



सत्यमेव जयते

Extra,

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

Case No.: 8602/1040/2017

Dated 07.09..2018

**In the matter of:**

Dr. Jaideep Arora,  
 190, Napier Town,  
 Jabalpur – 482001 (Chhattisgarh)

.... Complainant

**Versus**

Staff Selection Commission (MPR),  
 [Through: Dy. Secretary],  
 J-5, Anupam Nagar,  
 Raipur – 492007 (Chhattisgarh)

.... Respondent

Date of hearing: 12.03.2018

Present:

1. Shri Jaideep Arora, complainant
2. Shri A.K. Dadhich, Under Secretary; and Shri Vivek Singh for respondent

**ORDER**

The above named complainant filed a complaint dated 19.09.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding change of examination centre from Bhopal to Jabalpur to write the recruitment exam scheduled on 08.10.2017; and not allowing him to use his own scribe and to meet him one day before the examination by the respondent for the post of Multi Tasking Staff.

2. The complainant submitted that his son, Shri Naman Arora, a person with 40% visual impairment and also cerebral palsy was allotted his exam city as Bhopal for appearing in the written examination scheduled on 08.10.2017 for the post of Multi Tasking Staff. Bhopal is 300 km away from his hometown Jabalpur, while the normal candidates have been allotted the same centre at Jabalpur. The complainant further alleged that SSC refused to allow own scribe which is violation of Clause IV of the guidelines. Because of similar strong headedness of the Assistant Director, SSC Raipur Region, his divyang son missed the SSC CGL exam held on 05.08.2017 in which his exam centre was given at Bhopal.

3. Clauses IV, V and VI of the Office Memorandum No.16-110/2003-DD.II dated 26.02.2013 issued by Ministry of Social Justice and Empowerment, Department of Disability Affairs, provide as under:-

VI. *The candidate should have the discretion of opting for his own scribe/reader/lab assistant or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the*

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*District/Division/State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.*

- VII. *Criteria like educational qualification, marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, **the invigilation system should be strengthened**, so that the candidates using scribe/reader/lab assistant do not indulge in malpractices like copying and cheating during the examination.*
- VIII. *There should also be flexibility in accommodating any change in scribe/reader/lab assistant in case of emergency. The candidates should also be allowed to take more than one scribe/reader for writing different papers especially for languages.*

4. The matter was taken up with respondent under Section 75 of the Act, vide this Court's letter dated 16.10.2018, for submission of comments.

5. The respondent submitted their reply vide letter dated 24.10.2017 and intimated that the allegation that SSC allotted Shri Naman Arora's exam centre at Bhopal was totally false and he was misleading the Court. On the request of the complainant (father of candidate), the candidate was allowed Jabalpur Centre. With regard to own scribe they provide Scribes to the candidates with visual impairment and cerebral palsy as per the Policy/Manual/Norms of the Commission. Accordingly, Shri Naman Arora was provided a Scribe for his assistance in his Written Examination of Multi Tasking Staff scheduled on 07.10.2017 at Jabalpur Centre, which he refused to take Commission's Scribe citing/stating the guidelines issued by Ministry of Social Justice & Empowerment vide their OM No.16-110/2003-DD.III dated 26.02.2013. The complainant took his son without allowing him to take examination with the help of Scribe provided to him as all other VH/Cerebral Palsy candidates have given all over India with the help of Scribe provided by the Commission.

6. In his rejoinder dated nil [received on 09.01.2018] to the respondent's reply, the complainant submitted that the complaint was made before this Court as the exam centre was allotted at Bhopal. At the last moment, after active intervention of Revenue Commissioner Jabalpur, the exam centre was changed to Jabalpur for MTS exam. His son was neither allowed own scribe nor he was allowed to meet the scribe selected by SSC before the commencement of exam.

7. Upon considering the facts mentioned above, the case was listed for hearing on 12.03.2018.

8. During the hearing on 12.03.2018, the complainant submitted that the respondent has violated the guidelines by not allowing his son to use his own scribe and did not permit him to meet the scribe provided by the respondent one day before the examination. He requested that the respondent may be directed to follow the guidelines issued by Ministry of Social Justice vide OM dated 26.02.2013.

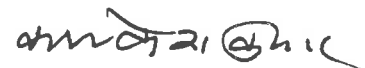
9. The representative of the respondent submitted that abiding by the order dated 20.11.2017 of this Court passed in Case No.8300/1041/2017 (Shri Hemant Makkar Vs Staff Selection Commission) SSC is providing the facility of meeting with scribes one day before the examination,

from Combined Higher Secondary Level (10+2) Examination, 2017. The representative also submitted a copy of the letter dated 06.02.2018 already filed by the respondent in Case No.8300/1041/2017. As regard, not allowing the candidate to opt or bring his/her own scribe in the written examination, the representative relied upon the views expressed by the respondent in the letter dated 06.02.2018 and submitted that SSC is not agreed to allow own scribe to ensure fair play, transparency and a level playing field to candidates with disabilities in the recruitment process.

10. The respondent has also expressed their views that the facility to candidates to meet scribes one day before commencement of examination may lead to malpractices which could adversely impact the transparency and integrity of the examinations. It has also the potential to disrupt the level playing field for other candidates with disabilities who accept the scribes provided by the Recruiting Agency. The respondent has anticipated that the propensity of allegations/complaints of unfair practices could also be high.

11. After hearing both the parties, the respondent is advised that examination centre of the candidates with disabilities should preferably be allotted nearest to his/her home town and this should also be ensured that reasonable accommodation and a level playing field is provided to the candidates with disabilities. Further, this Court has observed that respondent has not been following the guidelines issued vide OM No.16-110/2003-DD.III dated 26.02.2013 by the Ministry of Social Justice & Empowerment and probably has been striking on the uniform and comprehensive policy across the country of writing examinations for the persons with disabilities. Therefore, since the guidelines dated 26.02.2013 is under review and a decision has yet to come, a copy of this Order be endorsed to the Secretary, Department of Empowerment of Persons with Disabilities, and to the Secretary, Department of Personnel & Training for their consideration and taking expeditious action so that the matter can be decided by the Review Committee; and complainant as well as other such candidates with disabilities may not remain deprived of their legitimate rights.

12. The case is accordingly disposed of.



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

Copy to:

1. The Secretary,  
Department of Empowerment of Persons with  
Disabilities (Divyangjan),  
Ministry of Social Justice and Empowerment,  
5th Floor, B-II, Pt. Deen Dayal Antyodaya Bhawan,  
CGO Complex, Lodhi Road, New Delhi-110003
2. The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances and Pensions,  
North Block, New Delhi-110001



सत्यमेव जयते

Extra

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

वाद संख्या 7038/1141/2017

दिनांक

07.09.2018

श्री सुनील सिंह,  
कनिष्ठ अभियंता,  
केन्द्रीय भूमि जल बोर्ड, उत्तर मध्य क्षेत्र,  
द्वितीय तल, रीना अपार्टमेंट, एन. एच. 43,  
धमतरी रोड, पचपेडी नाका, रायपुर-492001 (छत्तीसगढ़)  
ईमेल - [sunil001e@gmail.com](mailto:sunil001e@gmail.com)

R-11064

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बनाम

उत्तर मध्य क्षेत्र, केन्द्रीय भूमि जल बोर्ड,  
(द्वारा - क्षेत्रीय निदेशक)  
द्वितीय तल, रीना अपार्टमेंट, एन.एच.43,  
धमतरी रोड, पचपेडी नाका, रायपुर-492001 (छत्तीसगढ़)

R-11065

प्रतिवादी

सुनवाई की तिथि - 22.12.2017 और 23.03.2018

उपस्थित -

दिनांक 22.12.2017

- 1- श्री के. बी. एन. सोनी, वैज्ञानिक डी, प्रतिवादी पक्ष की ओर से
- 2- शिकायतकर्ता पक्ष की ओर से अनुपस्थित

दिनांक 23.03.2018

- 1- श्री सुनील सिंह, शिकायतकर्ता
- 2- प्रतिवादी की ओर से अनुपस्थित

### आदेश

शिकायतकर्ता, 60% अस्थिबाधित व्यक्ति ने केन्द्रीय भूमि जल बोर्ड, खण्ड बी, रायपुर में सहायक अभियंता के पद पर कार्यरत श्री दिनेश छोटाभाई नरपत ताड़वी द्वारा विकलांगता की गंदी गाली देने, प्रताड़ित एवं लज्जित करने सम्बन्धित शिकायत दिनांक 29.09.2016 निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. इस न्यायालय के पत्र दिनांक 24.03.2017 के द्वारा निःशक्त व्यक्ति अधिनियम, 1995 की धारा 59 अन्तर्गत इस मामले को प्रतिवादी के साथ उठाया गया।

3. प्रतिवादी ने अपने उत्तर दिनांक 05.05.2017 के द्वारा सूचित किया कि इस मामले की जाँच वरिष्ठ अधिकारी द्वारा कराई गई। जाँच रिपोर्ट के अनुसार कार्यपालक अभियंता, श्री दिनेश छोटाभाई ताड़वी द्वारा शिकायतकर्ता को विकलांगता की गंदी गाली देने और जान से मारने की धमकी देने के उनके आरोप गवाह और साक्ष्य के अभाव में सिद्धि नहीं हो पाए। प्रतिवादी ने यह भी सूचित किया कि शिकायतकर्ता को अकारण और बिना किसी सार के अधिकारियों को दोषारोपित करने की आदत है।

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4. प्रतिवादी के उपरोक्त उत्तर पर शिकायतकर्ता ने अपना प्रत्युत्तर दिनांक 18.10.2017 इमेल दिनांक 30.10.2017 के द्वारा भेज कर यह सूचित किया कि फर्जी बिलों की मेजरमेंट बुक में एंट्री करने से मना करने पर एपीएआर खराब करने एवं से डर कर रहने को कहा गया, उच्च अधिकारी भर्ती घोटाले में शामिल थे उस मामले में भी ज्ञापन देकर प्रताड़ित किया। फर्जी साइट विजिट किया जाता है। 4200/- ग्रेड पे होने के बावजूद भी सौंपे गए कार्य से हटाकर 1800/1900 ग्रेड पे के मातहत काम करवाते हैं। श्री दिनेश ताड़वी द्वारा किए जा रहे भ्रष्टाचार में शिकायतकर्ता द्वारा सहयोग न किए जाने पर शिकायतकर्ता को लगातार प्रताड़ित किए जाना बताया गया।
5. प्रतिवादी से प्राप्त उत्तर तथा शिकायतकर्ता से प्राप्त प्रत्युत्तर पर विचारोपरान्त मामले में दिनांक 22.12.2017 को व्यक्तिगत सुनवाई की तिथि सुनिश्चित की गई और सम्मन दिनांक 23.11.2017 जारी कर प्रतिवादी को शिकायतकर्ता के प्रत्युत्तर दिनांक 18.10.2017 पर टिप्पणी प्रस्तुत करने की सलाह दी गई।
6. दिनांक 22.12.2017 को सुनवाई के दौरान प्रतिवादी पक्ष की ओर से उपस्थित प्रतिनिधि ने प्रतिवादी द्वारा जारी पत्र दिनांक 21.12.2017, 12.12.2017 तथा श्री डी. सी. तड़वी, कार्यपालन अभियंता द्वारा क्षेत्रीय निदेशक, केन्द्रीय भूमि जल बोर्ड, रायपुर को सम्बोधित आवेदन दिनांक 18.12.2017 प्रस्तुत किया। पत्र दिनांक 12.12.2017 के द्वारा प्रतिवादी ने यह सूचित किया कि श्री तड़वी का स्थानांतरण केन्द्रीय भूमि जल बोर्ड भूजल-भवन एन.एच. 4 फरीदाबाद में हो गया है और आगे से आरोपों के संदर्भ में विस्तृत जानकारी फरीदाबाद कार्यालय से ही प्राप्त की जा सकती है। प्रतिवादी पक्ष की ओर से उपस्थित प्रतिनिधि ने शिकायतकर्ता द्वारा श्री तड़वी पर लगाए गए आरोपों को निराधार एवं मिथ्या होना बताया।
7. दिनांक 21.12.2017 को शिकायतकर्ता ने इस कार्यालय में स्वयं उपस्थित होकर अभ्यावेदन प्रस्तुत कर कहा कि दिनांक 22.12.2017 को सुनिश्चित सुनवाई में परीक्षा के कारण उपस्थित होने में असमर्थ हैं, अतः दिनांक 22.03.2018 को सुनवाई की जाए।
8. शिकायतकर्ता के निवेदन को ध्यान में रखते हुए इस प्रकरण में अगली सुनवाई दिनांक 23.03.2018 को 1600 बजे सुनिश्चित की गई और दोनों पक्षों को निर्देश दिए गए कि वांछित दस्तावेजों के साथ निर्धारित समय एवं तिथि पर सुनवाई के लिए उपस्थित हों।
9. दिनांक 23.03.2018 को सुनवाई के दौरान प्रतिवादी पक्ष की ओर से कोई भी उपस्थित नहीं हुए। हालांकि प्रतिवादी ने पत्र दिनांक 14.03.2018 के द्वारा, जो कि इस न्यायालय में दिनांक 21.03.2018 को प्राप्त हुआ, यह निवेदन किया कि मामले में अगली सुनवाई दिनांक 15.05.2018 को रखी जाए क्योंकि सम्बन्धित नोडल अधिकारी, आहरण और संवितरण अधिकारी भी हैं और वित्तीय वर्ष समाप्ति में व्यस्त होने के कारण दिनांक 22.03.2018 को उपस्थित होने में असमर्थ हैं।
10. उपरोक्त तथ्यों, अभिलेखों तथा दोनों पक्षों को सुनने के पश्चात प्रतिवादी को सलाह दी जाती है कि दिव्यांगजन अधिकार अधिनियम, 2016 के अध्याय - IV की धाराएँ 20, 21, 22 व 23 में दिए गए प्रावधानों का अनुपालन करें और यह सुनिश्चित करें कि शिकायतकर्ता तथा अन्य दिव्यांग अधिकारी व कर्मचारियों के साथ किसी भी प्रकार का विभेद नहीं किया जाता है।
11. तदनुसार इस मामले का निस्तारण किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं० 7246/1021/2017

दिनांक: ०७.09.2018

के मामले में:-

श्रीमती रीता श्रीवास्तव  
पत्नी श्री अतुल कुमार श्रीवास्तव  
माधुरी निवास मं.सं. सी/130/814  
विष्णुपुरम, शाहपुर पोस्ट बसारतपुर  
गोरखपुर, उत्तर प्रदेश-273004

-वादी

बनाम

पंजाब नेशनल बैंक  
(द्वारा : अध्यक्ष एवं प्रबन्ध निदेशक)  
प्रधान कार्यालय  
7, भीकाजी कामा पेलेस  
नई दिल्ली

-प्रतिवादी

सुनवाई की तिथि: 24.07.2018

उपस्थित — श्री हर्ष कुमार मिश्रा — वादी की तरफ से  
श्री वी. श्रीनिवास, उप महाप्रबन्धक — प्रतिवादी की ओर से  
सुश्री नेहा लाकडा — प्रतिवादी की ओर से  
श्री आर. रवि कुमार, मुख्य प्रबन्धक — प्रतिवादी की ओर से

### आदेश

श्रीमती रीता श्रीवास्तव ने उनके पति वादी, 45 प्रतिशत दृष्टि दिव्यांग की उनको पदोन्नत न कर उनके कनिष्ठ अधिकारियों को पदोन्नति प्रदान करने से संबंधित शिकायत दिनांक 26.10.2016 दिव्यांगजन अधिकार अधिनियम, 2016 के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 27.12.2016 द्वारा प्रतिवादी के साथ उठाया गया । जब पर्याप्त समय व्यतीत होने के बावजूद भी प्रतिवादी के टिप्पण प्राप्त नहीं हुए तो उन्हें स्मरण पत्र दिनांक 11.08.2017 भी प्रेषित किया गया ।

3. उप महाप्रबन्धक, पंजाब नेशनल बैंक, मानव संसाधन प्रबंधन प्रभाग, प्रधान कार्यालय, नई दिल्ली ने पत्र एचआरएमडी:एससीटी:2017 दिनांक 25.08.2017 द्वारा न्यायालय को निम्नानुसार प्रस्तुत किया कि:-

- I. शिकायत के संबंध में, शिकायतकर्ता के पति को वरिष्ठता चैनल के तहत दिनांक 10.07.2017 से पदोन्नत किया गया है और वे 2016 की पदोन्नति प्रक्रिया में अनुपस्थित थे ।
- II. बैंक में शारीरिक रूप से दिव्यांग कर्मचारियों के लिए पदोन्नति में आरक्षण का कोई प्रावधान नहीं है। अतः शारीरिक रूप से दिव्यांग कर्मचारियों को पदोन्नति प्रक्रिया में कोई रियायत नहीं दी जाती है।
- III. चूंकि शारीरिक रूप से दिव्यांग अभ्यर्थियों के लिए सीधी भर्ती में आरक्षण का प्रावधान है, अतः भारत सरकार के कार्मिक, लोक शिकायत और पेंशन मंत्राल के कार्मिक एवं प्रशिक्षण विभाग

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के का.ज्ञा.सं. 36035/3/2004-स्था.(आरक्षण) में दिए निर्देशों के अनुसार 100 अंकों के उचित आरक्षण रोस्टर बनाए गए हैं।

4. वादी ने अपने रिज्वाइन्डर दिनांक 25.09.2017 में क्रमवार टिप्पण प्रस्तुत किए :-

I. बैंक ने अपने प्रथम वक्तव्य में दो बातें कहीं -

प्रथम- उनके पति की वरिष्ठता क्रम चैनल के तहत दिनांक 10.07.2017 को पदोन्नति किया गया है।

जबकि यह पदोन्नति भारत सरकार के वित्त मंत्रालय द्वारा दिव्यांगों हेतु बनाये गये नियमों के आधार पर वर्ष 2013 से ही मिलना चाहिए था जिसके लिए वह माननीय न्यायालय से गुहार कर रही है।

द्वितीय- बैंक द्वारा यह कहा गया है कि मेरे पति वर्ष 2016 की पदोन्नति प्रक्रिया में अनुपस्थित थे।

बैंक द्वारा ऐसा कहना गलत है क्योंकि मेरे पति वर्ष 2016 में दिनांक 01.03.2016 को हुए साक्षात्कार में उपस्थित थे, इस साक्षात्कार में सिर्फ मेरे पति को अयोग्य इसलिए घोषित किया गया था क्योंकि 45 प्रतिशत दृष्टिदिव्यांग थे जिसकी वजह से छोटे अक्षर पढ़ने में उन्हें दिक्कत थी।

II. बैंक का यह कहना कि दिव्यांगों हेतु पदोन्नति में आरक्षण का कोई प्रावधान नहीं है।

उपरोक्त संदर्भ में यह कहना चाहूंगी कि क्या बैंक के पास पूरे पैनेल में सिर्फ व सिर्फ एक ही दिव्यांग व्यक्ति(मेरे पति) को ही अयोग्य/फेल करने का प्रावधान/नियम था जबकि दिव्यांग हित में सरकार व वित्त मंत्रालय द्वारा बनाये गये नियमों के तहत पदोन्नति कर जहां वे कार्यरत थे, अपना कार्य सुचारु रूप से कर रहे थे, जहाँ पद भी था, किया जाना चाहिए था।

III. बैंक का यह कथन कि बैंक ने आरक्षण निर्देशों के अनुसार 100 अंकों के उचित आरक्षण रोस्टर बनाए है।

बैंक द्वारा दिव्यांगों हेतु सरकार व वित्त मंत्रालय के नियमों/निर्देशों के अनुसार 100 अंकों के उचित आरक्षण रोस्टर बनाये है या नहीं इसका निर्णय माननीय न्यायालय को ही करना है।

5. उप महाप्रबन्धक, पंजाब नैशनल बैंक, मानव संसाधन प्रबंधन प्रभाग, प्रधान कार्यालय, नई दिल्ली ने पत्र एचआरएमडी:आरक्षण प्रकोष्ठ:2018:एनएल दिनांक 28.03.2018 द्वारा बिंदुवार उत्तर एतदधीन प्रस्तुत किये :-

