दी जाती रही है वर्तमान में भी कुछ इसी तरह के मामलों में राहत प्रदान कर कुछ कर्मचारियों को लाभान्वित किया गया है ।

4. चूंकि प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में इस न्यायालय के समसंख्यक नोटिस दिनांक 19.01.2018 द्वारा मामलों में दिनांक 08.02.2018 को 16.30 बजे व्यक्तिगत सुनवाई निर्धारित की गयी ।

5. सुनवाई के दौरान प्रतिवादी की तरफ से स्वयं अथवा उनका कोई प्रतिनिधि न्यायालय में उपस्थित नहीं हुआ जिसे मुख्य आयुक्त ने बड़ी गंभीरता से लिया और कार्यवाहियों के रिकार्ड दिनांक 06.03.2018 द्वारा प्राकृतिक न्याय के हित में मामलों में अगली सुनवाई दिनांक 27.03.2018 को 14.00 बजे निर्धारित की गयी । पुनः मामले को नियत तिथि को सुना गया, परन्तु प्रतिवादी की तरफ से इस दिन भी कोई उपस्थित नहीं हुआ ।

सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरभाष: 23386054, 23386154; टेलीफैक्स : 23386006  
 Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 ; Tel.: 23386054, 23386154 ; Telefax : 23386006

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

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

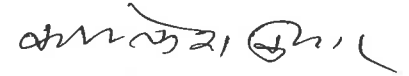
(Please quote the above file/case number in future correspondence)

6. कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापन सं० ए-बी 14017/41/90-स्था.(आर.आर) दिनांक 10.05.1990 एवं ए-बी 14017/16/2002-स्था.(आर.आर.) दिनांक 13.03.2002 के अनुसार दिव्यांग कर्मचारियों को प्रशासनिक बाध्यताओं के अधीन जहां तक संभव हो उनके निवास स्थान के नजदीक पदस्थ किया जाना चाहिए।

7. कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापन सं० 36035/3/2013-स्था.(आरक्षण) दिनांक 31.03.2014 के पैरा '2 (एच)' के अनुसार जहां तक संभव हो, दिव्यांग व्यक्तियों को आवर्ती स्थानांतरण नीति/स्थानांतरण में छूट दी जा सकती है और जिस कार्य में उनका वांछित प्रदर्शन प्राप्त हो, उन्हें उस कार्य में रहने की अनुमति दी जा सकती है। इसके अलावा प्रशासनिक बाध्यताओं को ध्यान में रखते हुए निःशक्त व्यक्तियों को स्थानांतरण और पदोन्नति के समय तैनाती के स्थान में प्राथमिकता देनी चाहिए। निःशक्त व्यक्तियों के मामले में तैनाती की जगह के चुनाव पर विचार करने की प्रथा जारी रखी जा सकती है। व्यवहार्य जहां उनकी सेवाओं का बेहतर उपयोग किया जा सकें, उन्हें उक्त कार्य में बनाए रखा जा सकता है।

8. उपरोक्तानुसार प्रतिवादी को निर्देश दिया जाता है कि वादी के गृह नगर के नजदीक छावनी परिषद् हेतु स्थानांतरण सम्बन्धी प्रकरण को प्राथमिकता देते हुए मामले में यथोचित कार्यवाही कर, कृत कार्यवाही से इस न्यायालय को 60 दिनों के भीतर अवगत करवाया जाये।

9. तदनुसार मामले को बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त



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: 6165/1014/2016

Dated: 13.04.2018

In the matter of:-

Shri Supreo Chanda  
 2/B, Avenue East, Modern Park  
 Santoshpur, Kolkata – 700075

R-7873

Complainant

Versus

National Museum Institute  
 (Through the Director General)  
 National Museum Campus, Janpath  
 New Delhi - 110011

R-7874

Respondent

Date of Hearing: 21.02.2018 & 05.04.2018

Present:

1. Complainant – Absent
2. Dr. S.C. Gupta, Legal Advisor on behalf of respondent

**ORDER**

The above named complainant filed a complaint dated 30.03.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the 'Act' regarding harassment in the interview for the post of Professor of Museology held at the National Museum Institute on 29.02.2016.