क्र. सं.	प्रत्युत्तर में उठाए गए मुद्दे	हमारा निवेदन
1.	श्रीमती रीता श्रीवास्तव ने अपने प्रत्युत्तर में कहा है कि यद्यपि उनके पति को दिनांक 10.07.2017 को वरिष्ठता चैनल में पदोन्नत कर दिया गया, परंतु भारत सरकार एवं वित्त मंत्रालय के दिशानिर्देशों के अनुसार उन्हें वर्ष 2013 में ही पदोन्नति कर दिया जाना चाहिए था।	वर्ष 2013 में, वादी को रिक्तियुक्त निकटस्थ शाखा (शा.का. हाता, जहाँ रिक्ति मौजूद थी) में तैनाती के साथ विशेष सहायक के पद का प्रस्ताव किया गया था, जिसके लिए श्री श्रीवास्तव ने अपनी बिना शर्त स्वीकृति नहीं दी और इसलिए उनको पदोन्नत नहीं किया गया। इसके अतिरिक्त, वर्ष 2013 में विशेष सहायकों के लिए पदोन्नति की प्रक्रिया में चयनित हुए सभी कर्मचारियों को नगर से बाहर की तैनाती दी गई।

दौड़-धूप और दीर्घकालीन प्रक्रियाओं से गुजरते हुए, साथ ही अंतहीन औपचारिकताएँ पूरी करने के बाद दिनांक 01.07.2015 को वादी को "समुचित" दिव्यांगता प्रमाण पत्र प्राप्त हुआ। यह प्रमाण पत्र उन्होंने तत्काल ही पंजाब नेशनल बैंक में जमाकर दिया और जिसे बैंक ने स्वीकार करते हुए अपने अभिलेखों में दर्ज भी कर लिया। परन्तु इसका यह तात्पर्य नहीं है कि वादी 01.07.2015 से पूर्व दिव्यांग नहीं थे। वरन वास्तविकता यह है कि वे दुर्घटना के बाद से ही दिव्यांगजन थे। अतः वे दुर्घटना के पश्चात से ही 01.07.2015 के पूर्व भी और आज भी दिव्यांगजन अधिनियम के कार्यालयों के आदेशों/निर्देशों तथा आपके विभाग के आदेशों/निर्देशों के अंतर्गत प्राप्त होने वाले लाभों तथा अधिकारों के हकदार है।

- IV. यह कि उपरोक्त पैरा तीन में उल्लिखित तथ्यों के बावजूद पंजाब नेशनल बैंक ने वादी को प्रोन्नति हेतु सम्पन्न विभिन्न साक्षात्कारों के अवसरों पर न तो दिव्यांगजन हेतु प्राप्य आरक्षण का लाभ दिया और न ही पॉस्टिंग में तदनुसार शाखा में प्रोन्नति दी। जबकि 13.07.2013 और उसके बाद स्पेशल सहायक पदों पर प्रोन्नति हेतु साक्षात्कारों में से किसी में भी कोई दिव्यांग उम्मीदवार नहीं रहा।
- V. यह कि अन्य विवरणों व तथ्यों में जाने से पूर्व यह भी उल्लेखनीय है कि विशेष सहायक पर होने वाले साक्षात्कारों में लोगों को केवल वरिष्ठता के आधार पर ही आमंत्रित किया जाता है और प्रोन्नति हेतु उनका अनुमोदन भी केवल वरिष्ठता के आधार पर ही नियमतः किया जाता है न कि योग्यता अथवा कार्यक्षमता के आधार पर/बशर्ते उम्मीदवार के विरुद्ध कोई अनुशासनात्मक कार्यवाही विचाराधीन/लंबित न हो, जिसका प्रमाण है कि 13.07.2013 व उसके पश्चात् विशेष सहायक पद पर प्रोन्नति हेतु सम्पन्न साक्षात्कारों में जितने भी लोग उपस्थित हुए, उन सभी का अनुमोदन किया गया केवल मात्र वादी के नाम का अनुमोदन नहीं किया गया, जबकि उनके विरुद्ध कोई भी अनुशासनात्मक कार्यवाही लंबित/विचाराधीन नहीं थी और न 13.07.2013 से पूर्व या बाद पंजाब नेशनल बैंक ने कार्यकुशलता/क्षमता व कार्यों के संबंध में कभी कोई आरोप पत्र वादी को दिया। और जिस साक्षात्कार में उनका अनुमोदन प्रोन्नति हेतु किया भी गया तब उन्हें कार्यरत शाखा या घर के नजदीक की शाखा में प्रोन्नति के बजाय दूर-दराज की शाखाओं में किया गया जबकि कार्यरत व नजदीकी शाखाओं में रिक्तियां रहीं और उनमें प्रोन्नत अन्य लोगों को नियुक्तियां दी भी गईं जोकि बैंक के रिकार्डों में दर्ज है।
- VI. यह कि विशेष सहायक के पद पर प्रोन्नति हेतु आयोज्य दिनांक 13.07.2013 के साक्षात्कार से एक दिन पूर्व दिनांक 12.07.2013 के पत्र के माध्यम से ही वादी ने बैंक से अनुरोध किया था कि उनकी दिव्यांगता को देखते हुए उन्हें गोरखपुर शहर की किसी नजदीकी शाखा में प्रोन्नति देने की कृपा करें। परन्तु बैंक ने उनके नियमतः अनुरोध को ठुकराते हुए शहर से 38 किलोमीटर दूरस्थ शाखा "हाटा" में प्रोन्नति दी जबकि उस समय कार्यरत शाखा व शहर की अन्य नजदीकी शाखाओं में रिक्तियां थी जिन पर अन्य प्रोन्नत लोगों को नियुक्तियां दी गईं, वादी को नहीं दी गई। चूंकि दिव्यांग होने के कारण वे 38 कि.मी. दूरस्थ शाखा आवागमन में असमर्थ थे अतः बैंक ने उन्हें दो साल के लिये प्रोन्नति के लिए अयोग्य घोषित कर दिया।
- VII. यह कि 13.07.2013 को सम्पन्न उपरोक्त साक्षात्कार के दो माह बाद बैंक ने अधिकारी पद हेतु सम्पन्न साक्षात्कार में वादी से कनिष्ठ तीन लोगों को साक्षात्कार हेतु आमंत्रित किया और उन्हें प्रोन्नति देकर शहर की शाखाओं में नियुक्ति दे दी और वादी प्रोन्नति से वंचित रह गये। यदि नियमतः वादी को 13.07.2013 को विशेष सहायक पद पर प्रोन्नति दे दी गई होती तो



XIV. यह कि उपरोक्त धारा एक से लेकर धारा तेरह में वर्णित/उल्लिखित तथ्यों से स्पष्ट है कि विगत पाँच वर्षों में बैंक ने जानबूझकर, पूर्वाग्रह से ग्रस्त होकर तथा बदले की भावना से प्रेरित होकर निरंतर निःशक्तता अधिनियम के बाध्यकारी प्रावधानों, निःशक्तजनों के संबंध में आपके व केन्द्र सरकार के अनेकानेक कार्यालय आदेशों/निर्देशों का गंभीर व अपराधिक उल्लंघन किया है, अवमानना की है तथा उपेक्षा की है साथ ही श्री अतुल कुमार श्रीवास्तव जैसे दिव्यांगजन के वाजिब अधिकारों पर कुठारघात किया है।

अतः महोदय से विनम्र प्रार्थना है कि इस प्रतिवेदन का अवलोकन कर संज्ञान ग्रहण करते हुए:-

- I. प्रतिवादी बैंक को निर्देशित किया जाए कि बैंक वादी को 13.07.2013 से विशेष सहायक पद पर तथा नवंबर 2013 से अधिकारी पद पर प्रोन्नति करें। साथ ही विलंबित अवधि के भत्तों, वेतन-अंतर, वार्षिक वेतन-वृद्धि का भुगतान करते हुए सीनियारिटी भी सुनिश्चित करें।
- II. वादी को उनके निवास से निकटतम शाखा आर.सी.सी. में तैनाती देकर उनसे केवल उसी प्रकार और उसी प्रकृति के काम लेने का आदेश पारित करें जोकि उनके जैसे दिव्यांगजन के लिये नियमतः सुगम व सुसाध्य हो, तथा
- III. उपरोक्त धारा तेरह में सुस्पष्ट कारणों से बैंक के विरुद्ध सख्त कार्यवाही करते हुए बैंक पर अधिकतम जुर्माने का आदेश पारित करें
- IV. बैंक द्वारा विगत पांच वर्षों से निरंतर मानसिक, शारीरिक व आर्थिक रूप से उत्पीड़ित-प्रताड़ित व हानि पहुँचाने, अनावश्यक दौड़-धूप व लिखा-पढ़ी हेतु बाध्य करने के लिये वादी को एक लाख रुपये मुआवजा देने का आदेश पारित किया जाए।

8. उपरोक्त सुनवाई के उपरान्त प्रतिवादी को आदेश दिया जाता है कि दिव्यांग कर्मचारियों/अधिकारियों को उनके गृह नगर के समीप पदस्थापित करें तथा दिव्यांगजन अधिकार अधिनियम, 2016 एवं कार्मिक एवं प्रशिक्षण विभाग के कार्यालय ज्ञापनों के अनुसार उनको देय सुविधाएं/पद लाभ यथासमय प्रदान करें। प्रतिवादी को यह भी आदेशित किया जाता है कि सुनिश्चित करें कि दिव्यांग को उनके संवैधानिक अधिकारों से वंचित नहीं किया जा रहा है।

9. मामले को तदानुसार बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

Extra

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No.: 8938/1040/2017

Dated 07.09.2018

In the matter of:

R-11089

Shri Abdul Azim  
Room No.08, Aftab Hostel,  
Aftab Hall, Aligarh Muslim University,  
Aligarh-202002, Email – [azeem6129@gmail.com](mailto:azeem6129@gmail.com)

.... Complainant

Versus

The Secretary/Director,  
UGC-National Eligibility Test,  
Central Board of Secondary Education,  
H-149, Sector - 63, Phase-IV  
Distt. Gautam Budh Nagar, NOIDA - 201309, U.P.

R-11090

.... Respondent

Date of hearing: 11.06.2018

Present:

1. Shri Shekhar Chandra, Asst. Secretary, CBSE-UGC-NET, Delhi for respondents
2. None appeared for the complainant

**ORDER**

The complainant, a person with 100% visual impairment filed complaint dated 17.11.2017 and submitted that he and two other female candidates with visual disability were harassed at the examination centre by the staff at Krishna International School, Aligarh (UP) to write CBSE/UGC NET in November, 2017.

2. The complainant submitted that as per CBSE notification, they had arranged scribe of their own choice and informed the examination centre one week before the exam. On the date of examination, i.e. 05.11.2017 they were not allowed to use their own scribe and provided them High School children because of greed of Rs.1000/-, which is paid to the Scribe. The school staff did not listen to them and behaved arrogantly with them. Due to low reading capability of the scribe, the complainant could not take up his exam and had to leave 20 questions. His hard work of four months preparation for NET has gone in vain.

3. The matter was taken up with the respondent vide letter dated 09.01.2018 for submission of their comments. Since no reply received from the respondent despite

reminder dated 20.03.2018, the case was listed for personal hearing on 11.06.2018, vide Notice of Hearing dated 07.05.2018.

4. After issuance of Notice of Hearing, the respondent filed their reply dated 08.05.2018 and submitted that the matter was taken up by the Board with examination centre and furnished a copy of the reply received from the Principal, Krishna International School, Aligarh. As per the reply, the candidate had brought with him a highly knowledgeable scribe who was pursuing Ph.D from Aligarh Muslim University. Keeping in view the sanctity of the exam, CBSE Observer in the school and the UGC team of authorities sent by the CBSE were informed. As per their instructions two students were arranged who were much reliable and would not to help the candidates in any case. They denied the allegation about the greed of Rs.1000/- as they were the students of the school and were unknown about the remuneration, which was later on paid to their parents. The complainant also demanded the question paper in Braille script, which was not provided as it was not sent by the Board itself, due to which the complainant had become argumentative.

5. Clause IV, V and VII of the guidelines for conducting written examination for persons with disabilities issued vide O.M. No.16-110/2003-DD.III dated 26.02.2013 by Ministry of Social Justice & Empowerment, Department of Disability Affairs (now renamed as 'Department of Empowerment of Persons with Disabilities') provide as under:

- IV. *The candidate should have the discretion of opting for his own scribe/reader/lab assistant or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the District/Division/State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.*
- V. *Criteria like educational qualification, marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, **the invigilation system should be strengthened**, so that the candidates using scribe/reader/lab assistant do not indulge in malpractices like copying and cheating during the examination.*
- VI. *There should also be flexibility in accommodating any change in scribe/reader/lab assistant in case of emergency. The candidates should also be allowed to take more than one scribe/reader for writing different papers especially for languages.*
- VII. *Persons with disabilities should be given the option of choosing the mode for taking the examinations i.e. in Braille or in the computer or in large print or even by recording the answers as the examining bodies can easily make use of technology to convert question paper in large prints, e-text, or Braille and can also convert Braille text in English or regional languages.*



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

### COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No.: 8602/1040/2017

Dated 07.09..2018

In the matter of:

Dr. Jaideep Arora,  
190, Napier Town,  
Jabalpur – 482001 (Chhattisgarh)

.... Complainant

*Versus*

Staff Selection Commission (MPR),  
[Through: Dy. Secretary],  
J-5, Anupam Nagar,  
Raipur – 492007 (Chhattisgarh)

.... Respondent

Date of hearing: 12.03.2018

Present:

1. Shri Jaideep Arora, complainant
2. Shri A.K. Dadhich, Under Secretary; and Shri Vivek Singh for respondent

### ORDER

The above named complainant filed a complaint dated 19.09.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', regarding change of examination centre from Bhopal to Jabalpur to write the recruitment exam scheduled on 08.10.2017; and not allowing him to use his own scribe and to meet him one day before the examination by the respondent for the post of Multi Tasking Staff.

2. The complainant submitted that his son, Shri Naman Arora, a person with 40% visual impairment and also cerebral palsy was allotted his exam city as Bhopal for appearing in the written examination scheduled on 08.10.2017 for the post of Multi Tasking Staff. Bhopal is 300 km away from his hometown Jabalpur, while the normal candidates have been allotted the same centre at Jabalpur. The complainant further alleged that SSC refused to allow own scribe which is violation of Clause IV of the guidelines. Because of similar strong headedness of the Assistant Director, SSC Raipur Region, his divyang son missed the SSC CGL exam held on 05.08.2017 in which his exam centre was given at Bhopal.

3. Clauses IV, V and VI of the Office Memorandum No.16-110/2003-DD.II dated 26.02.2013 issued by Ministry of Social Justice and Empowerment, Department of Disability Affairs, provide as under:-

VI. *The candidate should have the discretion of opting for his own scribe/reader/lab assistant or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the*

Page 1 of 3

*District/Division/State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.*

- VII. *Criteria like educational qualification, marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, **the invigilation system should be strengthened**, so that the candidates using scribe/reader/lab assistant do not indulge in malpractices like copying and cheating during the examination.*
- VIII. *There should also be flexibility in accommodating any change in scribe/reader/lab assistant in case of emergency. The candidates should also be allowed to take more than one scribe/reader for writing different papers especially for languages.*

4. The matter was taken up with respondent under Section 75 of the Act, vide this Court's letter dated 16.10.2018, for submission of comments.

5. The respondent submitted their reply vide letter dated 24.10.2017 and intimated that the allegation that SSC allotted Shri Naman Arora's exam centre at Bhopal was totally false and he was misleading the Court. On the request of the complainant (father of candidate), the candidate was allowed Jabalpur Centre. With regard to own scribe they provide Scribes to the candidates with visual impairment and cerebral palsy as per the Policy/Manual/Norms of the Commission. Accordingly, Shri Naman Arora was provided a Scribe for his assistance in his Written Examination of Multi Tasking Staff scheduled on 07.10.2017 at Jabalpur Centre, which he refused to take Commission's Scribe citing/stating the guidelines issued by Ministry of Social Justice & Empowerment vide their OM No.16-110/2003-DD.III dated 26.02.2013. The complainant took his son without allowing him to take examination with the help of Scribe provided to him as all other VH/Cerebral Palsy candidates have given all over India with the help of Scribe provided by the Commission.

6. In his rejoinder dated nil [received on 09.01.2018] to the respondent's reply, the complainant submitted that the complaint was made before this Court as the exam centre was allotted at Bhopal. At the last moment, after active intervention of Revenue Commissioner Jabalpur, the exam centre was changed to Jabalpur for MTS exam. His son was neither allowed own scribe nor he was allowed to meet the scribe selected by SSC before the commencement of exam.

7. Upon considering the facts mentioned above, the case was listed for hearing on 12.03.2018.

8. During the hearing on 12.03.2018, the complainant submitted that the respondent has violated the guidelines by not allowing his son to use his own scribe and did not permit him to meet the scribe provided by the respondent one day before the examination. He requested that the respondent may be directed to follow the guidelines issued by Ministry of Social Justice vide OM dated 26.02.2013.

9. The representative of the respondent submitted that abiding by the order dated 20.11.2017 of this Court passed in Case No.8300/1041/2017 (Shri Hemant Makkar Vs Staff Selection Commission) SSC is providing the facility of meeting with scribes one day before the examination,

from Combined Higher Secondary Level (10+2) Examination, 2017. The representative also submitted a copy of the letter dated 06.02.2018 already filed by the respondent in Case No.8300/1041/2017. As regard, not allowing the candidate to opt or bring his/her own scribe in the written examination, the representative relied upon the views expressed by the respondent in the letter dated 06.02.2018 and submitted that SSC is not agreed to allow own scribe to ensure fair play, transparency and a level playing field to candidates with disabilities in the recruitment process.

10. The respondent has also expressed their views that the facility to candidates to meet scribes one day before commencement of examination may lead to malpractices which could adversely impact the transparency and integrity of the examinations. It has also the potential to disrupt the level playing field for other candidates with disabilities who accept the scribes provided by the Recruiting Agency. The respondent has anticipated that the propensity of allegations/complaints of unfair practices could also be high.

11. After hearing both the parties, the respondent is advised that examination centre of the candidates with disabilities should preferably be allotted nearest to his/her home town and this should also be ensured that reasonable accommodation and a level playing field is provided to the candidates with disabilities. Further, this Court has observed that respondent has not been following the guidelines issued vide OM No.16-110/2003-DD.III dated 26.02.2013 by the Ministry of Social Justice & Empowerment and probably has been striking on the uniform and comprehensive policy across the country of writing examinations for the persons with disabilities. Therefore, since the guidelines dated 26.02.2013 is under review and a decision has yet to come, a copy of this Order be endorsed to the Secretary, Department of Empowerment of Persons with Disabilities, and to the Secretary, Department of Personnel & Training for their consideration and taking expeditious action so that the matter can be decided by the Review Committee; and complainant as well as other such candidates with disabilities may not remain deprived of their legitimate rights.

12. The case is accordingly disposed of.

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

Copy to:

1. The Secretary,  
Department of Empowerment of Persons with  
Disabilities (Divyangjan),  
Ministry of Social Justice and Empowerment,  
5th Floor, B-II, Pt. Deen Dayal Antyodaya Bhawan,  
CGO Complex, Lodhi Road, New Delhi-110003
2. The Secretary,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances and Pensions,  
North Block, New Delhi-110001



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No: 8839/1013/2017

Dated: 17.09.2018

In the matter of:- R11266

Ms. Nidhi Chaubey

L - 490, CG-11, Gaucity - 2

Greater Noida West, Uttar Pradesh

Pin - 201009

Complainant

Versus

National Institute of Science Technology & Development Studies - R11267  
(CSIR- NISTADS)

(Through the Director)

K.S. Krishnan Marg, Pusa Gate, New Delhi - 110012

Respondent

Date of Hearing: 21.08.2018

Present:

1. Shri A.K. Tripathi on behalf of complainant
2. Shri Brij Bihari, Section Officer and Shri Manish, Asstt. Section Officer on behalf of respondent.

### ORDER

The above named complainant Ms. Nidhi Chaubey filed an e-mail dated 06.11.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding reservation for persons with disabilities.

2. The complainant in her complaint submitted that CSIR- NISTADS published an advertisement for three posts of Technical Assistants and out of 03 posts one post was reserved for Orthopaedically Handicapped. She had applied for the above post as she was fully eligible to apply. She further submitted that NISTADS administration shortlisted the candidates for the skill test based on the applications, however, the complainant was not shortlisted. On seeing this, complainant done several communications with the AO, NISTADS but all in vain. Finally, the complainant filed RTI application in the matter on 17.08.2017 to know whether an applicant with qualifications same as the complainant is eligible or not. In view of the RTI application, a mail was received on 10.09.2017 that the name of the complainant has also included in the list. The complainant appeared in the skill test as per the schedule on 26.10.2017 and the result was declared on 03.11.2017. She alleged that no seat has been given to Persons with Disabilities (PwDs) candidates as was notified in the advertisement.

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3. The matter was taken up with the respondent vide letter dated 17.01.2018 under Section 75 of the RPwD Act, 2016.

4. In response, Administrative Officer, National Institute of Science, Technology & Development studies vide letter dated 20.02.2018 has inter-alia submitted that the skill test was held on 26.10.2017 for the three posts and out of three posts one post was reserved for PwDs. He further submitted that the selection was on the basis of performance of the candidates in skill test and Ms. Nidhi Chaubey has not qualified the skill test.

5. Complainant vide rejoinder dated 10.04.2018 has inter-alia submitted that two points in the reply which are self contradictory (a) out of these three posts, one post was reserved for PwD candidates (b) the selection was on the basis of performance of the candidates in skill test. Both 'a' and 'b' can't co-exist, if one post is reserved for PwD candidate, then the authorities are wrong in evaluating the performance of PwD candidate vis-à-vis general candidates. She further submitted that para 22 of the DOP&T OM No. 36035/3/2004 – Estt. (Res) dated 29.12.2005 provides for relaxation of standard of suitability for filling the posts reserved for PwD. However, NISTADS authorities are evaluating PwD candidates vis-a-vis other candidates.

6. After considering the respondent's letter dated 20.02.2018 and complainant's e-mail dated 10.04.2018, it was decided to hold a personal hearing in the matter. Therefore, the case was listed for personal hearing on 19.06.2018. During the hearing representative of the respondent submitted written submissions and apprised that Ms. Nidhi Chaubey vide e-mail dated 14.06.2018 has now raised new objections with respect to the correctness of answer given in the answer key and sought one month time. Representative of the complainant has reiterated his written submissions. After hearing the both parties, Respondent was directed to submit the following information before the next date of hearing :

- Whether relaxations in the standards for persons with disability in accordance with para 22 of the DoP&T's OM dated 29.12.05 has been provided, if not, relax the standards for person with disability and issue an appointment letter in favour of complainant as she has scored 27 marks out of 50 marks.
- Details of vacancies filled since 01.01.1996 and certificate of the Liaison Officer certifying that the Roster has been maintained from 01.01.1996 as per DoP&T's instructions and also bring copy of the roster on the date of hearing.

7. During the next date of hearing on 19.07.2018, representative of the respondent submitted written submissions and apprised that a Committee has been constituted by the Competent Authority to examine the correctness of question paper/answer key set for the selection to the post of Technical Assistant Post Code 1,2 & 3 in view of doubts raised by complainant in her e-mail dated 14.06.2018. Therefore, he had requested to adjourn the proceedings in the matter atleast for a period of one month to enable him to take further necessary action in the matter. After considering the request of the respondent for adjournment of the hearing, the case was adjourned to 21.08.2018.



8. On the date of hearing, representative of the respondent has submitted written submissions that one of the candidate, who appeared in the skill test for the post of Technical Assistant Post Code – 01 has approached Hon'ble Central Administrative Tribunal (CAT), Chandigarh and the matter is listed on 19.09.2018 before Hon'ble CAT, Chandigarh.

9. After hearing, it has been observed that as per the strength seen in the paper submitted by the CSIR- NISTADS, the total sanctioned strength is 103 based on the roster point and according to the 3% horizontal reservation for persons with disabilities, atleast 03 posts may be reserved for persons with disabilities. It is further observed that as per the documents available on record, no person with disability is employed in the organization. There was one person working in Group 'B' was retired on 31.10.2016. Therefore, Institute can appoint 03 persons with disabilities as per the roster norms. The complainant has claimed for Group 'B' post of Technical Assistant as she has obtained 27 marks in the exam, no other persons with disabilities is available to claim the post.

10. Therefore, keeping in view the 3% horizontal reservation for persons with disabilities, the complaint claim is reasonable and she must be considered for appointment for the post apart from the cut off marks as submitted by the respondent. Keeping in view of the above, the Court recommends for consideration of the appointment of the complainant for the post of Technical Assistant and submits the action taken report within 90 days from the receipt of this Order.

11. Case is disposed off accordingly.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8839/1013/2017

Dated: 17.09.2018

In the matter of:- **R11266**

Ms. Nidhi Chaubey

L – 490, CG-11, Gaucity – 2

Greater Noida West, Uttar Pradesh

Pin – 201009

Complainant

Versus

National Institute of Science Technology & Development Studies-**R11267**  
(CSIR- NISTADS)

(Through the Director)

K.S. Krishnan Marg, Pusa Gate, New Delhi – 110012

Respondent

Date of Hearing: 21.08.2018

Present:

1. Shri A.K. Triphathi on behalf of complainant
2. Shri Brij Bihari, Section Officer and Shri Manish, Asstt. Section Officer on behalf of respondent.

### ORDER

The above named complainant Ms. Nidhi Chaubey filed an e-mail dated 06.11.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding reservation for persons with disabilities.

2. The complainant in her complaint submitted that CSIR- NISTADS published an advertisement for three posts of Technical Assistants and out of 03 posts one post was reserved for Orthopaedically Handicapped. She had applied for the above post as she was fully eligible to apply. She further submitted that NISTADS administration shortlisted the candidates for the skill test based on the applications, however, the complainant was not shortlisted. On seeing this, complainant done several communications with the AO, NISTADS but all in vain. Finally, the complainant filed RTI application in the matter on 17.08.2017 to know whether an applicant with qualifications same as the complainant is eligible or not. In view of the RTI application, a mail was received on 10.09.2017 that the name of the complainant has also included in the list. The complainant appeared in the skill test as per the schedule on 26.10.2017 and the result was declared on 03.11.2017. She alleged that no seat has been given to Persons with Disabilities (PwDs) candidates as was notified in the advertisement.

...2....

3. The matter was taken up with the respondent vide letter dated 17.01.2018 under Section 75 of the RPwD Act, 2016.

4. In response, Administrative Officer, National Institute of Science, Technology & Development studies vide letter dated 20.02.2018 has inter-alia submitted that the skill test was held on 26.10.2017 for the three posts and out of three posts one post was reserved for PwDs. He further submitted that the selection was on the basis of performance of the candidates in skill test and Ms. Nidhi Chaubey has not qualified the skill test.

5. Complainant vide rejoinder dated 10.04.2018 has inter-alia submitted that two points in the reply which are self contradictory (a) out of these three posts, one post was reserved for PwD candidates (b) the selection was on the basis of performance of the candidates in skill test. Both 'a' and 'b' can't co-exist, if one post is reserved for PwD candidate, then the authorities are wrong in evaluating the performance of PwD candidate vis-à-vis general candidates. She further submitted that para 22 of the DOP&T OM No. 36035/3/2004 – Estt. (Res) dated 29.12.2005 provides for relaxation of standard of suitability for filling the posts reserved for PwD. However, NISTADS authorities are evaluating PwD candidates vis-a-vis other candidates.

6. After considering the respondent's letter dated 20.02.2018 and complainant's e-mail dated 10.04.2018, it was decided to hold a personal hearing in the matter. Therefore, the case was listed for personal hearing on 19.06.2018. During the hearing representative of the respondent submitted written submissions and apprised that Ms. Nidhi Chaubey vide e-mail dated 14.06.2018 has now raised new objections with respect to the correctness of answer given in the answer key and sought one month time. Representative of the complainant has reiterated his written submissions. After hearing the both parties, Respondent was directed to submit the following information before the next date of hearing :

- Whether relaxations in the standards for persons with disability in accordance with para 22 of the DoP&T's OM dated 29.12.05 has been provided, if not, relax the standards for person with disability and issue an appointment letter in favour of complainant as she has scored 27 marks out of 50 marks.
- Details of vacancies filled since 01.01.1996 and certificate of the Liaison Officer certifying that the Roster has been maintained from 01.01.1996 as per DoP&T's instructions and also bring copy of the roster on the date of hearing.

7. During the next date of hearing on 19.07.2018, representative of the respondent submitted written submissions and apprised that a Committee has been constituted by the Competent Authority to examine the correctness of question paper/answer key set for the selection to the post of Technical Assistant Post Code 1,2 & 3 in view of doubts raised by complainant in her e-mail dated 14.06.2018. Therefore, he had requested to adjourn the proceedings in the matter atleast for a period of one month to enable him to take further necessary action in the matter. After considering the request of the respondent for adjournment of the hearing, the case was adjourned to 21.08.2018.

8. On the date of hearing, representative of the respondent has submitted written submissions that one of the candidate, who appeared in the skill test for the post of Technical Assistant Post Code – 01 has approached Hon'ble Central Administrative Tribunal (CAT), Chandigarh and the matter is listed on 19.09.2018 before Hon'ble CAT, Chandigarh.

9. After hearing, it has been observed that as per the strength seen in the paper submitted by the CSIR- NISTADS, the total sanctioned strength is 103 based on the roster point and according to the 3% horizontal reservation for persons with disabilities, atleast 03 posts may be reserved for persons with disabilities. It is further observed that as per the documents available on record, no person with disability is employed in the organization. There was one person working in Group 'B' was retired on 31.10.2016. Therefore, Institute can appoint 03 persons with disabilities as per the roster norms. The complainant has claimed for Group 'B' post of Technical Assistant as she has obtained 27 marks in the exam, no other persons with disabilities is available to claim the post.

10. Therefore, keeping in view the 3% horizontal reservation for persons with disabilities, the complaint claim is reasonable and she must be considered for appointment for the post apart from the cut off marks as submitted by the respondent. Keeping in view of the above, the Court recommends for consideration of the appointment of the complainant for the post of Technical Assistant and submits the action taken report within 90 days from the receipt of this Order.

11. Case is disposed off accordingly.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 7799/1011/2017

Dated: 18.09.2018

**In the matter of:-**

Shri Sunil Kumar

Assistant Lecturer

IHMCT, G.V. Raja Road

Kovalam, Trivandrum – 695527

Complainant

Versus

Chandigarh Institute of Hotel Management  
& Catering Technology

Through the Director

Chandigarh Administration, Sector – 42 – D

Chandigarh – 160036

Respondent

**Date of Hearing: 10.09.2018**

Present:

1. Shri Sunil Kumar - complainant
2. Shri T.K. Razdan, Principal/Secretary and Shri Rajesh Kumar, AAO on behalf of respondent.

### ORDER

The above named complainant Shri Sunil Kumar filed a complaint dated 15.06.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non filling of post for PH candidates by Central and State Hotel Management Institute;

2. Complainant in his complaint submitted that he is a PH candidate working in IHM, Trivandrum which is affiliated from NCHMCT under Ministry of Tourism as Asstt. Lecturer from last 8 years. He further submitted that there are around 60 Institutes under one umbrella and none of the Institutes has filled up the existed vacancies for PH candidates.

3. The matter was taken up with the respondent vide letter dated 23.10.2017 under Section 75 of the RPwD Act, 2016.

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4. In response, Principal/Secretary, Chandigarh Institute of Hotel Management & Catering Technology vide letter dated 07.11.2017 has inter-alia submitted that the separate 100 point roster meant for PH persons had been prepared and got vetted from the Regional Employment Office, U.T., Chandigarh for filling up the post of Instructor. It was intimated by Regional Employment office that the roster had been vetted and there is a backlog of 01 disabled in each A, B & C (direct appointment) and backlog of 01 in Group 'C' & 'D' (promotion) respectively and intimated to complete the backlog in the year 2009. Accordingly, the backlog in Group 'C' was cleared in the year 2010 and in Group 'A' & 'B' could not be cleared because of new recruitment rules were to be finalized for implementation in all the Central Institutes of Hotel Management/State Institutes of Hotel Management by the Ministry of Tourism and National Council for Hotel Management, Noida whereby the process could not have been initiated to clear the backlog in Group 'A' & 'B' (one in each Group). In the absence of implementation of new recruitment rules, the process had been stopped for filling up of posts of faculty by direct recruitment till finalization of new recruitment rules by the Ministry of Tourism & National Council for Hotel Management, Noida. He further submitted that direct recruitment process of the faculty could not take place as frequent changes in the faculty students ratio from time to time. He has given assurance that the process of direct recruitment of faculty in their Institute will be completed very soon by giving due representation to the PH category candidates and relevant backlog will be cleared accordingly.

5. Complainant vide rejoinder dated nil has inter-alia requested to send a letter to all the Institutes to fill up reserved vacancies for PwDs.

6. On the date of hearing, representative of the respondent has submitted written submissions and submitted that Institute has initiated the process to fill up one post of Lecturer cum Instructor meant for the PH/OH category (backlog) and an advertisement has been inserted in the Employment News in Edition 2 – 8 June 2018 and others leading news papers. 20 applications have been received out of which the application of Shri Sunil Kumar, Assistant Lecturer, IHMCT, Kovalam, Trivandrum has been received by due date. After receiving the applications for the above post, the scrutiny of the applications has been initiated to ascertain the eligibility of the candidates. In the mean time one of the internal candidate Shri Achal Bisht, Asstt. Lecturer of their Institute has filed Civil RIT Petition No. 13249 of 2018 in the Honourable Punjab & Haryana High Court, Chandigarh for claiming that he was entitled for promotion to the post of Lecturer cum Instructor from Asstt. Lecturer cum Asstt. Instructor as per Recruitment Rules as per ratio 2:1 fixed by NCHMCT, Noida. He further prayed that during pendency of this petition further process for filling up 02 posts by Direct Recruitment may be stayed in the interest of justice.

7. After hearing both the parties and submissions of the respondent this court directed to respondent to calculate the backlog reserved vacancies as per DOP&T's instructions and maintain reservation roster for persons with disabilities. Respondent is also advised to be more sensitive towards the needs of persons with disabilities and their rights should not be infringed.

8. Case is disposed off accordingly.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8448/1023/2017

Dated : 20.09.2018  
Dispatch No. ....

In the matter of :

Shri Sanjay Kumar Pandey, - R11330  
426/908, Vazeer Bagh,  
Near Badi Maszid,  
Sahadatganj,  
Lucknow  
Uttar Pradesh – 226 003

.....Complainant

**Versus**

The Chief Postmaster General, - R11331  
Office of the Chief Postmaster General,  
Uttar Pradesh,  
4, Hazratganj,  
Lucknow  
Uttar Pradesh – 226 001

.....Respondent

**Date of Hearing : 03.07.2018**

**Present :**

- 1.Shri Sanjay Kumar Pandey, the Complainant along with Shri Ram Shabd Mishra.
- 2.Shri Shashi Kumar Uttam and Shri B.R.S. Mishra, on behalf of Respondent

### ORDER

The above named complainant, a person with 50% locomotor disability had filed a complaint dated 07.08.2017 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, against terminating his engagement as Gramin Dak Sewak Packer.

2. The Complainant submitted that a notification for engagement of Grameen Dak Sewak Packer was issued by the Assistant Superintendent of Post Offices, South Sub Divisions Lucknow against the vacancy in the year 2011-12. He applied for the post of Grameen Dak Sewak Packer Manak Nagar as a PH candidate with all the copies of documents called for including his educational qualifications and a Disability Certificate No. 2568/09 dated 26.06.2009. He was engaged on this post vide Memo No. B2/GDS Appn./11-12 dated 17.04.2012 and he joined on 19.04.2012. He had been continuously working on this post since then. Without any enquiry, he was put off duty by recruiting authority vide Memo No. B2/GDS Niukti/11-12 dated 27.02.2017 and a show cause notice for termination of his engagement was issued to him. In the show cause notice, it was

.....2/-



mentioned that his engagement was not made under the provision Directorate letter No. 43-84/80-Pen dated 30.01.1981, 41-301/87-PE (ED & TRG) dated 06.06.1988 and 17-366/91-ED & TRG dated 12.03.1993. The Complainant worked on the post till 26.02.2017, i.e about 4 years 10 months before his services were terminated.

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 Sr. Supdt. Of Post Offices, Lucknow Division, Lucknow vide his letter no. H/Complaint/17-18 dated Lucknow-07, the 03/01/2018 submitted that the post of GDS Packer Manak Nagar PO Lucknow being vacant was notified for recruitment/engagement from OC category candidate on 28.11.2011. There was no mention of any category of PH in the notification. No nominations were received from the Employment Exchange Lucknow. A total of 52 applications from different candidates were received. The minimum qualification required for the post was Matriculation or equivalent. The letter for verification of antecedent and educational certificates of meritorious candidates was issued on 28.12.2011. The Complainant who had also applied for the post, submitted an application dated 30.01.2012 to Sr. Supdt of Post Offices Lucknow Division, Lucknow for appointment as GDS Packer Manak Nagar as he was a PH candidate. The Complainant who obtained 42.33% marks in High School from UP Board, Allahabad, was selected and engaged against the post of GDS Packer Manak Nagar PO on 17.04.2012 by giving preference over 49 meritorious candidates, violating of Postal Directorate's instructions as contained in communication number 21-8/92-ED/TRG dated 22.04.1994. The irregularity came to notice at the time of review by the competent authority and a disciplinary action against the then ASPOs South Sub Division Lucknow under Rule-14 of CCS (CCA) Rule-1965 was initiated which is still in process. Action against the Complainant was also taken as per Rule-12 of GDS (Conduct & Engagement) Rules-2011. There was no provision for recruitment of PH candidates at the time of the recruitment on the said post of GDS Packer Manak Nagar and only preference to PH candidate could have been given **ceteris paribus**, i.e. preference only in case of all other parameters are equal within the contending candidates but in this case this provision has been ignored and the complainant has been preferred ignoring 49 meritorious candidates who have secured more marks than the complainant in the matriculation exam or equivalent, i.e the qualification prescribed in relevant recruitment Rules. The Action taken against the complainant by Assistant Superintendent of Post Offices South Sub Division Lucknow is based on finding of the said enquiries. It would have been unlawful to keep a person

recruited irregularly on duty in contravention of rules in the finalization of the case. Therefore, the Complainant has been put off duty in accordance with Rule-12 pending further necessary action.

5. The Complainant vide his rejoinder dated 31.01.2018 submitted that he was engaged as GDS Packer, Manak Nagar on 17.04.2012 on the Terms and Conditions of notifications dated 28.1.2011, therefore, the complainant submitted that then how the rulings and clarifications issued vide Directorate Communication no. 17-16/2002-GDS dated 28.06.2012 and 22-39/2013-vig dated 13.05.2016 is applicable to him. However, any ruling circulated after his engagement should not have affected his engagement which was made on 17.04.2012. He further submitted that after the issue of communication no. 21-8/92-ED & TRG dated 22.04.1994, he want to know how many PH candidates were engaged by Assistant Supdt. Of Post Offices South Sub Division Lucknow from 22.04.1994 to 17.04.2012 against 3% quota for PH candidates. He submitted that he applied for the post in response to open notification and after getting engagement order, he joined the post.

6. After considering Respondent's reply dated 03.01.2018 and Complainant's rejoinder dated 31.01.2018, a personal hearing was scheduled on 03.07.2018.

7. During the hearing the Complainant submitted that he had applied for the post of Grameen Dak Sewak Packer Manak Nagar as a PH candidate against the advertisement issued by the Assistant Superintendent of Post Offices, South Sub Divisions Lucknow. He joined on 19.04.2012. He had been continuously working on this post since then. One day all of a sudden, he was put off duty and was issued a show cause notice for termination of his engagement. The Complainant worked on the post till 26.02.2017, i.e about 4 years 10 months before his services were terminated.

8. During the hearing the Respondent submitted that in the notification the requirements for eligibility to the post are mentioned. However, the procedure of selection and detailed rules relating to preference given to certain categories may not be included in it. In the said notification there was no mention of the vacancy as reserved for physically handicapped candidate. The appointment on the vacant seat of Manak Nagar P.O. was accorded to the complainant as a PH candidate by misinterpretation of Rules in an irregular way ignoring actual eligible candidates. He submitted that the notice of termination was given to provide the Complainant an opportunity to put up his defence. There are prima facie indications that the Complainant had motivated the then Appointing Authority, i.e. ASPOs South Sub Division Lucknow to obtain the benefit of irregular appointment. However, a conclusive view could only be formed on comparative examination of concerning records and the defence representation of the complainant.