2. Complainant Shri Supreo Chanda, a wheelchair-bound Associate Professor in the University of Calcutta in his complaint inter-alia submitted that he was called for an interview for the post of Professor of Museology at the National Museum Institute, New Delhi on 29.02.2016 and the Selection Committee chaired by Shri Sanjiv Mittal, Director General, National Museum did not have single subject expert having formal academic qualification in museology nor did any of them have substantial experience in museums. His main complaint was three of the members deliberately insulted, harassed and even mocked him with the sole intention of maligning him. Shri Mittal being a senior bureaucrat did not interfere to restrain them. They even misinterpreted the referred regulations to forcibly declare him unsuitable for the post.

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3. The matter was taken up with the respondent vide this Court's letter dated 06.06.2016 under Section 59 of the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

4. In response, Finance Officer & Grievance Officer, National Museum Institute vide letter dated 20.06.2016 has inter-alia submitted that an interview for the post of Professor (Museology) at this Institute was held on 29.02.2016 and the composition of Selection Committee for the interview of the post of Professor at this Institute was as per UGC Regulation 2010. Among other pertinent experts on panel, there was a former Professor and Head of the Department of Museology, National Museum Institute. In compliance to UGC Regulation 2010, there was an academician representing SC/ST/OBC/Minority/Women/Differently abled categories duly nominated by the Vice Chancellor. In no circumstances National Museum Institute believes or remotely thinks of "Humiliating" or "Insulting" any candidate.

5. The above reply was forwarded to the complainant on 14.10.2016 for submission of his rejoinder. Complainant vide rejoinder dated 20.10.2016 has inter-alia submitted that the Officer tried to deliberately misdirect the issue and surreptitiously divert towards the Selection of a particular candidate, though he never questioned the selection, considering the dignity of the Committee, whatever irregular it might have been, his grievance relating to insult and harassment.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 21.02.2018.

7. During the hearing on 21.02.2018 complainant was absent and representative of the respondent had sought extension of time, therefore, case rescheduled on 05.04.2018. Again complainant was absent on next date of hearing. During the hearing representative of the respondent has submitted written submission and mentioned that the complainant appeared for a personal interview before a duly constituted Selection Committee on 29.02.2016 alongwith other candidates who were also shortlisted and were called for a personal interview. The Selection Committee for the post of Professor (Museology) at the National Museum Institute was constituted as per the UGC Guidelines 2014 and comprised of eminent academicians, experts and among others a member representing SC/ST/OBC/Minority/Women/Differently abled categories duly nominated by the Vice Chancellor as per the UGC regulations 2010. That the Selection Committee, on an objective assessment of the academic record, published research work, contributions made by the candidates in the fields of their study, teaching experience and overall performance in the interview, selected a candidate who was more meritorious than the complainant. That non selection of the complainant for the post of Professor (Museology) in the National Museum Institute is



not an adverse reflection of the complainant's individual merit but of the fact that some other candidate/s was/were more suitable and the allegations made by the complainant are false and baseless.

8. In light of the above and material available on record, the reply of the respondent is seems to be satisfactory, 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

केस सं०: 5930/1014/2016

दिनांक: 13.04.2018

श्री मधुर कांत गुप्ता  
 इन्द्रा पार्क गौशाला रोड़  
 अशोकनगर, मध्य प्रदेश - 473331

R-7908

वादी

**बनाम**

भारत संचार निगम लिमिटेड  
 (द्वारा) अध्यक्ष-सह प्रबंध निदेशक  
 भारत संचार भवन, हरीश चंद्र माथुर लेन  
 जनपथ, नई दिल्ली - 110001

R-7909

प्रतिवादी

**सुनवाई की तिथि : 15.05.2017, 20.12.2017, 13.02.2018, 05.03.2018 एवं 06.04.2018**

**उपस्थित :**

- शिकायतकर्ता - अनुपस्थित
- श्री संजय कुमार, उप-प्रबंधक(स्था), प्रतिवादी की ओर से।