9. After hearing both the Complainant and the Respondent, the Court observed 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 दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं. 8330/1023/2017

दिनांक: 20.09.2018

के मामले में:-

श्री निर्मल कुमार R11322  
पुत्र श्री राधेश्याम शर्मा  
नि.मो. 479 हथौडा बुजुर्ग  
स्टेडियम मार्ग, जिला शाहजहाँपुर  
उत्तर प्रदेश

-वादी

बनाम

आयुध वस्त्र निर्माणी R11323  
(द्वारा : महाप्रबन्धक)  
भारत सरकार, रक्षा मंत्रालय  
शाहजहाँपुर -242001  
उत्तर प्रदेश

-प्रतिवादी

सुनवाई की तिथि: 21.08.2018

उपस्थित — श्री निर्मल कुमार — वादी की ओर से  
श्री वैभव श्रीवास्तव, अधिवक्ता — वादी की ओर से  
श्री अभिषेक कुमार, कार्य प्रबन्धक — प्रतिवादी की ओर से  
श्री रवि बाबू, चार्ज प्रबन्धक — प्रतिवादी की ओर से

### आदेश

श्री निर्मल कुमार, 40 प्रतिशत दृष्टिदिव्यांग ने उनके दिव्यांगता प्रमाण पत्र को कार्यालयीन रिकार्ड में दर्ज कर नियमानुसार कार्यवाही नहीं किए जाने से संबंधित शिकायत दिनांक 30.06.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 08.11.2017 द्वारा प्रतिवादी के साथ उठाया गया ।

3. महाप्रबन्धक, आयुध वस्त्र निर्माणी, शाहजहाँपुर ने अपने पत्र सं० एल०बी०/2445/CONV दिनांक 07.12.2017 द्वारा इस न्यायालय को निम्न सूचित किया :-

- XI. श्री निर्मल कुमार ने अपने प्रार्थना-पत्र दिनांक 24.09.2016 द्वारा सर्व प्रथम अपने विकलांग प्रमाण पत्र को रिकार्ड में दर्ज करने की प्रार्थना की थी ।
- XII. कार्यालय के पत्र संख्या एल०बी०/2445/CONV दिनांक 07.12.2016 द्वारा श्री निर्मल कुमार, टि०नं० 213871, अनुभाग-पी-9 को सूचित किया गया कि (1) डा. राम मनोहर लोहिया नई दिल्ली (2) सफदरजंग अस्पताल नई दिल्ली (3) लेडी हार्विंग मेडिकल कॉलेज एवं एसोसिएट एस.के. अस्पताल एवं कलावती सरन अस्पताल नई दिल्ली (4) अखिल भारतीय आयुर्विज्ञान संस्थान नई दिल्ली (जो कि स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार के पत्र संख्या एस/13020/1/2010-एमएस दिनांक 18.06.2010 में निर्दिष्ट है) द्वारा जारी विकलांगता प्रमाण-पत्र प्रस्तुत करने पर उनके मामले में अग्रिम कार्यवाही की जा सकेगी ।

- XIII. इसके पश्चात उपरोक्त सम्बन्ध में श्री निर्मल कुमार द्वारा सूचना का अधिकार अधिनियम, 2005 के अन्तर्गत पत्र दिनांक 29.12.2016, 31.01.2017, 27.05.2017, 03.07.2017 कार्यालय को प्राप्त हुए एवं श्री निर्मल कुमार को अवगत कराया गया कि उनका विकलांगता प्रमाण-पत्र स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार के पत्र दिनांक 18.06.2010 में निर्दिष्ट अस्पताल/संस्थान द्वारा जारी होने पर अग्रिम कार्यवाही की जा सकेगी ।
- XIV. सामाजिक न्याय और अधिकारिता मंत्रालय, विकलांगजन सशक्तिकरण विभाग ने अपने पत्र संख्या 32-02/2017-डीडी-111-वोल.5 दिनांक 07.07.2017 द्वारा श्री निर्मल कुमार को सूचित किया कि दिव्यांगजन अधिकार अधिनियम, 2016 दिव्यांगजन के लिए एक प्रधान अधिनियम है, जो दिव्यांगजन के लिए अधिकारों और हकों को प्रदान करता है। इस अधिनियम, की धारा 58(3) के अनुसार विकलांगता प्रमाण-पत्र पूरे देश में मान्य होगा । दिव्यांगजन अधिकार नियम, 2017, जो कि 15.06.2017 को अधिसूचित किया गया, के नियम 19 के अनुसार दिव्यांगता प्रमाण पत्र साधारणतया सभी प्रयोजनों के लिए विधिमान्य होगा । दिव्यांगता प्रमाण पत्र किसी व्यक्ति को सरकार और सरकार द्वारा वित्तपोषित गैर-सरकारी संगठनों की योजनाओं के अधीन अनुज्ञेय प्रसुविधाये, रियायती फायदे हेतु आवेदन करने में समर्थ करेगा ।
- XV. श्री निर्मल कुमार के प्रार्थना-पत्र दिनांक 27.07.2017 के सम्बन्ध में इस कार्यालय के पत्र दिनांक 04.08.2017 द्वारा श्री निर्मल कुमार को सूचित किया गया कि उनका विकलांगता सम्बन्धी प्रमाण पत्र स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार के पत्र दिनांक 18.06.2010 में अधिसूचित चिकित्सालयों में से किसी भी एक चिकित्सालय द्वारा जारी होना चाहिए ।
- XVI. The Rights of Persons with Disabilities Act, 2016 के schedule में Visual impairment के अनुसार :-  
(c)"blindness" means a condition where a person has any of the following conditions, namely:-  
I. Visual acuity not exceeding 6/18 or less than 20/60 up to 3/60 or up to 10/200(Snellen) in the better eye with best possible corrections; or  
II. Limitation of the field of vision subtending an angle of less than 40 degree up to 10 degree.

उपरोक्त नियमानुसार श्री निर्मल कुमार के विकलांगता प्रमाण-पत्र में कुछ भी नहीं दर्शाया गया है जिससे उनको विकलांगता का लाभ दिया जा सके ।

4. वादी ने अपने रिज्वाइन्डर दिनांक 26.02.2018 द्वारा निम्न उल्लेख किया :-

- I. यह कि उनके द्वारा वर्ष 2014 में आंख में दिक्कत होने के बाद विभिन्न चिकित्सालयों में दिखाया गया । उसके उपरान्त आर्डनेन्स चिकित्सालय-शाहजहांपुर को भी दिखाया । दिनांक 05.08.2014 को वरिष्ठ चिकित्सा अधिकारी निर्माणी डिस्पेंसरी द्वारा कहा गया कि स्वास्थ्य परीक्षण के उपरान्त श्री निर्मल कुमार सवलवाई गला ऊकोमा के अन्तिम चरण में है, नेत्र विशेषज्ञ के अनुसार श्री निर्मल कुमार की नेत्र की ज्योति पूर्णतः वापिस/ठीक होना असम्भव है। उसके उपरान्त मुख्य चिकित्साधिकारी-शाहजहांपुर को दिखाया गया उनके पास परीक्षण के उपरान्त उनका विकलांगता प्रमाण-पत्र 40 प्रतिशत का बनाया गया जो उन्होंने कार्यालय में जमा किया जिसका सत्यापन हो गया है। अगर प्रमाण पत्र मान्य नहीं था तो कार्यालय के द्वारा सत्यापन क्यों करवाया गया ।
- II. यह कि उनके द्वारा पूछे जाने पर उनको सूचित किया गया कि उनका प्रार्थना पत्र स्वास्थ्य एवं परिवार कल्याण मंत्रालय के पत्र सं. एस/13020/1/2010-एम.एस.

शाहजहांपुर पत्रांक मु0चि0अ0/विक0प्रमाणपत्र/सत्यापन 2017-18/531 दिनांक 31.01.2018 द्वारा अवगत कराया है कि श्री निर्मल कुमार पुत्र श्री राधेश्याम शर्मा निवासी ग्राम हथौडा बुजुर्ग स्टेडियम मार्ग शाहजहांपुर का विकलांगता प्रमाण-पत्र सं. संख्या 24006 दिनांक 23.08.2016 कार्यालय मुख्य चिकित्सा अधिकारी कार्यालय में बनाया गया था जिसकी विकलांगता 40 प्रतिशत है ।

VII. यह कि उनके विकलांगता प्रमाण-पत्र को सभी सरकारी मंत्रालय एवं विभागों द्वारा उनके प्रमाण-पत्र को मान्य कर दिया गया हैं तथा दिव्यांगजन अधिकार अधिनियम, 2016 के तहत भी मान्य है।

5. प्रतिवादी के पत्र दिनांक 07.12.2017 तथा वादी के रिज्वाईन्डर दिनांक 26.02.2018 के अवलोकन उपरान्त, मामले में दिनांक 21.08.2016 को एक सुनवाई निर्धारित की गयी ।

6. सुनवाई के दौरान वादी एवं उनके अधिवक्ता ने बताया कि चिकित्सा अधिकारी से उनका दिव्यांगता प्रमाण पत्र सत्यापित होने के बावजूद भी कार्यालय द्वारा स्वीकार नहीं किया गया एवं प्रार्थना करने पर भी उन्हें सिलाई अनुभाग में लगाया गया तथा उनके वेतन की कटौती गयी ।

7. प्रतिवादी के प्रतिनिधियों ने सुनवाई के दौरान उल्लेख किया कि वादी के कम उत्पादन के कारण नियमानुसार उनके वेतन की कटौती की गयी ।

8. उपरोक्त सुनवाई के दौरान दोनों पक्षों को सुनने के बाद प्रतीत होता है कि वादी के 40 प्रतिशत अल्प दृष्टिदिव्यांग घोषित होने के बाद भी उन्हें सिलाई जैसे सूक्ष्म कार्य पर पदस्थ करना विभाग/कार्यालय का दिव्यांगजन के प्रति असंवेदनशीलता को दर्शाता है और वादी के काटे गये वेतन को अनुचित मानता है।

9. प्रतिवादी को आदेशित किया जाता है कि वादी द्वारा उनके दिव्यांगता प्रमाण पत्र को कार्यालयीन रिकार्ड में दर्ज करवाने की तिथि से सभी पद लाभ दिए जाए तथा उनके मूल प्रमाण पत्र को वापिस कर उनके अनुचित रूप से काटे गये वेतन की क्षतिपूर्ति सुनिश्चित करें। मामले में अनुपालना रिपोर्ट न्यायालय को 45 दिन के भीतर भेजें ।

10. मामले को बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Cash No. 8841/1121/2017

Dated: 20.09.2018

**In the matter of:**

Shri Jagadeesh Mallappa Desai - R11268  
[jagadeesh.desai2011@gmail.com](mailto:jagadeesh.desai2011@gmail.com)

Complainant

**Versus**

Union Bank of India - R11269  
(through: the Chairman & Managing Director)  
Head Office, 239 Vidhan Bhawan Marg  
Nariman Point, Mumbai-400021

Respondent

**Date of Hearing :** 16.08.2018

**Present:**

Shri Jagadeesh Mallappa Desai - Self, On behalf of the Complainant

Shri RK Gupta - On behalf of the Respondent

### **ORDER**

The above named complainant submitted a representation dated 08.11.2017 to this Court regarding illegally /unauthorized holding of his disability certificate under the Rights of Persons with Disabilities Act, 2016 referred to as "the Act".

2. The matter was taken up with the Respondent under Section 75 of the Act vide letter dated 19.12.2017 followed by letter dated 02.04.2018.

3. General Manager(HR), Union Bank of India vide letter Ref. No. CO:ER:1573:2018 dated 26.04.2018 submitted that there has been no discrimination/harassment meted out to Shri Desai as alleged by him. However they give their relies as under :-

- With regard to his contention of unauthorized holding of his Physical Disability Certificate issued by Sanjay Gandhi Institute of Trauma and Orthopedic, they wish to inform that he was examined by the aforesaid Institute at the instance of the Bank to determine the percentage of disability and hence the original is kept in Bank's record for future reference. However, a copy of the same duly certified by Chief Manager(HR), Regional Office, Bangalore was provided to Shri Desai on 19.10.2017.
- Shri Desai is being paid monthly allowance eligible for orthopedically handicapped persons since April 2017, with arrears from January 2003 to March 2017.
- As regards his posting to Lucknow Zone on account of his promotion from MMGS II to MMGS III in 2010 is concerned, it is submitted that the transfer was done as per the Promotion Policy/Transfer Policy applicable to officers. At the time of his promotion in 2010, as bank's record he was not physically disabled person. However Shri Desai refused the promotion and continued to stay in his home state i.e. Karnataka, where he is posted since 2004.

They may also mention here that the past service record of Shri Desai is not satisfactory. In the past, 3 departmental inquiries were conducted against him for certain lapses on his part and suitable penalties have also been imposed on him. He is in the habit of making baseless, unwarranted allegations against various executives/officials using derogatory/objectionable language. This not only amounts to acts unbecoming of a Bank Officer but also at times tarnishes the image of the Bank.

4. The Complainant vide his letter dated 18.06.2018 has sought the following relief from the Court:-

- I. Quash the punishment imposing orders/Memorandum No. CO:IRD:1879:07 dated 30.03.2007 and to award all promotional and consequential salary and financial benefits as eligible from 30.03.2007, with interest on delayed payment @10% interest or Fixed deposit rate prevailing as on 30.03.2007.
- II. Quash the punishment imposing orders/Memorandum No. NRO:HRM:DA:184 dated 14.06.2013 and to award all promotional and consequential salary and financial benefits as eligible from 14.06.2013, with interest on delayed payment @10% interest or Fixed deposit rate prevailing as on 14.06.2013, to the till date of payment. Instruct the Bank to restoration of two increments – Major Penalty imposed vide order of the Disciplinary Authority No. NRO:HRM:DA:184 dated 14.06.2013 as “Reduction by two stages in time scale of Pay for a period of two years with cumulative effect”.
- III. Quash the punishment imposing orders/Memorandum No. NRO:BNG:HR:DA:138 dated 30.05.2014 and to award all promotional and consequential salary and financial benefits as eligible from 30.05.2014, with interest on delayed payment @10% interest or Fixed deposit rate prevailing as on 30.05.2014, to the till date of payment.
- IV. Immediately to hand over the “Original Certificate for Persons with Disabilities” bearing No. 1010 dated 04.10.2017.
- V. Award the following payments, which is not yet done by the bank
  - Claim of Orthopedic disabled conveyance allowance – Rs. 50147.83 interest on delayed payment of conveyance allowance 01.01.2003 to 30.04.2017 + Interest on Rs. 50147.83 from 01.05.2017 to till date of payment.
  - Claim for reimbursement of Prof. Tax illegally/unlawfully deducted from salary from 01.01.2003 to 31.12.2013) – Rs. 54597.12(Rs. 23160.00 PT deducted + Rs. 31437.12 interest on amount deducted up to 30.04.2017) + interest on Rs. 54597.12 from 01.05.2017 till date of payment.
- VI. Vide the said letter No. CO:ER:1573:2018 dated 26.04.2018, GM(HR), confirms to the Court having paid “monthly allowance eligible for Orthopedically handicapped persons since April 2017 with arrears from January 2003 to March 2017”.
- VII. His promotion process application dated 15.05.2013 was in only in verified status but not in reject status, till 16.05.2014 and later it was made inaccessible to him, to facilitate fraudulent tampering by HR Dept.
- VIII. Instruct Union Bank of India/GM(HR) – to issue modified promotion cum posting order – from MMGSII, with effective from 12.07.2010 to retain him in Karnataka and other SUO MOTO/ Consequential benefits of promotions and all salary/ monetary benefits, which he would be eligible from 12.07.2010.





सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं. 8434 / 1022 / 2017

दिनांक: 20.09.2018

के मामले में:- R11248

श्री संदीप कुमार

पुत्र श्री सुरेशपाल

गांव शेखूपुरा, पो. कण्डेला

जि. शामली, उत्तर प्रदेश

—वादी

बनाम

रेलवे बोर्ड R11249

(द्वारा : सचिव)

रेल भवन, नई दिल्ली

—प्रतिवादी

सुनवाई की तिथि: 09.08.2018

उपस्थित — श्री संदीप कुमार — स्वयं, वादी की ओर से

सुश्री मेघा गोदारा, एपीओ — प्रतिवादी की ओर से

### आदेश

श्री संदीप कुमार, 60 प्रतिशत अस्थि दिव्यांग ने अन्तर रेलवे स्थानांतरण से सम्बन्धित शिकायत दिनांक 30.08.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 08.11.2017 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 27.03.2018 भी प्रेषित किया गया ।

3. चूंकि प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में मामले को सुनवाई हेतु रखा गया एवं तदनुसार मामले को उक्त तिथि को सुना गया ।

4. सुनवाई के दौरान मंडल रेल प्रबंधक(का.), उत्तर पश्चिम रेलवे ने पत्र सं. ईसी/1140/03/03 भाग 5(वा.लिपिक) दिनांक 10.08.2018 प्रस्तुत करते हुए न्यायालय को अवगत कराया कि मंडल के कर्मचारी श्री संदीप कुमार पुत्र श्री सुरेश पाल सहायक वाणिज्य लिपिक को स्वयं को प्रार्थना पर अन्तर रेलवे स्थानांतरण के तहत कार्यालय के संदर्भित पत्र दिनांक 08.08.2018 के द्वारा दिल्ली मंडल के लिए कार्यमुक्त किया जा चुका है।

5. प्रतिवादी द्वारा प्रस्तुत साक्ष्यों से ज्ञात हुआ कि चूंकि वादी की शिकायत का प्रतिवादी द्वारा दिल्ली मंडल हेतु कार्यमुक्त किया जा चुका है, मामले में निष्पादन हेतु कुछ शेष नहीं है। तदनुसार मामले को यही बन्द किया जाता है।

*(Handwritten signature)*

(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं० 8462 / 1103 / 2017

दिनांक: 20.09.2018

के मामले में:- R11253

श्री मनीष कुमार  
ग्राम एवं पो. पलिया  
सुवेहा, हैदरगढ़  
बाराबंकी, उत्तर प्रदेश

—वादी

बनाम

रेलवे बोर्ड R11254  
(द्वारा : सचिव)  
रेल भवन, रफी मार्ग  
नई दिल्ली

—प्रतिवादी

सुनवाई की तिथि: 09.08.2018

उपस्थित — दोनों पक्षों से कोई उपस्थित नहीं हुए

### आदेश

श्री मनीष कुमार, 60 प्रतिशत अस्थि दिव्यांग ने पास बनवाने से संबंधित शिकायत दिनांक शून्य दिव्यांगजन अधिकार अधिनियम, 2016 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 23.11.2017 द्वारा प्रतिवादी के साथ उठाया गया । जब पर्याप्त समय व्यतीत होने के बावजूद भी प्रतिवादी के टिप्पण प्राप्त नहीं हुए तो उन्हें स्मरण पत्र दिनांक 19.01.2018 एवं 27.03.2018 भी प्रेषित किए गये ।

3. चूंकि स्मरण पत्रों बावजूद भी प्रतिवादी के तरफ से कोई जवाब प्राप्त नहीं हुआ तो मामले में दिनांक 09.08.2018 के लिए एक व्यक्तिगत सुनवाई निर्धारित की गयी ।

4. सुनवाई के दिन दोनों पक्षों में से कोई भी न्यायालय में उपस्थित नहीं हुए ।

5. प्रतिवादी को इस आदेश के साथ कि वादी को नियमानुसार पास निर्गत किया जाएं, मामले को यही बन्द किया जाता है। कृपया सुनिश्चित करें कि दिव्यांगजन अपने संवैधानिक अधिकारों से वंचित न हो ।

  
(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No.: 7456/1023/2017

Dated: 24 .09.2018

Dispatch No.....

In the matter of :

Shri Dhani Ram Kala,   
A-3, Staff Quarters,   
Institute of Hotel Management,   
Library Avenue,   
Pusa Campus,   
New Delhi – 110 012

.....Complainant

**Versus**

Ministry of Tourism,   
(Through Secretary)   
Transport Bhawan,   
Sansad Marg,   
New Delhi – 110 001

.....Respondent

**Date of hearing : 19.06.2018, 18.04.2018 and 13.03.2018**

**Present :**

1. Shri Dhani Ram Kala, Absent.
2. Ms. Deepika V Marwaha and Shri Alok Pandey, Advocates on behalf of Respondent, Present.

### ORDER

The above named complainant, a person with 50% locomotor disability had filed a complaint dated 17.10.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, against compulsory retirement and harassment.

2. The Complainant submitted that he served the Institute of Hotel Management Catering & Nutrition, Delhi for 37 years. He was compulsorily retired from service w.e.f. 01.10.2016, i.e. just 2 years before his superannuation. Thus he was denied the medical cover, LTC etc. as he was prematurely retired from service. His pension was also affected due to non earning of 02 annual increments. He was also deprived of enhanced salary benefit being given after 7th Central Pay Commission. He was denied the NOC in order to obtain visa to visit his grand children in United Kingdom. He further submitted that he was harassed by Shri Alok Shivpuri, Principal of Institute of Hotel Management, Catering and Nutrition.

....2/-

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 01.03.2017;

4. The Asst. Director General, Ministry of Tourism (HRD Division) vide his letter no. 8(7)/2016-HRD dated 05.04.2017 has enclosed a detailed reply of the Principal, Institute of Hotel Management, Catering & Nutrition, New Delhi vide letter no. HM/PUSA/1146 dated 22.03.2017. The Respondent submitted that the complainant joined the services of the Institute of Hotel Management, Pusa Campus, Delhi on 04.09.1979. He was suspended from the Institute because of his indiscipline and misbehavior during 1984 which continued till 01.05.1988. After he joined the services, he was not able to perform his official duties effectively due to various reasons including poor health conditions. In the year 1997-1988, the complainant was issued notices because of unauthorized construction he had carried out in the staff quarter allotted to him in the campus of the Institute. He suffered from a paralytic attack in the year 2009 and the same was informed to the Institute on 08.07.2009. He submitted his Disability Certificate for 50% locomotor and mental disability to his Institute on 25.04.2016. On the basis of Performance Committee Report dated 28.09.2016, the Committee noted in its review that the complainant is not able to do the assigned work effectively which includes photocopying, selling of chef caps and collecting money etc. He was also choosy about this working environment and he had expressed his desire to be allotted work in the non crowded area of the institute only. The Committee also noted that the complainant had been involved in some unwanted and ugly situations at the campus during the year 2006 and in February 2016. The complainant was also found plying loud music at late hours at the night in the campus which he continued even after it was objected to by the Security Incharge. The above matter was registered in the Police Station under DD No. 31A at 11:40 p.m. on 13.02.2016. The Review Committee Members and other staff members had also noticed many behavioural changes in the conduct of the complainant and the institute and compulsorily retired the complainant under Rule FR 56(J)/Rule 48 of CCS Pension Rule, 1972. The complainant has put in 37 years of service and he is due for retirement in the year 2018. He was paid full salary for 3 months from October 2016 to December 2016 in lieu of 3 months notice period. He is also getting his pension regularly.

5. The Complainant vide his rejoinder dated 29.11.2017 submitted that the Respondent acted upon his case only after this Court's reminder letter dated 09.10.2017. They slept over the case for more than 7 months. His three annual increments were withheld along with three others despite the Enquiry Officer Shri G.R. Matta found him not

guilty of all the cooked up charges. He submitted that when the order retiring was handed over to him on 30.09.2016, he felt cheated, defeated and embarrassed. The Respondent tried to give voluntary retirement to him, but did not succeed. Hence, they compulsorily retired him. His request for NOC in order to obtain U.K. Visa during 2016 was ignore by the management of the institute. He was slapped a fine of Rs.5,000/- for Mata-Ki-Chowki Pooja's devotional bhajans. The Complainant vide his another rejoinder dated 11.12.2017 has submitted that the late Principal of the institute Shri B.K. Khanna had tried to bypass the laws of the land as well as directions of Govt. of India pertaining to disabled government employees. He submitted that the Principal resorted to 'creating' a police case because in his previous 5 years record, nothing incriminating was there for imposing F.R..56 (j) by the police. He submitted that all the accusations slapped on him are totally baseless and are blatant lies.

6. And whereas, after considering respondent's reply dated 05.04.2017 and complainant's rejoinders dated 27.06.2017, 29.11.2017 and 11.12.2017, a personal hearing was scheduled on 13.03.2018.

7. During the hearing the complainant submitted that he served for 37 years in the Institute of Hotel Management Catering & Nutrition, Delhi. He was compulsorily retired from service on 01.10.2016, i.e. just 2 years before completion of his superannuation. Thus he was denied the medical cover, LTD etc as he was prematurely retired from service. His pension was also affected due to non earning of two annual increments.

8. During the hearing the Learned Counsel for the Respondent submitted that the Complainant joined the services of the Institute of Hotel Management, Catering & Nutrition, Pusa Campus, Delhi on 04.09.1979. He was suspended from the Institute in 1984 because of his indiscipline and misbehaviour. The said suspension continued till 01.05.1988. After he joined the services, it is being reflected that he was not able to perform his official duties effectively due to various reasons including poor health conditions. In the year 1997-1998, he was also issued notices because of unauthorised construction he had carried out in the staff quarter allotted to him in the campus of the Institute. Considering that the Complainant had put in 37 years of service

and since he was also due for retirement in the year 2018, but for the better administration of the Institute and for larger interest, he was compulsorily retired under Rule FR 56(J)Rule 48 of CCS Pension Rule, 1972. The Complainant had suffered from a paralytic attack in the year 2009 and he had submitted a Disability Certificate to the Institute on 25.04.2016. The Learned Counsel for Respondent requested for another date to file her full submissions to the Court

9. The Court agreed to the request of the Learned Counsel for Respondent and advised her to file the submissions in detail of Respondent to the Court well before the next date of hearing.

10. The next hearing was scheduled on 18.04.2018 at 14:30 Hrs.

11. During the hearing the complainant pointed out that word 'Advocate' mentioned after the name of Shri Omesh Ahuja in the Record of Proceedings dated 26.03.2018 may be deleted.

12. The Court conveyed to Shri Omesh Ahuja that he cannot represent the Complainant as neither he is a lawyer nor maintaining the decorum of the Court.

13. The hearing was adjourned.

14. The next hearing was scheduled on 19.06.2018 at 16:00 Hrs.

15. During the hearing the Complainant was absent.

16. The two Advocates from the Respondent side were present during the hearing.

17. The Complainant vide his letter dated 28.05.2018 has requested the Court to withdraw his case at the earliest convenience. Further a written request received from the advocate introducing himself as Counsel for the Complainant to include the sentence "granted liberty to approach other forums and Court while withdrawing the present/above mentioned application" in the Order. This could not be entertained as the Counsel has not submitted any authority letter from the Complainant.

18. The case is disposed off without any direction as the Complainant withdrew his Complaint.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 7411/1022/2017

Dated : 24 .09.2018

Dispatch No. ....

In the matter of :

Smt. Supriya Kumari, - R11336  
B-73/G-2, Dilshad Colony,  
Delhi - 110 095  
Email<dhruvi.supriya@gmail.com>

..... Complainant

**Versus**

Department of Scientific & Industrial Research, - R11337  
(Through the Director General),  
Room No.128,  
Anusandhan Bhavan,  
2, Rafi Marg,  
New Delhi - 110 001

..... Respondent

**Date of Hearing : 19.07.2018**

**Present :**

1. Shri Sanjiv Kumar Thakar and Shri Alok Tripathi, on behalf of Complainant.
2. Shri Rajat Garg, AGM-HR-CEL, Shri B.N. Sarkar, Dr. Anoop Singh, Ms. Divya Jain and Shri Kunal Sharma, Advocate, on behalf of Respondent.

### ORDER

The above named complainant, mother of 100% mentally and physically challenged 8 year old daughter had filed a complaint dated 27.12.2017 under the Rights of Persons with Disabilities Act, 2016, against non compliance of O.Ms for persons with disabilities by DSIR, Ministry of Science and Technology.

2. Smt, Supriya Kumari submitted that Deptt. of Scientific and Industrial Research and its subordinate offices are not following OM of DPE No.6(9)2014(SC/ST Cell) dated 27.06.2014 and O.M. No.42011/3/2014-Estt(Res). dated 06.06.2014 regarding transfer of employees who have differently abled dependents. The complainant is the mother of 100% mentally and physically challenged 8 years old daughter. She had requested this Court to take this grievance with the Secretary, DSIR.

....2/-

3. The In-charge CEL and NRDC vide his letter no. DSIR/CEL/15(71)2017-18 dated 12.04.2018 submitted that CEL is a CPSE under Ministry of Science and Technology. The complainant's husband Shri Madanjit is an employee of CEL. Shri Madanjit Kumar was transferred by CEL to Chandigarh during August 2016. He submitted that the Delhi High Court had dismissed his petition challenging his transfer as well as his appeal not merely on technical grounds like non-adoption of D/o Personnel but also on merits of the case, the reasons given by CEL for transfer, availability of medical facilities at Chandigarh, absence of any grave miscarriage of justice or grave prejudice against him etc. Their department has already directed CEL vide letter dated 07.04.2017 to transfer him back to Delhi/Sahibabad on humanitarian grounds. He joined CEL's Delhi office in April 2017 and since is working there.

4. The complainant vide her rejoinder dated 29.04.2018 had submitted that her husband Shri Madanjit Kumar joined Central Electronics Limited (CEL) a CPSE under DSIR, Ministry of Science and Technology as Senior Technical Assistant. Presently he is working as Senior Manager. They have a daughter named Dhruvi aged 9 years who is suffering from west syndrome. She is 100% mentally retarded. Her husband had raised a voice against the Joint Secretary of DSIR namely Shri K. Jayakumar for misappropriation of public money during the month of 2012. In retaliation her husband has been transferred from Delhi to Bangalore. Her husband challenged his transfer order and challenged the same before the Hon'ble High Court of Delhi vide Writ Petition No.4531 of 2012 and on 13.09.2013. The Hon'ble High Court vide its order dated 13.09.2013 directed her husband to give a detailed representation to the CEL and further directed the CEL constitute a committee of two Board level officers to look into the request of her husband for transferring on the ground that they have a mentally challenged daughter. The Hon'ble High Court of Delhi disposed off the writ petition vide Order dated 13.12.2013 in the light of due weightage and consideration has been given to the Circular dated 15.02.1991. The CEL in compliance to the Hon'ble High Court direction dated 13.09.2013, constituted a committee and the said committee recommended the re-transfer of her husband from Bangalore to Delhi vide its Board Level Committee report dated 31.12.2013. The CMD, DEL failed to appreciate the representation which constrained her husband to file writ petition bearing W.P. (Civil) No.7087 of 2016 on 06.08.2016 whereby seeking quashment of the Office Order dated 02.08.2016 passed by the CEL transferring the petitioner and further seeking cancellation of the relieving order dated 03.08.2016 and also seeking mandamus direction thereby to the CEL to re-transfer of the complainant from Chandigarh to Delhi and further sought the mandamus direction to the CEL to implement and give benefit to the office.

5. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 20.03.2018.

6. After considering Respondent's reply dated 12.04.2018 and Complainant's rejoinder dated 29.04.2018, a personal hearing was scheduled on 19.07.2018



7. During the hearing the representatives of Complainant submitted that Shri Madanjit Kumar, Complainant's husband is presently working as Senior Manager in Central Electronics Limited (CEL). Shri Madanjit Kumar had made a detailed complaint to his establishment on 10.06.2016 with regard to the activities of corruption and the irregularities committed by the Executive Director (HR) and CVO of CEL. The CEL in retaliation transferred her husband to Chandigarh. The Hon'ble High Court of Delhi had directed CEL to constitute a Board Level Committee and the said Board level Committee had recommended for retransfer of her husband from Bangalore to Delhi. The CEL relieved her husband from Chandigarh on 03.08.2016. The Complainant's husband vide a representation dated 05.08.2016 requested CMD, CEL to recall transfer order dated 02.08.2016 and revoke the transfer of his transfer on sympathetic ground on account of subsisting ailment of his daughter. The CMD, CEL failed to appreciate the representation which constrained Complainant's husband Shri Madanjit Kumar to file writ petition bearing W.P. (Civil) No.7087 of 2016 on 06.08.2016 whereby seeking quashing of the office order dated 02.08.2016 passed by the CEL transferring the petitioner and further seeking cancellation of the relieving order dated 03.08.2016 and also seeking mandamus direction thereby to the CEL to re-transfer of the petitioner from Chandigarh to Delhi. The Hon'ble High Court of Delhi ordered for a stay on the transfer order till the final outcome on the representation dated 05.08.2016 made by the Complainant's husband. After this order, CEL ordered Shri Madanjit Kumar to join back at Sahibabad. But Complainant's husband has been harassed by issuing false and fictitious charge sheet, stopping Annual Increment, no transfer benefits has been given to him, no Earned Leaves has been sanctioned to him.. Her husband did not get salary for four months. No departmental promotions were given to him since 2015.

8. During the hearing, the representatives of Respondent submitted that the complainant's husband Shri Madanjit is an employee of CEL. Shri Madanjit Kumar was transferred by CEL to Chandigarh during August 2016. He submitted that the Delhi High Court had dismissed his petition challenging his transfer as well as his appeal not merely on technical grounds like non-adoption of D/o Personnel but also on merits of the case, the reasons given by CEL for transfer, availability of medical facilities at Chandigarh, absence of any grave miscarriage of justice or grave prejudice against him etc. Their department has already directed CEL vide letter dated 07.04.2017 to transfer him back to Delhi/Sahibabad on humanitarian grounds. He joined CEL's Delhi office in April 2017 and since is working there.

9. After hearing both the representatives of Complainant and Respondent the Court observed that there is no violation of any provisions of Rights of Persons with Disabilities Act 2016..

10. The case is disposed off accordingly.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8663/1013/2017

Dated: 24.09.2018

**In the matter of:-**

Shri Aman Kumar

S/o Vijay Prasad Sah

At+PO-Lawapur, Mahanar

PS-Mahanar, Distt. – Vaishali, Bihar – 844506

Complainant

Versus

Railway Recruitment Cell

Through the Chairman

Central Railway, Mumbai

Chief Project Manager/Conversion's Office Building

Wadibunder, P.D. Melio Road, Mumbai – 400010

Respondent

**Date of Hearing: 17.09.2018**

Present:

1. Shri Aman Kumar - Complainant
2. Shri Naresh Shinde, Chief Law Assistant on behalf of respondent.


### ORDER

The above named complainant Shri Aman Kumar, person with 60% disability (both legs and hands) filed a complaint dated nil under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding denial appointment for Group 'D' post on medical ground;

2. The complainant in his complaint submitted that he had applied for the post of Group 'D' in RRC/Central Railway, Mumbai under Special Recruitment Drive for PwDs and he appeared for computer based written examination and qualified the exam. After that, he was called for medical examination but he was unfitted by medical authority on the basis of IRMM 2000 para 522 (1) (i) and informed that there is no reserved vacancy for him as he is 60% disabled with both hands and both legs. He further submitted that he can do easily all works of Group 'D'.

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3. The matter was taken up with the respondent vide letter dated 22.12.2017 under Section 75 of the RPwD Act, 2016.
4. In response, APO (Rect/RRC), Railway Recruitment Cell, Mumbai vide letter dated 05.02.2018 has inter-alia submitted that Centralized notification No. 01/2015 was issued by Northern Railway as Special Recruitment Drive for Persons with Disabilities for erstwhile Group 'D' posts over Indian Railways indicating Railway wise vacancies separately and total vacancies for Central Railway were 397. Shri Aman Kumar had applied ONLINE against the notification and mentioned his disability as OH under OAL category whereas as per his complaint he is disabled with both hands and both legs. After qualifying the Computer Based Test and found eligible in document verification, he was sent for medical examination under OH (OAL) category in which he had applied for adjudging the suitability for the posts notified for OH (OAL) category. On medical examination, the candidate was declared unfit for OH quota for OAL (one arm one leg involvement). He further submitted that vide office letter dated 04.04.2017, he was also advised to submit an appeal, if he so desires, within a period of one month. No appeal is received from the candidate within the stipulated period.
5. Complainant vide rejoinder dated nil has inter-alia submitted that he had applied under OH category (OAL) as there was no option for person with both legs and hands affected in the form. He further submitted that he can do all work of under Group 'D' posts like Helper, Parcel Porter, Watchman. After perusal of the rival submission, it was decided to hold a hearing in this matter. Therefore, hearing was scheduled on 17.09.2018.
6. On the date of hearing, representative of the respondent and complainant reiterated their written submission submitted by them.
7. After hearing the parties and material available on record, the response of the respondent is found satisfactory as the Group 'D' posts are not identified for persons with both legs and arms affected as per the Notification No. 16 – 15/2010-DD.III dated 29.07.2013 of Ministry of Social Justice and Empowerment. Therefore, case is disposed off without any direction to the respondent.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं. 7904 / 1023 / 2017

दिनांक: 24.09.2018

के मामले में:-

श्री व्ही.एस. श्रीवास्तव - R11318

बंगला स्कूल के पास

शनीचरी टोरी, सागर

मध्य प्रदेश-470002

-वादी

बनाम

उत्तर मध्य रेलवे - R11319

(मंडल रेल प्रबंधक-कार्मिक)

मण्डल रेल प्रबंधक-कार्मिक कार्यालय

झाँसी, उत्तर प्रदेश

-प्रतिवादी सं. 01

उत्तर मध्य रेलवे - R11320

(महाप्रबंधक-कार्मिक)

कार्यालय महाप्रबंधक-कार्मिक

इलाहाबाद, उत्तर प्रदेश

-प्रतिवादी सं. 02

रेलवे बोर्ड - R11321

(द्वारा : सचिव)

रेल भवन, रफी मार्ग

नई दिल्ली

-प्रतिवादी सं. 03

सुनवाई की तिथि: 10.08.2018

उपस्थित -

वादी की ओर से कोई उपस्थित नहीं हुए

श्री उल्लास कुमार, डीपीओ, झाँसी - प्रतिवादी की ओर से

श्री अनिल भटनागर, मुख्य विधि सहायक - प्रतिवादी की ओर से

### आदेश

श्री व्ही. एस. श्रीवास्तव, 85 प्रतिशत अस्थि दिव्यांग ने रेल विभाग द्वारा अनुकंपा नियुक्ति से वंचित करने के कारण आश्रित को अनुकंपा नियुक्ति एवं क्षतिपूर्ति प्रदान करवाने से सम्बन्धित शिकायत दिनांक 31.10.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 19.12.2017 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 02.04.2018 भी प्रेषित किया गया ।

3. चूंकि प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में मामले को सुनवाई हेतु रखा गया एवं यथावत मामले को उक्त तिथि को सुना गया ।