**आदेश**

उपरोक्त शिकायतकर्ता श्री मधुर कांत, 40 श्रवण बाधित व्यक्ति ने जे.टी.ओ. पद पर नियुक्ति से संबंधित शिकायत - पत्र निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपने पत्र दिनांक 04.02.106 में कहना था कि भारत संचार निगम लिमिटेड द्वारा आयोजित SRD - JTO Exam dated 23-11-2014 में उनका चयन श्रवण बाधित विकलांग कोटे के अन्तर्गत हुआ तत्पश्चात् विभाग ने प्रार्थी द्वारा दिये गये Health certificate में उनकी Eye vision में कमी के संबंध में उन्हें अवगत कराया। प्रार्थी का आगे कहना है कि विभाग ने खुद भी तीन नेत्र विशेषज्ञों द्वारा उनका नेत्र परीक्षण करवाया है तथा नेत्र विशेषज्ञों द्वारा भी उनका Eye vision - satisfactory visual activities (RE-CF - 3 feet, LE-6/6) and colour vision normal बताया गया है किन्तु विभाग M/o Health and Family Welfare द्वारा निर्धारित parameter का हवाला देते हुये विभाग द्वारा उन्हें इस पद पर कार्य करने के लिए मना किया जा रहा है। आगे प्रार्थी का अपने पत्र दिनांक 12.07.2016 में कहना था कि भारत संचार निगम लिमिटेड, पंजाब ने उन्हें मेडिकल में अनफिट करते हुए जे.टी.ओ. पद से निरस्त कर दिया है।

3. उक्त मामला दिनांक 16.08.2016 को केन्द्रीय विद्यालय संगठन, नई दिल्ली से लिया गया।

4. The AGM (Rectt. & Estt.), B.S.N.L. vide letter dated 16.11.2016 has submitted that Shri Madhur Kant Gupta had applied for the post of Jr. Telecom Officer in the category of HI and appeared in the aforementioned examination held on 23.11.2014 and declared provisionally successful subject to this fulfillment of all prescribed pre-recruitment formalities. The Health Certificate 27.05.2015 received from Medical Board of Civil Hospital, Distt. Ashok Nagar with observation/remarks in column No. 3(1) as congenital deformity (RE) and 3(3) as "partial defection colour vision". But the candidate with these types of deficiencies in sight vision is not fit for the post of JTO (Telecom) being a Technical Post holding Executive Status in BSNL. He further submitted that appeal of the applicant was considered for again Medical Test and his case was referred to Dean, Gandhi Medical College, Bhopal but again he was declared Medically unfit for the post of JTO. On the basis of Medical Report, the Competent Authority has cancelled the provisional candidature.

5. प्रार्थी का अपने प्रति उत्तर में कहना था कि उनको जे.टी.ओ. का कार्य करने में कोई शारीरिक बाधा नहीं है तथा इसी शारीरिक अवस्था में रहते हुए ही उन्होंने M.Tech. तक की Technical Education – BE (Electronic & Communication) in State Govt. College, Master of Technology (VLSI Design) in Central Govt. College, Visvesvaraya National Institute of Technology (VNIT) जैसे देश के प्रतिष्ठित संस्थाओं से प्राप्त की है।

6. प्रतिवादी के पत्र दिनांक 31.10.2016 एवं प्रार्थी के पत्र दिनांक 15.01.2017 के मद्देनजर दिनांक 15.05.2017 को सुनवाई रखी गई।

सुनवाई के दौरान शिकायतकर्ता ने अपने कथनों को दोहराया और कहा कि उन्होंने इसी शारीरिक अवस्था (40 प्रतिशत एच.एच. एवं 30 प्रतिशत दृष्टिबाधित) में रहते हुए ही Primary Class से लेकर M.Tech. की है तथा जे.टी.ओ. का कार्य इसी अध्ययन क्षेत्र का ही अंग है। प्रार्थी ने कहा कि बी.एस.एन.एल., पंजाब द्वारा दिनांक 27.05.2015 को मेडिकल टेस्ट करवाया गया था और मेडिकल रिपोर्ट के अनुसार उन्हें fit for computer work & office work बताया गया किन्तु बी.एस.एन.एल. ने इस रिपोर्ट की जानकारी न्यायालय को न देकर केवल रिपोर्ट में लिखित Congenital Deformity (RE) & Partial Defection Color vision के बारे में ही बताया।

7. प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने अपने कथनों को दोहराया कि गांधी मेडिकल कॉलेज, भोपाल ने अपने पत्र दिनांक 26.05.2016 में श्री मधुर कान्त गुप्ता को जे.टी.ओ. के पद हेतु उनकी दाहिनी आँख के दृष्टि दोष के कारण अपात्र घोषित किया।

9. दोनों पक्षों को सुनने के पश्चात् एवं उपलब्ध दस्तावेजों का परिशीलन करने के पश्चात्, न्यायालय द्वारा प्रतिवादी को यह निर्देश दिया जाता है कि वादी श्री मधुर कांत गुप्ता कि colour vision का परीक्षण इस कार्यवाही के अभिलेख मिलने के 75 दिनों के अन्दर पी.जी.आई.एम.ई.आर., चण्डीगढ़ से करवाये तथा उसके उपरान्त रिपोर्ट को इस न्यायालय में 10 दिनों के अन्दर भेजे। दिनांक 13.02.2018 की सुनवाई के दौरान प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने सूचित किया कि वादी की colour vision की परीक्षण पी.जी.आई.एम.ई.आर., चण्डीगढ़ से 02.02.2018 को हो चुका है और रिपोर्ट अभी तक उन्हें प्राप्त नहीं हुई। दिनांक 05.03.2018 की सुनवाई के दौरान प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने पी.जी.आई.एम.ई.आर., चण्डीगढ़ से प्राप्त रिपोर्ट प्रस्तुत की। रिपोर्ट के अनुसार Right eye was showing mild ptosis and exotropia. Anterior segment of right eye showed micro cornea with vascularised corneal opacity. The anterior segment of left eye was within normal limits. Posterior segment of both eyes was grossly within normal limits. Patient was not able to identify any of the colour vision plate with right eye. The colour vision of left eye was within normal limits. In view of the ophthalmic examination i.e. CFCF in worse eye and 6/6 in better eye, he is fit for non-technical services as per notification in the Gazette of India.

9. दिनांक 06.04.2018 को प्रतिवादी की ओर से उपस्थित प्रतिनिधि ने भारत संचार निगम लिमिटेड द्वारा जारी स्वास्थ्य प्रमाण पत्र की प्रति प्रस्तुत की, दस्तावेजों के अध्ययन के बाद यह पाया गया कि मामले में निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 एवं निःशक्तजन अधिकार अधिनियम, 2016 कि किसी धारा, नियम या सरकारी दिशा निर्देशों का उल्लंघन प्रतीत नहीं होता इसलिए केस को खारिज किया जाता है।



(डॉ कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त (निःशक्तजन)



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: 5487/1022/2015

Dated : 18 .04.2018  
 Dispatch No. ....

In the matter of :

Shri Ritesh Kumar Rinku, *R-7932*  
 Assistant Manager,  
 UCO Bank,  
 Kahalgaon,  
 Bhagalpur,  
 Bihar – 813 203  
 Email<click2ritesh@gmail.com>

.....Complainant

**Versus**

UCO Bank,  
 (Through Chairman & Managing Director and CEO)  
 UCO Bank Head Office,  
 10, B.T.M. Sarani,  
 Kolkata,  
 West Bengal – 700 001

*R-7933*

.....Respondent

**Date of Hearing : 22.03.2018**

**Present :**

1. Complainant – Absent
2. Shri Dinesh Kumar, Asstt. General Manager and Ms. Sushma Devi, Manager (Law), On behalf of Respondent

**ORDER**

The above named complainant, a person with 45% locomotor disability had filed a complaint dated 20.11.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding his posting to his native place in Muzaffarpur.

2. The Complainant submitted that presently he has been working as Assistant Manager, UCO Bank Kahagaon bank in Bhagalpur. His native place in Muzaffarpur. His first posting as a Clerk was 300 Kms away in Ekchari Village in Bhagapur. He was not transferred to his native place inspite of his several requests to his bank. He has been requesting since then for his transfer near to his home town. As there is no public transport facility available directly to his bank, he has been travelling by local train to reach his bank. He was finding difficult in boarding the train due to heavy rush during that time. As his other leg is affected by polio, he escaped a number of times from coming under the train while trying to get into it.

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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 21.12.2015.