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4. मं.रे.प्र.(का) झांसी, उत्तर मध्य रेल ने पत्रांक-पी/विविध/सीए-111/ईओ(पी) दिनांक 23.07.2018 द्वारा न्यायालय को अवगत कराया कि श्री व्ही.एस. श्रीवास्तव का माननीय रेल मंत्री को संबोधित प्रार्थना पत्र दिनांक 22.02.2016 माननीय प्रधानमंत्री कार्यालय के माध्यम से मुख्यालय इलाहाबाद द्वारा प्राप्त हुआ था जिसमें उन्होंने कहा था कि उनके पिता श्री भगवती प्रसाद आत्मज श्री मिटठूलाल श्रीवास्तव लोको शैड बीना में फिटर पद पर कार्यरत थे जिन्हें दिनांक 30.04.1980 को मंडल चिकित्सा अधिकारी बीना द्वारा सभी क्लासों में अनफिट कर दिया गया था, जबकि उनकी 07 वर्ष की सेवा शेष थी व उन्होंने उनके पक्ष में अनुकंपा नियुक्ति देने का दिनांक 05.05.1980 को निवेदन किया था, तत्पश्चात मंडल रेल प्रबंधक झांसी द्वारा तृतीय श्रेणी में नियुक्ति के लिए दो बार वर्ष-1980 एवं 1981 में लिखित व मौखिक परीक्षा ली गयी तथा परीक्षा में सफल होने के पश्चात भी यह कह कर कि निःशक्त व्यक्ति को विभाग में अनुकंपा आधार पर नियुक्ति देने का नियम न होने के कारण नियुक्ति नहीं दी जा सकती है। श्री व्ही.एस. श्रीवास्तव के प्रार्थना पत्र दिनांक 22.02.2016 का उत्तर कार्यालय के पत्र दिनांक 02.05.2016 के द्वारा दिया गया था। तत्पश्चात श्री व्ही.एस. श्रीवास्तव के पत्र विभिन्न माध्यमों से समय समय पर प्राप्त हुए हैं, जिनका उत्तर उन्हें पत्र दिनांक 30.06.2016, 08.11.2016, 02.12.2016, 05.12.2016, 13.01.2017, 17.03.2017, 28.03.2017, 01.06.2017, 07.07.2017, 26.07.2017, 12.10.2017 एवं 06.12.2017 द्वारा दिया गया। उक्त के अतिरिक्त श्री व्ही.एस. श्रीवास्तव के प्रार्थना पत्र के अनुसार उनके पिता श्री भगवती प्रसाद दिनांक 30.04.1980 को रेल सेवा से सभी मेडिकल क्लासों में अनफिट घोषित हुए थे। श्री व्ही.एस. श्रीवास्तव द्वारा दिनांक 30.04.1980 से दिनांक 21.02.2016 तक अपने पिता के मेडिकल अनफिट होने के पश्चात स्वयं की अनुकंपा नियुक्ति से सम्बन्धित कोई प्रपत्र अपने प्रार्थना पत्रों में संलग्न नहीं किये हैं, दिनांक 22.02.2016 को उनका प्रथम प्रार्थना पत्र कार्यालय को प्राप्त हुआ जिसके संदर्भ में गहन तलाश के उपरांत भी उनकी अनुकंपा नियुक्ति से सम्बन्धित कोई रिकॉर्ड कार्यालय में उपलब्ध नहीं पाया गया, अतः पैरा-2 में दिये पत्रों के द्वारा उन्हें समय समय पर सीए-111, रेलवे बोर्ड, महाप्रबंधक कार्यालय एवं श्री व्ही.एस. श्रीवास्तव द्वारा प्रस्तुत जनसूचना अधिकार अधिनियम के अंतर्गत दिये गये प्रार्थना पत्रों को समुचित उत्तर दिया जा चुका है, जहां तक श्री व्ही.एस. श्रीवास्तव द्वारा कार्यालय के कुछ प्रपत्रों की प्रतियां प्रार्थना पत्र के साथ प्रस्तुत की हैं उसमें उन्हें कार्यालय के पत्र संख्या-ई/161/28/विकलांग/चतुर्थ/भर्ती/124 दिनांक 28.11.1985 के अनुसार विकलांग कोटे के अंतर्गत चतुर्थ श्रेणी के पदों पर नियुक्ति के लिए स्क्रीनिंग परीक्षा हेतु दिनांक 19.12.1985 को बुलाया जाना दर्शाया गया था, न कि उनके पिता श्री भगवती प्रसाद श्रीवास्तव के मेडिकल अनफिट होने के कारण अनुकंपा नियुक्ति हेतु बुलाया गया था। चूंकि श्री व्ही. एस. श्रीवास्तव के प्रार्थना पत्र के अनुसार उनके पिता श्री भगवती प्रसाद श्रीवास्तव दिनांक 30.04.1980 को सभी मेडिकल क्लासों में अनफिट हुए थे एवं वर्तमान में उनका कोई रिकॉर्ड कार्यालय में उपलब्ध नहीं है न ही श्री व्ही.एस. श्रीवास्तव द्वारा संलग्न किये प्रपत्रों से सम्बन्धित भी कोई रिकॉर्ड उपलब्ध है तथा प्रार्थना पत्र के अनुसार उनके पिता को मेडिकल अनफिट हुए वर्तमान में लगभग 38 वर्ष हो चुके हैं। अतः श्री व्ही.एस. श्रीवास्तव का प्रार्थना पत्र में वर्णित मामला वर्तमान में लगभग 38 वर्ष पुराना, कार्यालय में उनसे सम्बन्धित रिकॉर्ड उपलब्ध न होने व कालवाधित होने के कारण उस पर विचार करना संभव नहीं है।

5. सुनवाई के दौरान प्रतिवादी के प्रतिनिधि ने उपरोक्त के अलावा यह भी ब्यान दिया कि प्रकरण बहुत ज्यादा पुराना है और पुत्र को नौकरी देने का रेलवे में कोई प्रावधान नहीं है। प्रतिवादी के प्रतिनिधि का यह भी कहना था कि वादी की शिकायत से यह भी स्पष्ट नहीं है कि उन्हें नियुक्ति दिव्यांगता कोटे के अंतर्गत चाहिए अथवा अनुकंपा आधार पर समायोजित किया जाना। उनका कहना

था कि इतने लम्बे समय अन्तराल के दौरान जोन तथा मुख्यालय दोनों ही बदल गए हैं जिसके कारण रिकॉर्ड का यथावत उपलब्ध होना संभव नहीं है।

6. प्रतिवादी की ओर से प्रस्तुत दस्तावेजों के अवलोकन एवं मामले में सम्पन्न सुनवाई के उपरान्त न्यायालय इस नतीजे पर पहुँचा है कि उक्त प्रकरण में दिव्यांगजन अधिकार अधिनियम, 2016 के किसी प्रावधान का उल्लंघन प्रतीत नहीं हो रहा है, अतः मामले को प्रतिवादी को बिना किसी निर्देश के बन्द किया जाता है।



(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

extra

## न्यायालय मुख्य आयुक्त दिव्यांगजन

## COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No.: 9042/1040/2017

Dated 25.09.2018

In the matter of:

Shri Chandan Singh,  
 Suit No.17, Officer's Hostel,  
 Sastri Nagar, BSEB Colony,  
 Patna-800023  
 Email - [103108026singh@gmail.com](mailto:103108026singh@gmail.com)

.... Complainant

Versus

Bhabha Atomic Research Centre  
 [Through: The Director]  
 Trombay, Mumbai-400085

.... Respondent

Date of hearing: 25.07.2018

Present:

1. Shri Chandan Singh, complainant
2. Shri A. Anandaraj, Admin Officer-III, BARC Facilities/BARC, Kanchipuram (TN) for respondent

ORDER

The above named complainant, having 60% disability in both the upper limbs, has filed a complaint/email dated 14.12.2017 under the Rights of Persons with Disabilities Act, 2017, hereinafter referred to the 'Act', regarding not providing unattached study table in the written examinations on 09.12.2017 and 10.12.2017 conducted by Bhabha Atomic Research Centre [Kalpakkam] for recruitment to the post of Upper Division Clerk at Sathyabama University, Jeppiar Nagar, Chennai.

2. The complainant [Roll No.002588, application No.A000141-002588] appeared in the written examinations on 09.12.2017 and 10.12.2017 conducted by Bhabha Atomic Research Centre [Kalpakkam] for recruitment to the post of Upper Division Clerk having examination centre at Sathyabama University, Jeppiar Nagar, Chennai. The complainant vide his email dated 15.11.2017 requested the respondent for providing him compensatory time. He further requested that compensatory time be provided to the candidates whose writing speed is affected due to disability and not to those candidates with disabilities whose writing speed is not affected due to disability. On 17.11.2017, the respondent informed on his mobile that they would provide scribe to him but not compensatory time relative to normal time. On 29.11.2017, the complainant refused to take the scribe and again requested the respondent that he would write on his own but he needed compensatory time relative to normal time. The

complainant also reiterated his request to provide compensatory time to him only as he is a person having disability in both hands and not to those candidates who are not disabled by hand, but the respondent refused to do so. The complainant further submitted that on the date of exam when he reached at his respective seat, he found that his desk was attached with seat. The distance between sitting and writing level was too large which was uncomfortable to him to write the exam. He reported the examining authority that he had to elongate his hands to write due to the large horizontal distance between sitting and writing level. He was feeling discomfort due to the distance between the seat and the desk, which cannot be reduced due to being attached. He requested the examining authority to provide him unattached study table and study chair being used by their faculty member and staff member at the examination centre. But the examining authority denied providing him the same. The complainant demanded that the respondent be asked to re-conduct the exam of UDC.

3. The matter was taken up with the respondent vide this Court's letter dated 11.01.2018 for submission of their comments.

4. The respondent vide reply dated 16.03.2018 submitted that 01 post of UDC was identified for person with disability (OH) category in the Advt. No.01/2007. In view of the large number of candidates, the examination was conducted at Satyhabama University at Chennai which was 50 km away from Kalpakkam. Candidates with disabilities were allotted rooms at ground floor of the buildings which was provided with ram facility. Out of 7774 applications, 200 candidates with disabilities (OH) were screened before the start of Level-1 examination held on 09.12.2017 including Shri Chandan Singh. However, only 14 candidates with disability (OH) appeared for Level-1 examination. Shri Chandan Singh sought for a separate study table and a separate chair stating that the horizontal distance between the seat and table provided was causing inconvenience to him. He was, therefore provided a chair with a writing pad attached to it from the furniture available in the examination centre which was disliked by him. Thereafter, when another unattached table and chair were provided to him, he did not find the height of the same suitable for him. Finally he chose to use the table and chair as provided to other candidates, since it was MCQ-OMR type of examination. He was provided with compensatory time of 30 minutes in addition to the 1 hour 30 minutes schedule time. During Level-2 exam on 10.12.2017 (Descriptive Type) he was provided with an unattached study table and a study chair as requested by him during Level-1 examination. On that day Shri Chandan Singh alone utilized the compensatory time of one hour in addition to three hours exam schedule and no other candidate with disability (OH) utilized the compensatory time. The respondent further clarified that none of the other candidates with disabilities during both the exams had opted for the facility for scribe nor did they avail compensatory time.

5. The complainant vide email dated 24.03.2018 filed his rejoinder to the reply submitted by the respondent. He reiterated his complaint and added that respondent lied that they had provided with him unattached study table and study chair to him on 09.12.2017 and 10.12.2017. After taking his exam on 09.12.2017, he went to many class rooms and found that



only attached desk bench of large horizontal distance was available there. He also found that there was no unattached study table and study chair available in any class room. He alleged that the respondent had not taken any action on his written request filed to them on 10.12.2017 to get unattached study table and chair used by their faculty member and staff member. Further, on 10.12.2017, when he realized that respondent was not going to provide him with unattached study table and chair, he himself took a chair in which writing pad was attached and he was supposed to write the exam. He also took a stool to his room, but the chair was slanting and the stool was vibrating while he wrote. He reiterated that compensatory time was provided to those persons with disabilities whose writing speed was not affected due to their disabilities.

6. Upon considering the reply of respondent and rejoinder filed by complainant, the case was scheduled for personal hearing on 25.07.2018.

7. During the hearing on 25.07.2018, the complainant reiterated his allegations made in the complaint and emphasized that compensatory time was provided to those candidates with disabilities whose writing speed was not affected. He was asking again and again that why compensatory time was provided to those candidates with disabilities whose writing speed was not affected. He was still alleging that respondent was telling lies, it could be more clear, if arrangement of CCTV was there.

8. The representative of the respondent filed four copies of photographs of examination hall where the complainant and other candidates were taking their examinations. Photocopies of the Answer Sheets of complainant were also filed along with other documents. The representative affirmed that there was no CCTV arrangement at the examination centre.

9. In view of the facts mentioned above and the documents available on record it was observed that the respondent equally provided the furniture/table-chair to the candidates and/or candidates with disabilities as were available there at the examination centre for writing the examinations held on 09.12.2017 and 10.12.2017. Whatever the inconvenience felt by the complainant during his writing of the exam, i.e. due to attached table-chair/desk-bench, its height, slanting, etc., was not found to be intentional on the part of the respondent. It has been established that the complainant was provided compensatory time for the same. However, for the purpose of providing a level playing field and reasonable accommodation to the candidates with disabilities, the respondent is advised that in future sitting arrangement should be made accessible and convenient according to the need of the candidates with disabilities. In this regard, it can be mentioned in the recruitment notification so that such candidates with disabilities can submit their requisition for their specific requirement, well in advance.

10. The case is accordingly disposed of.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8318/1014/2017

Dated: 25.09.2018

**In the matter of:-**

Shri Kaja Mohammad  
Door No. 49-42-34 Akkayyapalem  
Chinnuru Masjid, Visakhapatnam  
Pin – 530016 Andhra Pradesh

Complainant

Versus

Indian Maritime University  
(Through the Registrar)  
East Coast Road, Uthandi, Chennai – 600119

Respondent

**Date of Hearing: 17.04.2018, 17.09.2018**

Present:

1. Shri Kaja Mohammad – Complainant
2. Shri P. Thangapandian, Assistant Registrar on behalf of respondent.

### ORDER

The above named complainant Shri Kaja Mohammand, a person with 71% Orthopaedically handicapped filed a complaint dated 14.07.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the RPwD Act, 2016 regarding non selection for the post of Library Assistant by Indian Maritime University;

2. The complainant in his complaint submitted that he worked in various positions such as Data Entry Operator, Project Assistant and Library Assistant on a temporary basis since the year August 2008 in National Ship Design and Research Centre, Visakhapatnam now known as Indian Maritime University (IMU), Visakhapatnam. He further submitted that an advertisement was issued for recruitment of permanent Library Assistant posts in the pay scale of Rs. 9300-3480 Grade Pay 4200 in the above University. He applied and appeared for the written test for the post of Library Assistant and passed all the tests conducted and was very confident of appointment for the post but the candidate who got lower rank than him in the written tests were given the appointment order.

...2.....

3. The matter was taken up with the respondent vide letter dated 02.11.2017 under Section 75 of the RPwD Act, 2016.
4. In response, Registrar, Indian Maritime University vide letter dated 01.12.2017 has inter-alia submitted that though he cleared the written examination, he did not qualify the practical test consisting of two parts (1) Online Resources Retrieval Test (2) Classification and Book Retrieval Test and Selection Committee has not shortlisted/recommended his name in the selection list. Further, all the qualified/selected candidates have been issued order of appointments with due formalities. They further submitted that Shri Kaja Mohammad has lodged complaint about recruitment selection process to various agencies/forums such as CVC, CPGRAMS, MoS, IMU and finally at Court of Chief Commissioner for PwDs.
5. Complainant in his rejoinder dated 15.12.2017 has inter-alia submitted that he has performed all the rounds of test extremely well and there is absolutely no chance of failing. He further submitted that the tests which were conducted by IMU are a daily routine of duty being performed by him over the past eight years in IMU Visakhapatnam campus and as such it is not at all a new subject of test to him. He also informed that IMU has not provided reservation to PwDs for its posts. After perusal of the rival submissions, it was decided to hold a hearing in this matter. Therefore, hearing was scheduled on 17.04.2018.
6. During the hearing, complainant reiterated his earlier written submissions and representative of the respondent has also reiterated his written submissions that Shri Kaja Mohammad has lodged complaint about recruitment selection process to various agencies/forums such as CVC.
7. After hearing the both parties, the respondent was directed to submit the following documents within two months from the receipt of this communication:-
  - a. to explain the reason, why reservation was not given to persons with disabilities for the post of Library Assistant.
  - b. out of ten posts of Library Assistant, one post should be reserved for persons with disabilities.
  - c. to submit reservation roster for all Group i.e. 'A', 'B', 'C' & 'D'.
  - d. to calculate 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.

- e. certificate of the Liaison Officer certifying that the Roster has been maintained from 01.01.1996 as per DoP&T's instructions.
  - f. Copy of CVC report.
8. After receiving the above documents, the hearing again scheduled on 17.09.2018 and during the hearing complainant submitted that respondent had advertised 10 vacancies of Library Assistant and out of 10 vacancies they had not provided reservation to PwDs and reiterated his earlier submission.
9. After hearing, it has been observed that the complainant claim is reasonable, respondent must be provided reservation to PwDs out of 10 vacancies of Library Assistant. Keeping in view of the above, the Court recommends for consideration of the appointment of the complainant for the post of Library Assistant.
10. Case is disposed off accordingly.

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



सत्यमेव जयते

Extra

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No.: 9102/1141/2017 R-11586.

Dated 26.09.2018

In the matter of:

Suo-motu

Versus

Delhi Development Authority  
(Through : the Vice Chairman)  
Vikas Sadan, I.N.A.,  
New Delhi-110023

.... Respondent

Date of hearing: 17.01.2018, 03.05.2018 and 13.06.2018

Present:17.1.2018

Advocate Puneet Singh Dheer, Counsel for respondent.

03.05.2018

None appeared for the respondent.

13.06.2018

Advocate Mandeep Singh, Counsel for respondent; and Shri Vinod Kr. Hooda,  
AE(C)/WD-7/DDA

ORDER

The daily newspaper 'Indian Express' on 22.12.2017 published that on 15.12.2017 at around 1100 Hrs. Officials of Delhi Development Authority with the police demolished the hostel, Louis Welfare Progressive Association of the Blind at Janakpuri, South West District, Delhi. In the hostel mostly the students with visual impairment of Delhi University or nearby Sarvodaya School were staying. The hostel was being run by the students themselves for the last 17 years. It was also reported that no prior information was given by the DDA officials to the students regarding demolition. The Hostel Caretaker, Shri Kamlesh Kumar told that the officials only took out heavy things such as beds, refrigerator, gas cylinder and left the rest inside before demolishing the structure. Many students lost their notes mark sheets and gadgets. The DDA showed insensitivity by carrying out a demolition in such a cold. DDA maintained that the occupants were informed well in advance and correspondences were being made with the hostel management since April, 2018 and they were informed four times since then. A day before demolition they were informed verbally and not in writing.

2. Section 5 of the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the 'Act', provides that "(1) The persons with disabilities shall have the right to live in the community. (2) The appropriate Government shall endeavour that the persons with

Page 1 of 2

disabilities are,— (a) not obliged to live in any particular living arrangement; and (b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender;

3. In exercise of powers conferred under Section 75(1)(b) of the Act, suo-motu action was taken and under Section 77 of the Act a Notice of Complaint to Show Cause & Hearing was issued on 26.12.2017 to the respondent to appear before the Court in person or through a representative or a counsel well versed with the case, with all the related documents on 17.01.2018 to present their case.

4. During the hearing on 17.01.2018, the learned Council for the respondent intimated that Hon'ble High Court of Delhi had also taken suo-motu in this matter and the date of hearing was fixed for 24.01.2018. In a reply to the question how much demolition has been made by the respondent without information, the learned Counsel submitted that no demolition was made without information. In the instant case, the information regarding demolition was given to the students with disabilities living in the hostel demolished. The Community Centre is hardly one kilometer away from the area and all facilities were provided to the students with disabilities shifted there after demolition.

5. In view of the above, the respondent was advised to submit their written reply along with the present status of the case within 07 days. The case was adjourned to 03.05.2018.

6. During the hearing on 03.05.2018, none appeared on behalf of the respondent, nor was any intimation received about their inability to attend the hearing scheduled on 03.05.2018 despite the assurance given by the Counsel for the respondent during the hearing held on 17.01.2018. However, the respondent was again advised to submit their reply along with the present status of the case within 07 days from the date of receipt of the Record of Proceedings dated 08.05.2018. The next hearing in the case was scheduled on 13.06.2018.

7. In the meanwhile the respondent filed their reply vide letter dated 06.06.2018 and intimated that Hon'ble High Court of Delhi on its own motion took suo-motu in this matter vide W.P.(C) 11716/2017 vs Ltd. Governor and Others; and another case was also heard by the Hon'ble High Court vide W.P. (C) 11733/2007 – Kamlesh Kumar & Ors. Vs Development Authority & Ors. The above cases were disposed of on 28.05.2018 by the Hon'ble High Court of Delhi with the instructions that the DDA Officers and Social Welfare Department Officer will remain present between 1000 AM to 1200 Noon on 29.05.2018 at DDA Community Centre (Staff Club) at D-Block, Janakpuri for shifting the remaining persons with visual impairment i.e. Shri Kamlesh Kumar and Shri Deepu along with their belongings at Helping Hand India (NGO). During that period 1000 AM to 1200 PM neither those two person nor any authorized person/advocate were came forward/contacted the officers present at Community Hall. The respondent furnished a copy of the compliance report dated 29.05.2018 submitted to the Hon'ble High Court of Delhi.