4. The General Manager, HRM, UCO Bank, Kolkata vide his letter no. HRM/TPC/2015-16/1077 dated 04.01.2016 submitted that the Complainant was promoted to Scale I on 19.06.2014 and as per Bank's requirement and vacancy posted from Bhagalpur Branch to Kahalgaon Branch. They submitted that the complainant was kept in his Zone of Domicile even after his promotion from clerical cadre to Officer's cadre, while his other batchmates have been transferred outside the State of Bihar. They further submitted that their bank invariably keeps the position of employees with disabilities in mind while deciding on his transfer/posting. He further submitted that they had again advised Circle Office, Patna for shifting Shri Rainku near to his home district Muzaffarpur within the ambit of Bank's policies and Govt. guidelines in the matter

5. The complainant vide his rejoinder dated 19.02.2016 submitted that on 03.12.2012 he was first time posted as Clerk nearly 300 Kms away from his home town, i.e. Muzaffarpur at a Ikchari village under Bhagalpur Zone. His contention is that could not the Bank locate any branch within 300 Kms where he could have been posted. On 20.02.2014, when his request letter for transfer was considered, he was not relieved from his duties. Even after his promotion, he was transferred from Ikchari to Kehal Gaon. He further submitted that the Respondent's version that except the employees with disabilities, all the other staffs were transferred outside Bihar is not true. He submitted that he was promoted during June 2014 and since then he has been writing request letters for this transfer to the Circle Office, but he never received any replies to these letters from the Bank.

6. After considering Respondent's reply dated 04.01.2016 and Complainant's rejoinder dated 19.02.2016, a personal hearing was scheduled on 22.03.2018.

7. During the hearing the representatives of Respondent confirmed that the Complainant has been transferred from Kahalgaon Branch, Bhagalpur (1940) to Club Road Branch, Muzaffarpur (0575) vide their letter dated 07.05.2016. Presently the Complainant is posted at his native place in Muzaffarpur in Bihar. The representatives of Respondent also submitted a copy of Transfer Order dated 07.05.2016 to the Court.

8. The Complainant was not present during the hearing.

9. After hearing the Respondent, the Court disposed off the case as the grievance of the Complainant has been redressed.

  
(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: 8641/1023/2017

R-7934

Dated : 18.04.2018

Dispatch No. ....

In the matter of :

Shri Rajat Singh,  
 C-1/301, Meridian,  
 Aakriti Eco-City,  
 Bhopal – 462 039

.....Complainant

**Versus**

Bharat Sanchar Nigam Limited,  
 (Thru Principal General Manager),  
 Ahmedabad Telecom District,  
 2<sup>nd</sup> Floor,  
 Gulbai Tekra Exchange Building,  
 Ahmedabad – 380 006

R-7935

.....Respondent

**Date of Hearing : 21.03.2018**

**Present :**

1. Shri Rajat Singh, the Complainant along with Shri J.S. Singh.
2. Shri Jagmohanlal Sharma, DGM (Admn.), Shri J.K. Tilva, SDE (RTI/DI)

**ORDER**

The above named complainant, a person suffering from 'Paranoid Schizophrenia' made a complaint under the Rights of Persons with Disabilities Act, 2016 against non-protection of Rights of an employee who acquired mental illness during his service.

2. Shri Rajat Singh submitted that he was working as Junior Telecom Officer (JTO), BSNL, Ahmedabad. He acquired mental illness. While he was under treatment, BSNL issued dismissal from service. He applied twice in 2007 for 'leave without pay' to pursue the 18 month MS Course in Advanced Networking and Telecommunication beginning 26.02.2007, but his request was turned down as he had not completed 5 years continuous service from the date of appointment with probation period. He applied for Earned Leave for 3 months upto 30.09.2007 and proceeded to join the Institute in the full knowledge of all concerned. His establishment issued him a letter pointing absence from duty and asked him to join the duty or face disciplinary action. He informed vide his letter dated 3.3.2009 that he will join office after completion of course by June 2009. On joining he was issued a Memorandum dated 24.06.2009 by his establishment for his unauthorised absence from duty from 01.10.2007 to 24.06.2009 and on his joining the private study at Pune

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without prior permission. His mental condition deteriorated and he was hospitalised for 20 days. He requested Principal GM to allow him to continue his service , but his request was not considered. He was dismissed from service vide order dated 12.06.2012.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 09.11.2017;

4. The Asstt. General Manager (Admn), Ahmedabad Telecom District, Ahmedabad vide his letter no. Q-18112/JTO/2017-18/10 dated 30.11.2017 submitted that the statement of the Complainant that he was suffering from mental illness during his service is not true, as he took admission in a college for higher study. The Respondent submitted that disciplinary action was initiated against the officer with charges of remaining unauthorized absence from duty. The Complainant was dismissed on 12.06.2012.

5. The Complainant vide his rejoinder dated 28.12.2017 submitted that he was mentally fit when reported for duty on 01.07.2009 on return from 12IT, Pune. Afterwards he acquired mental illness which got aggravated during inquiry proceedings period into 'Paranoid Schizophrenia'. He submitted that he was handed over a Memorandum dated 24.06.2009 about setting of an inquiry on two charges, i.e. (i) for unauthorized absence from duty from 01.10.2007 to 24.06.2009 (ii) remained absent from duty and joining private study course at Pune without prior permission. He submitted that even prior to his reporting for duty and calling for explanation from him, an inquiry was set up. He appeared in two hearings on 12.02.2010 and 23.03.2010 and found the hearing process most hostile against him. He was hospitalized at Gujarat Institute of Psychological Sciences, Hospital and Research Centre, Ahmedabad for 20 days from 01.12.2012 to 20.12.2012 and was diagnosed with 'Paranoid Schizophrenia'. He was then admitted at CADABAMs Mental Health Care and Rehabilitation Centre, Bangalore in April 2015 where he was treated for about a year. After putting in 4 years of service in BSNL, he applied for study leave for pursue regular Master of Science Course in Advanced Networking and Telecommunication of 18 months during beginning from 26.02.2007, but his request was rejected by his establishment on the ground of non-completion of 5 years of required study leave. The complainant submitted that he applied not for the 'Study Leave' but for the 'Leave without pay', for which he was eligible under Extra-Ordinary Leave Rules. He was expecting to receive the permission letter, but was surprised to receive a letter from SDE(NIB) dated 19.10.2007 pointing his absence from duty and advising him to join the duty immediately otherwise action will be taken against him. He informed his establishment vide his letter dated 03.03.2009 that he could not clear four papers of the previous semesters and for which he has to appear in June 2009 and requested for



extending the permission upto June 2009, but he was not granted permission for extension of leave upto June 2009. He further submitted that he acquired 'Paranoid Schizophrenia' while he was in service in BSNL and he is eligible to get relief under the Rights of Persons with Disabilities Act, 2016.

6. After considering Respondent's reply dated 30.11.2017 and complainant's rejoinder dated 28.12.2017 a personal hearing was scheduled on 21.03.2018.

7. During the hearing the Complainant submitted that he joined BSNL the year 2003. He applied twice in 2007 for 'leave without pay' to pursue the 18 month MS Course in Advanced Networking and Telecommunication beginning 26.02.2007, but his request was turned down as he had only 4 years of service and was short of one year for eligibility. He applied for Earned Leave for 3 months upto 30.09.2007 and proceeded to join the Institute in the full knowledge of all concerned. His establishment issued him a letter pointing absence from duty and asked him to join the duty or face disciplinary action. On joining he was issued a Memorandum dated 24.06.2009 by his establishment for his unauthorised absence from duty from 01.10.2007 to 24.06.2009 and on his joining the private study at Pune without prior permission. He was dismissed from service vide order dated 12.06.2012.

8. During the hearing the representatives of Respondent submitted that the Complainant had not taken prior permission for joining the Course. His request was turned down by BSNL as he had not completed 5 years continuous service and not eligible for Study Leave. He further submitted that disciplinary action was initiated against the officer with charges of remaining unauthorized absence from duty. He was dismissed from service on 12.06.2012.

9. After hearing both the parties, the Court came to the conclusion that there is no violation of any provisions of Rights of Persons with Disabilities Act, 2016.

10. 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: 7793/1014/2017

Dated: 19.04.2018

**In the matter of:-**

Shri Mohd. Mishbahul  
 607 – 12, 3<sup>rd</sup> Floor, Zakir Nagar  
 Okhla, New Delhi – 110025  
 <mishbahul88@gmail.com>

R-8439

Complainant

Versus

Aligarh Muslim University  
 (Through the Registrar)  
 Aligarh – Uttar Pradesh

R-8440

Respondent

**Date of Hearing: 16.04.2018**

Present:

1. Complainant – absent
2. Shri Faisal Waris, Assistant Registrar and Shri Ilyas Khan, S.O. (Admin) on behalf of respondent

**ORDER**

The above named complainant filed a complaint dated 13.03.2017 before the Chief Commissioner for Persons with Disabilities under the Persons Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act' regarding non receipt of interview letter for the post of Assistant Professor in Aligarh Muslim University.