8. The case is disposed of accordingly.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं. 8382/1021/2017

R-1156A

दिनांक: 28.09.2018

के मामले में:-

श्री धर्मेन्द्र सिंह राठौर

हिन्दी अध्यापक

सी-33, NIVH कैम्पस

116, राजपुर रोड

देहरादून

--वादी

बनाम

राष्ट्रीय दृष्टिबाधितार्थ संस्थान

(द्वारा: निदेशक)

116, राजपुर रोड

देहरादून

--प्रतिवादी

सुनवाई की तिथि: 16.08.2018

उपस्थित - श्री धर्मेन्द्र सिंह राठौर - स्वयं, वादी की ओर से

प्रतिवादी की ओर से कोई उपस्थित नहीं हुए

### आदेश

श्री धर्मेन्द्र सिंह राठौर, 100 प्रतिशत दृष्टि दिव्यांग ने उनको उप प्रधानाचार्य पद पर पदोन्नति नहीं दिए जाने से सम्बन्धित शिकायत दिनांक 20.07.2017 दिव्यांगजन अधिकार अधिनियम, 2016 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 75 के अंतर्गत न्यायालय के पत्र दिनांक 08.11.2017 द्वारा प्रतिवादी के साथ उठाया गया । प्रतिवादी को स्मरण पत्र दिनांक 19.01.2018 भी प्रेषित किया गया ।

3. चूंकि प्रतिवादी से कोई उत्तर प्राप्त नहीं होने की स्थिति में मामले को सुनवाई हेतु रखा गया एवं यथावत मामले को उक्त तिथि को सुना गया ।

4. प्रतिवादी की तरफ से सुनवाई के दौरान कोई उपस्थित नहीं हुआ ।

5. सुनवाई के दौरान वादी ने ब्यान दिया कि वह टीजीटी(हिन्दी) में सीधी भर्ती के तहत नियुक्त हुए थे । सभी अर्हताएं होते हुए भी उनकी वरिष्ठता को नकारते हुए उनके कनिष्ठ अध्यापक को उप प्रधानाचार्य बनाया जा रहा है जबकि वे वांछित शैक्षिक अर्हताएं/योग्यताएं भी धारित नहीं करते हैं।

6. वादी की पुष्टिनुसार उनका उक्त प्रकरण माननीय उच्च न्यायालय नैनीताल में लम्बित है, इस स्थिति में इस न्यायालय द्वारा कोई कार्यवाही अपेक्षित नहीं है, प्रकरण को तदनुसार बन्द किया जाता है ।

(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8687/1022/2017

Dated : 28 .09.2018

Dispatch No. ....

In the matter of :

Shri Vinay Kumar, IDSE,  
Jt. Director (P&L),  
Military Engineer Services,  
Headquarters,  
Chief Engineer,  
Pathankot Zone,  
Pathankot – 145 001

.....Complainant

**Versus**

The Director General Personnel/E1B,  
Military Engineer Service,  
Engineer-in-Chief's Branch,  
Kashmir House,  
Rajaji Marg,  
New Delhi – 110 001

....Respondent

**Date of Hearing : 18.07.2018**

**Present :** 1) Shri Vinay Kumar, the Complainant, Present.

2) Shri R.K. Param, Director (Pers), On behalf of Respondent, Present

### ORDER

The above named complainant, had filed a complaint dated 15.09.2017 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, regarding his posting from HQ Chief Engineer Pathankot Zone to Delhi to look after his 15 year old son Master Ishan Anchit suffering from low vision.

2. The Complainant submitted that he is working as Joint Director in Military Engineer Services and presently posted at HQ Chief Engineer Pathankot Zone. His son Master Ishan Anchit, aged 15 years is having an eye vision of 6/60 (with spectacles) which falls in the category of disability due to low vision. Previously he was posted in Mhow, Indore from 23.06.2014 to 22.07.2017. He made a representation to post him at Delhi to take care of his visually impaired son. In spite of recommendation at all levels, his posting Order from HQ, CWE Mhow to HQ CE Pathankot Zone was issued. He further submitted that he is likely to be promoted in near future which will be followed by posting order. He has prayed to direct E-in-C's Branch, Delhi (Military Engineer Services) to post him to Delhi.

.....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 19.01.2018.

4. The Dir (Pers.) 'M', HQ Military Engineer Services vide his letter no. B/17003/SE/465/E 1B dated 19.02.2018 submitted that the complainant joined MES on 18.09.1997 and has completed 20 years 05 months of service. He has been adjusted in Delhi Station three times for a total duration of 08 years and 08 months, i.e. 42% of total service. The Pathankot city has adequate good medical facilities. Apart from these reputed medical colleges are also available at Jammu, Amritsar, Jalandhar, Chandigarh and Ludhiana. The Complainant's son was born on 07.02.2002 when he was in Delhi. Since 2002, the officer has served 03 GE's executive appointments at Umroi, Talbehah and Mhow. All these stations are situated in remote locations and the complainant has served at these places without any objection. The complainant started objecting and representing to all concerned authorities whenever he is posted on non executive staff appointments. The Respondent further submitted that DoP&T O.M. No.42011/3/2014 Estt (Res) dated 06.06.2016 does not unconditionally allows Govt. servants to be posted at one station rather suggests to accommodates, subject to administrative constraints. He submitted that Delhi is a high priority station where officer on compassionate ground, last leg, repatriation and organizational interests are posted. Therefore, the Respondent submitted that the posting of complainant to Pathankot is as per posting policy duly approved by MoD, Govt. of India.

5. The complainant vide his rejoinder dated 23.03.2018 submitted that the duration in Delhi is 6 years 7 months and 7 days and not 8 years and 8 months as mentioned by the Respondent in their letter dated 19.02.2018. He submitted that posting to GE (R&D), Delhi and E-in-C's branch was done by the department because of organisation's requirement and posting to CWE (P) Delhi was done as repatriation posting. At no stage of time, posting to Delhi was requested. He submitted that Pathankot does not have good medical facilities and this city was Tehsil till the year 2011. He submitted that he is not used to representing for posting. In the year 2016, he was posted in Mhow. In spite of this, posting to Pathankot was issued. He submitted that DoP&T O.M. No.42011/3/2014-Estt (Reg) dated 06.06.2014 was issued on 06.06.2014 and before that there was no such O.MS which could have safeguarded the plight of a child with disability and their parents. Hence he made no representation when he was posted to Umroi, Talbehah and Mhow. He submitted that there are 78 IDSE Superintending Engineers posted in Delhi. Out of which 29 are on deputation to other departments. He submitted that out of 49 places, a place of parent of a disabled child can always be found. The spirit of DoP&T O.M. is loud and clear that disabled child

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is to be given highest priority. He submitted that the confidence level of a child is low and their social acceptability is too less. His son is not in a mental state to adjust in new place. The frustration and depression level in family is too high. Owing to this, any untoward incident can take place.

6. After considering Respondent's reply dated 19.02.2018 and Complainant's rejoinder dated 23.03.2018 a personal hearing was scheduled on 18.07.2018.

7. During the hearing, the Complainant submitted that he was previously posted in Mhow, Indore from 23.06.2014 to 22.07.2017. He made a representation to post him at Delhi to take of his visually impaired son. Inspite of recommendation at all levels, his posting from HQ, CWE Mhow to HQ CE Pathankot Zone was issued.

8. During the hearing the Respondent submitted that the Complainant was adjusted in Delhi Station three times for a total duration of 08 years and 08 months. The Pathankot city has adequate good medical facilities and reputed medical colleges are also available at Jammu, Amritsar, Jalandhar, Chandigarh and Ludhiana. The Complainant's son was born on 07.02.2002 when he was in Delhi. Since 2002, the officer had served 03 GE's executive appointments at Umroi, Talbehah and Mhow. All these stations are situated in remote locations and the complainant has served at these places without any objection. He submitted that Delhi is a high priority station where the complainant on compassionate ground, last leg, repatriation and organizational interests are posted. Therefore, the Respondent submitted that the posting of complainant to Pathankot is as per posting policy duly approved by MoD, Govt. of India.

9. The case is not maintainable as the complainant could not produce the disability certificate of his son to this Court. However, the Complainant vide his letter dated 10.09.2018 has submitted a copy of the Disability Certificate of his son to this Court mentioning 40% visual impairment. The complainant is advised to submit a copy of the Disability Certificate of his son to his establishment for their appropriate action.

10. However, considering the disability of the Complainant's son, the Court advised the Respondent to consider his request for posting him to Delhi to take care of his son.

11. The case is accordingly disposed off.

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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 9471/1022/2018

Dated : 28.9.2018

Dispatch No. ....

In the matter of :

Shri Krishan Pal,  
N-93, Street No.6,  
Naveen Shahdara,  
Delhi – 110 032  
Email<krishan919996@hotmail.com>

.....Complainant

**Versus**

The Director General,  
Office of the Directorate General,  
Sashastra Seema Bal,  
East Block V,  
R.K. Puram,  
New Delhi – 110 066

.....Respondent

Date of Hearing : 01.08.2018

**Present :**

1. Shri Krishan Pal, Complainant, Present
2. Shri P. Nangial, JDD/P-III and Shri Ravinder Kumar, Section Officer, on behalf of Respondent, Present.

### ORDER

The above named complainant, a person with 76% locomotor disability had filed a complaint dated 14.03.2018 under the Rights of Persons with Disabilities Act, 2016 regarding cancellation of transfer order from FHQ to SHQ Lakhimpur Kheri on the basis of his disability and mental illness of his daughter.

2. The Complainant submitted that while on duty on 21.01.2011 he met with a serious road accident during his posting in Patna. He underwent number of surgeries. He became a person with disability. His daughter is suffering from mental illness and is under treatment from a Hospital in Delhi. His children are studying in Delhi. FHQ, SSB, M.I. Room, R.K. Puram, New Delhi. He is the only earning member in his family. He came to know from a person with disability posted at

.....2/-

FHQ (Asstt. Shri Sanjiv Kr. Bhatnagar and Asstt. Shri. Vijender Singh) that they are posted at FHQ since decades as they are exempted from transfer. The complainant has requested to cancel his transfer Order from FHQ to SHQ Lakhimpur Kheri and to allow him to continue his duties at the present place of posting, i.e. FHQ MI ROOM.

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 14.03.2018.

4. The Joint Deputy Director (Pers-III), Sashastra Seema Bal vide his letter no. 20/SSB/Pers-III/2018(3)3550 dated 16.04.2018 submitted that Ministry of Home Affairs has conveyed the approval of cadre review of the Non-Combatised Cadres of Sashastra Seema Bal (SSB) vide their letter No.1/149/CR(NC)/SSB/Per-V/2016(CF-3352813) dated 18.10.2017. The complainant belongs to para-medical cadre and is holding the post of Dy. Field Officer (Medic). After cadre review, total 77 posts of Dy. Field Officer (Medic) have been authorized and no post of Dy. Field Officer (Medic) has been authorized at Force Hqrs. SSB, New Delhi which is his present place of posting. He further submitted that as per transfer policy guidelines of SSB circulated vide Force Hqrs. SSB, New Delhi vide letter No. 1/48/SSB/TRFR/Pers-V/Org/2016(35)/9829-10004 dated 10.08.2016, the present unit of the applicant falls under the category of static formation for which a tenure of 03 years is fixed as a policy of the Department. The Complainant has completed about six and half years tenure at static location which amounts to double the tenure in relaxation of the existing transfer policy.

5. The Complainant vide his rejoinder dated 23.05.2018 has submitted that at present 12 DFOs(Medic) are posted at Delhi and NCR (FHQ R.K.Puram, New Delhi, 25<sup>th</sup> Bn Ghitorni Delhi , ITS Mahipalpur, New Delhi and IT&TTC Faridabad). He submitted that so it is not fair to say that there is no authorized post of DFO(Medic). As per SSB Guidelines Policy, it is vividly mentioned that transfer of disabled person should be considered in terms of DoP&T instruction whereas in his case it has not been considered. He had completed six years at his present place of posting, i.e., FHQ:SSB, Delhi. Despite his verbal request he has been transferred to SHQ:SSB, Lakhimpur Kheri which is very far from his present place of posting, i.e. Delhi. Being a person with disability, he is not in a position to join his new assigned posting at Lakhimpur Kheri. He submitted that it is true that during the year 2011 his office had considered his transfer from Ftr.Hqrs. SSB Patna to FHQ Delhi for his better medical treatment. His native place is Vill:Tatiri in District Baghpat in U.P. which is near to Delhi. He has been posted at FHQ on 20.09.2011 for his medical treatment which is still continuing at Safdarjang Hospital, New Delhi. His family consisting of his wife and three children are living with him at Shahdara in Delhi since 2008 and he is considering to relocating to

his village in Baghpat. He further submitted that his daughter is suffering from mental illness and is under treatment in Delhi. She requires constant care giver support for which his presence is essential. His children are studying in Delhi. He further submitted that one Shri Sanjiv Kr. Bhatnagar and Shri Vijender Singh who are posted at FHQ since decades are exempted from transfers. A number of surgery were conducted on him since 2005 till date.

6. After considering Respondent's reply dated 16.04.2018 and Complainant's rejoinder dated 23.05.2018, a personal hearing was scheduled on 01.08.2018.

7. During the hearing the Complainant submitted that while posted in Patna, he met with a road accident and became disabled. His daughter is suffering from mental illness and is under treatment from a Hospital in Delhi. His children are studying in Delhi. He is the only earning member in his family. The complainant has requested to cancel his transfer Order from FHQ to SHQ Lakhimpur Kheri and to allow him to continue his duties at the present place of posting, i.e. FHQ MI ROOM on the basis of his disability and to look after his daughter who is suffering from mental illness.

8. During the hearing the representatives of Respondent submitted the complainant belongs to para-medical cadre and is holding the post of Dy. Field Officer (Medic). He submitted that as per transfer policy guidelines of SSB, the present unit of the applicant falls under the category of static formation for which a tenure of 03 years is fixed as a policy of the Department. The Complainant has completed about six and half years tenure at static location which amounts to double the tenure in relaxation of the existing transfer policy.

9. The Court after hearing both the Complainant and Respondent and considering the disability of the Complainant and his daughter, who is a person with mental illness, directed the Respondent to cancel the transfer Order of the Complainant and to allow the Complainant to continue his duties at the present place of posting, i.e. FHQ MI ROOM in Delhi.

10. The case is disposed off accordingly.

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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

### COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No: 8334/1022/2017

Dated : 28.9.2018

Dispatch No. ....

In the matter of :

Shri Tatyasaheb Mahadik,  
F/o Shri Pravin Kumar Mahadik,  
At Wajewadi,  
Post Shirgaon (Umbraj),  
Taluka Karad,  
Dist. Satara,  
Maharashtra – 415109  
Email<saichephoto@gmail.com>

.....Complainant

**Versus**

The Director,  
Export Inspection Council of India,  
Ministry of Commerce and Industry,  
3<sup>rd</sup> Floor, NDYMCA Cultural Centre Building,  
1, Jai Singh Road,  
New Delhi – 110 001

.....Respondent

**Date of Hearing : 03.07.2018**

**Present :**

1. Complainant – Absent
2. Shri Kannan Kasturi NS, Deputy Director (NT), on behalf of Respondent.

### ORDER

The above named complainant, had filed complaints dated 03.07.2017 & 16.08.2017 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, against denial of posting of his son Shri Pravin Kumar Mahadik, a person with more than 40% locomotor disability, from Tuticorin to near his home town, i.e. Satara in Maharashtra.

2. The complainant submitted that his son is suffering from 40% locomotor disability. He is presently working as Laboratory Assistant in an autonomous body under Ministry of Commerce since July 2015. He is going to complete 2 years of his probation. Shri Pravin Kumar is presently posted in Tamil Nadu. After his posting in Tamil Nadu he made a request to his establishment to transfer him to his native place in Maharashtra, but his establishment denied the same.

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;

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4. The Deputy Director (NT), Export Inspection Council vide his letter no. EIA/D(Q/C)/6(c)/PTM/LAGr-II/2017-18/3865 dated 20.11.2017 had informed that Shri Pravin kumar is one of the candidates who had been selected for the post of Laboratory Assistant Grade-II against advertisement No.16 under general category and he has been posted at EIA-Chennai, SO-Tuticorin. He joined his duty on 27.07.2015 after accepting all terms and conditions of this offer of appointment. He is working in Group 'C' post and being a regional post, the Respondent did not consider his request for transfer to a different region as his posting was made based on the need and requirement. Further, considering his medical status, they have posted him at a suitable place near to his native place.

5. The complainant vide his rejoinder dated 05.03.2018 submitted that his son is suffering from more than 40% locomotor disability and is working as Lab Assistant Grade-2 (Group C) in Export Inspection Agency at its office in Tuticorin. He submitted that Lab Assistant Grade-2 is a regional posting but Shri Pravin Kumar Mahadik belongs to Mumbai region. Shri Pravin Kumar Mahadik was appointed under PH category but he was treated under general category.

6. After considering Respondent's reply dated 20.11.2017 and Complainant's rejoinder dated 05.03.2018, a personal hearing was scheduled on 03.07.2018.

7. During the hearing the Complainant was absent.

8. During the hearing the Respondent submitted that Shri Pravin Kumar Mahadik was one of the candidates who was selected for the post of Laboratory Assistant Grade-II, a Group 'C' post, against advertisement No.16 under general category. He was posted at EIA-Chennai, SO-Tuticorin. He joined his duty on 27.07.2015. Being a regional post, the Respondent did not consider his request for transfer to a different region. However, considering his medical status, he was posted at a suitable place near to his native place.

9. The Court advised the Respondent to consider giving posting to the complainant to his native place in future. However, the Respondent is advised to ensure that the persons with disabilities are not deprived of their legitimate rights.

10. The case is disposed off.

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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**

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

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

भारत सरकार/Government of India

Case No: 8049/1024//2017

Dated : 29.7.2018

Dispatch No. ....

In the matter of :

Shri C.P. Vijayagopalan,  
14/184- Saradendu,  
Parrot Nagar,  
Near Vinlax,  
Pirayiri Post,  
Palakkad,  
Kerala – 678 004

.....Complainant

Versus

Bharat Sanchar Nigam Limited,  
(Thru The General Manager Telecom),  
Sanchar Bhavan,  
Town Bus Stand Road,  
Palakkad,  
Kerala – 678 014

.....Respondent

Date of Hearing : 18.07.2018

Present :

1. Shri C.P. Vijayagopalan, Complainant.
2. Shri C. Gopala Krishnan, Asst. Gen. Manager, BSNL, on behalf of Respondent.

### ORDER

The above named complainant, had filed a complaint dated 21.04.2017 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, regarding denial of family pension to Shri C.P. Bahuleyan, a person suffering from 55% Paranoid Schizophrenia.

2. The Complainant submitted that his mother Smt. C.P. Sarada was a Telephone Supervisor(O). She died on 29.01.1987 while in service at Telephone Exchange, Palakkad. After his mother's death, his father Late V.P. Balakrishna Menon got the family Pension till his death on 04.09.1989. After crossing the age of 25 years, his elder son of the deceased mother, his younger brother and sister (twins) as the legal heirs of Late S.P. Sarada till 12.08.1994 vide S-416/TAC/KRL/25.09.1990. His elder brother, Shri C.P. Bahuleyan neither proposed nor intimated his mental condition for inclusion of his name in PPO for sanctioning of pension due to unawareness of relevant rules. After the death of his father, the mental condition of his elder brother further deteriorated. His elder brother was taken for medical treatment of mental illness. During the last 30 years, his elder brother is being treated at various hospitals. Presently his elder

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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)



brother is under the treatment at National Institute of Mental Health and Neuro Sciences, Bangalore and they evaluated the disability of Shri C.P. Bahuleyan at 55% on account of Paranoid Schizophrenia. Shri Bahuleyan is dependent on the Complainant. The Complainant submitted a claim for re-grant of family pension along with all the required documents to DOT CCA during Sept.2016 through the General Manager Telecom - BSNL, Palakkad. The DoT CCA informed them that the said case file in original has been returned to the said respondent with a direction that 'The SSA (BSNL, Palakkad) being the pension sanction authority may verify the eligibility and genuineness of the claim and sanction FP in the prescribed format with counter sign on all the required documents. The complainant further submitted that the said returned file has been received by the Pension sanction authority during Jan 2017 but the claim of Shri C.P. Bahuleyan has been shelved by BSNL, Palakkad. The complainant has requested to issue necessary guidelines to the Respondent Pension Sanction authority and disbursing authorities to sanction family pension for life to his elder brother, Shri C.P. Bahuleyan w.e.f. date of death of his mother.

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 31.08.2017.