2. Complainant in his complaint submitted that in Feb. 2016, Aligarh Muslim University had published an advertisement for the post of Assistant Professor reserved for visually impaired in its Political Science Department. He further submitted that in January 2017, University had called the candidates for interview but his name did not figured in the candidates list. He alleged that those candidates were called for the interview that was less qualified than him.

3. The matter was taken up with the respondent vide this Court's letter dated 23.06.2017 under Section 34 of the Rights of Persons with Disabilities Act, 2016.

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4. In response, Registrar, Aligarh Muslim University vide letter dated 12.07.2017 has inter-alia submitted that according to the scrutiny Committee constituted by the Vice-Chancellor for shortlisting the candidates, Mr. Md. Misbahul secured 89.99 points whereas the cut-off of the merit was 92.84 and no injustice was done against him and he has mis-represented facts and falsified information .

5. Complainant in his rejoinder dated 25.12.2017 has inter-alia submitted that he has closely examined the list of candidates and their respective marks assigned by the screening selection committee of AMU in which he has given 89.99 despite attaching his BA/MA/MPhil/UGC NET certificate and the 03 selected candidates for the interview had only BA/MA/UGC NET. He further submitted that it is evident that the respondent AMU and its selection committee had excluded his name from the finally selected lists of candidates who were called for the interview with a mollified intentions.

6. After perusal of the reply of the respondent and rejoinder submitted by complainant, the personal hearing was scheduled on 16.04.2018. During the hearing, complainant was absent. Representative of the respondent submitted written submissions dated 16.04.2018 vide which it has been stated that the Executive Council in its meeting held on 29.08.2015 under item No. 4 had reserved one post of Assistant Professor in Political Science for VH category. The said post was advertised vide advertisement No. 5/2015 dated 18.11.2015. Against the aforesaid advertisement, 10 application forms were received. The forms were sent to the Chairman, Department of Political Science with the request to place the same before the Scrutiny Committee, constituted by the Vice Chancellor to determine the eligibility and short listing the candidates as per criteria duly notified by the University. As per shortlisting criteria top 05 candidates in order of merit were called for interview. From the report of scrutiny Committee, it may be seen that Md. Mishbahul has secured 89.99 points while the cut off merit was 92.84.

7. After hearing and material available on record, the case is disposed off without any directions as response of the respondent is found satisfactory.



**(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: 6398/1022/2016

R-8054

Dated : 20.04.2018  
 Dispatch No. ....

In the matter of :

Shri Sanjeev Kumar,  
 Addl. Asstt. Director (Safety),  
 Regional Labour Institute,  
 Sector-47,  
 Faridabad,  
 Haryana – 121 010  
 Email<sanjeevrli@rediffmail.com>

.....Complainant

**Versus**

Directorate General Factory Advise Services & Labour Institutes (DGFASLI),  
 (Through Director General)  
 Under Ministry of Labour & Employment,  
 N.S. Mankiker Marg,  
 Sion,  
 Mumbai – 400 022

...Respondent

R-8055

**Date of Hearing : 05.04.2018**

**Present :**

1. Shri Sanjeev Kumar, the Complainant.
2. Respondent – Absent


**ORDER**

The above named complainant, a person with 50% locomotor disability had filed a complaint dated 14.05.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, regarding transfer to his native place.

2. The Complainant submitted that he is suffering from Dilated Cardio Myopathy and Cholelithiasis for which he is undergoing treatment in Calcutta Medical College and Hospital, Kolkata. He is working in Regional Labour Institute, Kolkata. After his promotion to the post of Additional Assistant Director (Safety), he was transferred to Regional Labour Institute, Faridabad. He submitted that his transfer to Faridabad at this juncture will entail him with physical as well as mental difficulties and financial losses for losing School fees and maintaining expenditure for maintaining two establishments both in Faridabad and Kolkata.

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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 08.03.2017.
4. As no Response was received from the Respondent, a personal hearing in the matter was scheduled on 05.04.2018.
5. During the hearing, the Complainant submitted that he has already been transferred to Regional Labour Institute, Faridabad and he has brought his family to Faridabad. He reiterated that he has already faced the initial hardships due to his transfer to Faridabad and transferring him back to Kolkata will give physical, mental and financial losses again including loss of ex-chequer's money. The Complainant has requested to drop his case. .
6. The case is disposed off.

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