4. The Deputy General Manager (Admn & P), BSNL vide his letter no. E-50 C-P-B/2016-17/8 dated at Palakkad on 13.10.2017 submitted that the deceased staff Smt. C.P. Sarada was a Telephone Operator in the erstwhile DoT till 29.01.1987. Shri C.P. Bahuleyan, the elder son of the deceased is a graduate in Science and was offered a job on compassionate appointment in erst while DOT, but refused the job due to fear psychosis as stated by his younger brother Shri C.P. Vijayagopalan in his application. As a substitute Shri C.P. Vijayagopalan, the younger brother of Shri C.P. Bahuleyan and the present complainant was appointed in the Department of Telecom on compassionate ground. Also Late V.P. Balakrishna Menon husband of deceased staff Smt. Sarada was offered family pension. Shri C.P. Bahuleyan, is a third member seeking family pension after two dependents, i.e Late V.P. Balakrishna Menon upto 04.09.1989 and Smt. C.P. Umadevi/Shri C.P. Sasidharan (Twins) till 12.08.1994( i.e. till marriage of Smt. C.P. Umadevi). He further submitted that their office has taken up the case on the issues in respect of Shri C.P. Bahuleyan after the reports from local mental asylum/NIMHANS Bangalore. The Respondent further submitted that the request pertaining to granting family pension is in progress and their office is doing its best for speedy disposal of the case at the earliest.

5. The complainant vide his rejoinder dated 08.11.2017 submitted that the statement of the Respondent that they availed one year period for a study to find out when and how the disease was affected to Shri C.P Bahuleyan has ridiculously exposed their attitude towards a person with disability. The complainant had requested this Court to settle the re-grant of family pension claim w.e.f. 13.08.1994 to Shri C.P. Bahuleyan by fixing the responsibility and time frame for its implementation.

6. After considering Respondent's reply dated 13.10.2017 and Complainant's rejoinder dated 08.11.2017, a personal hearing was fixed on 04.07.2018 which was later re-scheduled to 18.07.2018 vide this Court's letter dated 26.06.2018.
7. During the hearing the Complainant reiterated his earlier submissions in his initial Complaint as submitted in para 2 of this Order.
8. During the hearing the representative of Respondent submitted that they are in the process of finding out the genuineness of the Disability of Complainant's brother issued by NIMHANS. Also to take the submission made by them in their reply to the court earlier. He submitted that Shri C.P. Bahuleyan, the elder son of the deceased was offered a job on compassionate appointment in erstwhile DOT, but he refused the job due to fear psychosis. As a substitute, the younger brother of Shri C.P. Bahuleyan and the present complainant was appointed in the Department of Telecom on compassionate ground. Also Late V.P. Balakrishna Menon, husband of deceased staff Smt. Sarada was offered family pension. Shri C.P. Bahuleyan, is a third member seeking family pension after two dependents, i.e late V.P. Balakrishna Menon upto 04.09.1989 and Smt. C.P. Umadevi/Shri C.P. Sasidharan (Twins) till 12.08.1994( i.e. till marriage of Smt. C.P. Umadevi).
9. The Court advised the Respondent to complete the required formalities in disbursing pension to the complainant's brother, Shri C.P. Bahuleyan effective from the date of submission of the Disability Certificate within three months from the date of issuance of this Order. The compliance report of the same to be submitted to the Court.
10. The case is disposed off accordingly.

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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

केस सं. 7490 / 1023 / 2017

दिनांक: 28 .09.2018

के मामले में:-

श्रीमती नीलम

क्वार्टर नं. 226, एबीसी न्यू कॉलोनी

खगौल, पटना-801105

-वादी

बनाम

पूर्व मध्य रेल

(द्वारा : मंडल रेल प्रबन्धक-संकेत एवं दूरसंचार)

दानापुर मंडल, दानापुर

बिहार

-प्रतिवादी

सुनवाई की तिथि: 09.08.2018

उपस्थित -

श्रीमती नीलम कुमारी - स्वयं, वादी की ओर से

श्री राजेश कुमार कुशवाहा, वरिष्ठ डीएसटीइ - प्रतिवादी की ओर से

श्री धर्मेन्द्र कुमार, जेड/एसआइजी - प्रतिवादी की ओर से

### आदेश

श्रीमती नीलम कुमारी, 50 प्रतिशत अस्थि दिव्यांग ने उनके वरिष्ठ अधिकारियों द्वारा उत्पीड़न किये जाने से संबंधित शिकायत दिनांक 11.01.2017 निःशक्त व्यक्ति(समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995 जिसे इसके बाद अधिनियम कहा जाएगा, के अंतर्गत इस न्यायालय में दायर की ।

2. मामले को अधिनियम की धारा 59 के अंतर्गत न्यायालय के पत्र दिनांक 27.02.2017 द्वारा प्रतिवादी के साथ उठाया गया ।

3. मं0रे0प्र0(सि0एवंदूर0)दानापुर ने पत्र सं0 शून्य दिनांक शून्य द्वारा न्यायालय को निम्नानुसार अवगत करवाया :-

- I. कर्मचारी द्वारा उत्पीड़न किये जाने का आरोप सर्वथा निराधार है। श्रीमती नीलम को कार्यालय में किसी प्रकार से प्रताड़ित नहीं किया जाता है।
- II. दिनांक 14.09.2016 को कर्मचारी के कार्य व्यवहार पर प्राप्त टिप्पणी के आलोक में संसिदूर्ई/दानापुर द्वारा जाँच करायी गयी ।
- III. जाँच के क्रम में श्रीमती नीलम द्वारा अपनी विकलांगता के कारण मंडल रेल प्रबंधक कार्यालय के फ्लोर पर चलने में अपनी असमर्थता जाहिर की थी।
- IV. श्रीमती नीलम द्वारा यह स्वीकार किया गया था, कि प्रथम तल स्थित सिग्नल एवं दूर संचार कार्यालय के टाइल्स लगे फ्लोर पर उन्हें आने जाने में अत्यन्त कठिनाई होती है एवं एक सहायक आकर प्रतिदिन कार्यालय में पहुँचाता है।
- V. सभी तथ्यों के मद्देनजर रखते हुए संसिदूर्ई ने अपना रिपोर्ट पेश किया।
- VI. कर्मचारी के विकलांगता के मद्देनजर इनका स्थानांतरण कार्यालय के नीचे स्थित कार्यालय में किया गया ताकि कर्मचारी बिना किसी परेशानी के कार्यालय में अपनी ड्यूटी कर सकें ।

- VII. स्थानांतरण के उपरान्त कर्मचारी ने पुनः आदेश की अवहेलना करते हुए उपर स्थान पर अपना कार्य करते रहने की मंशा की जो उसके कथनानुसार अत्यन्त कष्टदायी हैं।
  - VIII. यहाँ के कर्मचारी के विकलांगता को कभी भी नजर अंदाज नहीं किया गया है, एवं उस पर यथासंभव सहायता करने की कोशिश की जा रही है।
  - IX. कर्मचारी विगत 20 वर्षों से इसी कार्यालय में कार्यरत है, अतः कर्मचारी का स्थानांतरण उनकी परेशानियों को ध्यान में रखकर सुविधानुसार दानापुर में ही किया गया जहाँ कर्मचारी को आने-जाने की सुविधा है।
  - X. इसके बावजूद यदि कर्मचारी को यदि किसी अन्य स्थान पर सुविधापूर्वक कार्य कर सकती है, तो उनके आवेदन पर विचार किया जायेगा।
4. वादी ने प्रतिवादी के उपरोक्त उत्तर के प्रतिउत्तर में अपने रिज्वाइन्डर दिनांक 15.06.2017 द्वारा न्यायालय को निम्नानुसार अवगत करवाया :-
- I. एक वाक्य में यह कहकर पल्ला झाड़ लेना कि कार्यालय में उन्हें प्रताड़ित नहीं किया जाता, सर्वथा अनुचित है।
  - II. जो जांच कराई गयी थी, वह पूर्वाग्रह से ग्रसित थी और कार्यालय के वरीय कर्मचारियों जो तटस्थ हैं, उनकी अनदेखी कर रिपोर्ट तैयार की गयी है।
  - III. मेरी विकलांगता और टाइल्स पर चलने की असमर्थता एक अलग मुद्दा है। इसमें बेवजह जोड़ा जा रहा है। अपना पक्ष मजबूत करने के लिए उनका स्थानांतरण टाइल्स के कारण एवं अधूरी जांच रिपोर्ट के आधार पर की गयी है।
  - IV. यदि उनके हितों का ध्यान रखा जाता तो उनके निजी अनुरोध के आधार पर स्थानांतरण निरस्त किया जाना और पुनः उसके बाद मुख्य कार्यालय अधीक्षक का नोट स्पष्ट पूर्वाग्रह को दर्शाता है। जिसमें उन्होंने दूसरे स्थानांतरण आदेश के खिलाफ टिप्पणी दी है।
  - V. ऐसे कई मुद्दे एवं वाक्या कार्यालय में होते हैं, उन सभी की जांच नहीं कराई जाती आखिर क्यों ?
  - VI. 6 एवं 7 पूर्व के स्थानांतरण को निरस्त करते हुए उनके अनुरोध पर पूर्ववत कार्यवत कार्य करने का कार्यालय आदेश जारी किया गया है। परन्तु उन्हें पूर्ववत स्थान पर योगदान नहीं देने दिया गया।
  - VII. उनके पूर्व के प्रतिवेदन का अवलोकन किया जाये, जिससे स्पष्ट हो जायेगा कि किस तरह का व्यवहार एक विकलांग के साथ किया जाता है; और उन आरोपों पर अबतक कोई जांच क्यों नहीं कराई गयी?
  - VIII. यदि उनकी परेशानियों एवं सुविधा का ध्यान रखा जाता तो उन्हें कार्य करने या हाजिरी बनाने से रोका नहीं जाता। उनका मात्र दो साल का जुड़वा बच्चा है। बच्चे की तबियत ठीक नहीं थी; जिसके कारण वह दिनांक 12.02.2017 से 26.05.2017 तक का चाइल्ड केयर लीव का आवेदन निबंधित डाक के द्वारा दिनांक 16.02.2017 को भेज चुकी है, फिर भी मार्च/17 से अभी तक वेतन नहीं मिला है।
  - IX. उनकी दिव्यांगता के प्रति इनकी क्या सोच है, वह नहीं जानती है। परन्तु इस तरह कनीय कर्मचारियों एवं दो वरीय कर्मचारी श्री सत्येन्द्र कुमार एवं श्रीमती नीलम कुमारी सिन्हा/मु.का. अधि. जो किसी कारणों से उनसे क्षुब्ध हैं। इनका बयान लेकर उनके विरुद्ध रिपोर्ट पेश करना, उन्हें प्रताड़ित करने की मंशा जाहिर करती है। श्रीमती नीलम कुमारी सिन्हा एवं श्री सत्येन्द्र कुमार जिस कारण से क्षुब्ध हैं, निम्न है:-

श्री सत्येन्द्र कुमार/मु.का.अधि. :- ये पहले खलासी थे, अब ये मु.का.अधि. हो गए हैं। ये जहाँ भी रहते हैं, वहाँ आतंक फैलाये रहते हैं। लगभग दो वर्ष पहले इनका स्थानांतरण व.अनु.अभि. /टेली/दानापुर में हुआ था। जब इस बात की जानकारी वहाँ पर कार्यरत सभी कर्मचारियों को हुई तो सभी ने शाखा अधिकारी के पास जाकर विरोध किया कि वे श्री सत्येन्द्र कुमार के साथ काम नहीं करेंगे। उसके बाद श्री सत्येन्द्र कुमार को Sr. DSTE/OFFICE में रख लिया गया। तब से यहाँ भी इन्होंने खुराफात शुरू कर दिया। जब से ये मु.का.अधि. हुए हैं, इनका मनोबल बहुत बढ़ गया है। इनके बयान में लिखा गया है कि मुझे डिस्पैच दिया गया है; वह अपना कार्य श्री अर्जुन प्रसाद हेल्पर से करवाती है। डिस्पैच देने के लिए क्या उन्होंने श्री सत्येन्द्र कुमार से आग्रह किया था। उन्हें क्यों डिस्पैच दिया गया? उनसे पहले श्रीमती नीलम कुमारी सिन्हा/मु.का.अधि. डिस्पैच करती थी; क्या उस समय श्री अर्जुन प्रसाद से डिस्पैच नहीं कराया जाता था। इस बात के लिए वह कई बार शाखा अधिकारी से आग्रह कर चुकी है कि उन्हें कुछ और काम दिया जाये। डिस्पैच तो एक चतुर्थ वर्गीय कर्मचारी भी कर सकता है। उन्हें उनके अधिकार से वंचित करने की मंशा से श्री उमेश कुमार ने उन्हें डिस्पैच दिलवाया था।

श्रीमती नीलम कुमारी सिन्हा/मु.का.अधि. का क्षुब्ध होने का कारण है कि भारतीय रेल में किसी भी कर्मचारी को नियुक्ति के पांच साल के बाद तीन सेट पूरा सुविधा पास जारी किया जाता है। श्रीमती नीलम कुमारी सिन्हा ने 2005 में अपने नाम पर प्रथम श्रेणी का पांच सेट पूरा सुविधा पास जारी कर उपभोग कर चुकी थी। इस बात की सूचना जब मो.के. खान, व. अनु.अभि./टेली/दानापुर को मिली तो उन्होंने श्रीमती नीलम कुमारी सिन्हा से पास के संबंध में पूछताछ किया तो श्रीमती नीलम सिन्हा ने चिल्लाकर कहा कि ज्यादा पूछताछ करोगे तो साड़ी फाड़ कर केस कर देंगी। श्रीमती नीलम कुमारी सिन्हा अपने स्वार्थ के लिए किसी भी हद तक जा सकती है। इसके विरुद्ध अनुशासनिक कार्रवाई वह देख रही थी। श्रीमती नीलम कुमारी सिन्हा मुझे बार-बार दबाव देती थी कि उनका केस फाइल धीरे से हटा दो नहीं तो तुमसे मैं वरीय हूँ; फिर समझ लेना कोई चाहकर भी नहीं बचा पायेगा। आखिर में मं.सिग. एवं दू.सं.अभि. के कक्ष से उस फाइल को गायब कर के ही शांत हुई। श्रीमती नीलम कुमारी सिन्हा, श्री सत्येन्द्र कुमार एवं श्री उमेश कुमार का एक ग्रुप है। इन लोगों का बस यही काम है कि कोई इनके मन मुताबिक काम नहीं किया तो उसके विरुद्ध नौ-दस कर्मचारियों का गवाही बनाकर शाखा अधिकारी के पास जाकर शिकायत करके कर्मचारियों का स्थानांतरण करा देना। श्रीमती नीलम कुमारी सिन्हा पर श्री उमेश कुमार का दया दृष्टि बना रहता है क्योंकि इनका कार्यालय आने-जाने का निश्चित समय नहीं है। सुबह में 11 बजे से पहले नहीं आती है; दोपहर में खाने जाती है तो 4.30 बजे के बाद आती है। जब मन करता है ऑफिस से घर चली जाती है।

श्री उमेश कुमार/मु.का.अधि. को उनकी सुविधा का ख्याल अचानक कैसे आ गया, ये वह समझ नहीं पा रही हैं। इन्होंने ही प्रशासन को भ्रमित कर ये सारा खेल रचा है। श्री उमेश कुमार ने जांच के दौरान कहा है 2015 का राजभाषा दिवस समारोह में श्रीमती नीलम कुमारी के द्वारा प्रस्तुति दिया गया था। क्योंकि 2015 में दिनांक 14.09.2015 से 15.09.2015 तक अर्जित अवकाश में थी। ऐसे ही झूठ बोल-बोल कर अधिकारियों को भ्रमित करके आज उनको वेतन भी बंद करवा दिए। इस तरह की कई घटना इस कार्यालय में हुई है; परन्तु आजतक जांच नहीं हुई है। श्री उमेश कुमार के द्वारा श्री डी.के. श्रीवास्तव कार्यालय अधीक्षक

को कार्यालय से निकलने और मारने की धमकी दी गयी; इसकी जांच प्रशासन द्वारा क्यों नहीं कराई गयी ।

5. महाप्रबन्धक(कार्मिक), पूर्व मध्य रेल/हाजीपुर ने पत्र सं०-ईसीआर/एचआरडी/कल्याण/जॉच/नीलम कुमारी दिनांक 15.05.2018 द्वारा मामले में की गयी जॉच रिपोर्ट तथा उससे सम्बन्धित दस्तावेज तथा संबंधित कर्मचारियों द्वारा लिया गया ब्यान की प्रति न्यायालय में आगे की कार्रवाई हेतु निम्न संलग्न की:-

श्रीमती नीलम कुमारी, 50 प्रतिशत अस्थिदिव्यांग की उनके वरिष्ठ अधिकारी द्वारा उत्पीड़न किये जाने से संबंधित शिकायत दिनांक 11.01.2017 की जॉच रिपोर्ट- श्रीमती नीलम कुमारी, कार्यालय अधीक्षक, संकेत एवं दूरसंचार विभाग दानापुर मण्डल ने दिनांक 11.01.2017 को माननीय सामाजिक न्याय एवं अधिकारिता मंत्रालय भारत सरकार को शिकायत दर्ज की गई थी जिसमें उल्लेख किया गया था कि एक दिव्यांग महिला पर उनके विभाग के मुख्य कार्यालय अधीक्षक, श्री उमेश कुमार तथा श्री सतेन्द्र कुमार द्वारा प्रताड़ित किया जा रहा है। इस संबंध में विकलांगजन सशक्तिकरण विभाग ने मंडल रेल प्रबंधक, संकेत एवं दूरसंचार दानापुर मंडल को उसकी शिकायत के संबंध को जॉच कर के उसका एक विस्तृत रिपोर्ट भेजने की सलाह दी । इस संबंध में माननीय मुख्य आयुक्त विकलांगजन को मंडल दूरसंचार इंजीनियर ने उनके शिकायत के संबंध में रिपोर्ट दिनांक 06.04.2017 को भेजी थी जिसमें उल्लेखित किया गया कि श्रीमती नीलम कुमारी के साथ कोई उत्पीड़न नहीं किया जा रहा है। माननीय न्यायालय के पत्र दिनांक 31.08.2017 के आलोक में श्री उमेश कुमार, मुख्य कार्यालय अधीक्षक, श्री सतेन्द्र कुमार, मुख्य कार्यालय अधीक्षक, श्रीमती नीलम कुमारी सिन्हा, मुख्य कार्यालय अधीक्षक, श्रीमती नीलम कुमारी, कार्यालय अधीक्षक तथा श्री डी.के. श्रीवास्तव, कार्यालय अधीक्षक के ब्यान लिये गये साथ ही साथ आवेदिका का भी ब्यान लिया गया । कर्मचारियों के बयानों को मध्यनजर रखते हुए श्रीमती नीलम कुमारी द्वारा लगाया गया आरोप निराधार एवं अनुचित प्रतीत होता है।

6. सभी पक्षों के दस्तावेजों के अवलोकन उपरान्त मामले में दिनांक 09.08.2018 को एक व्यक्तिगत सुनवाई निर्धारित की गयी।

7. सुनवाई के दौरान वादी ने न्यायालय को ब्यान दिया कि उनके वरिष्ठ अधिकारी ने उन्हें राजभाषा प्रदर्शनी में फाईल लेकर जाने के लिए कहा लेकिन चूंकि वह अस्थि दिव्यांग है इसलिए उन्होंने ऐसा करने से मना कर दिया । उनकी दिव्यांगता पर फर्किया कसी जाती है । चार्ज्ड केयर लीव के बाद उपस्थिति काट दी गयी तथा लगातार उपस्थित होने के बावजूद हाजिरी नहीं लगा पा रही है। उपरोक्त के संबंध में जब जांच की गयी तो चतुर्थ कर्मचारियों के ब्यान लेकर उनका अन्य स्थान पर स्थानांतरण कर दिया गया तथा तीन महीने का वेतन काट लिया गया ।

8. दूसरी तरफ सुनवाई के दौरान प्रतिवादी ने ब्यान दिया कि वादी ने टाईल बदलवाने का अनुरोध किया था जिसके एवज में उनका स्थानांतरण उपयुक्त स्थल पर कर दिया गया । उन्होंने यह भी आश्वासन दिया कि यदि वादी को अभी भी कोई परेशानी है तो वह बताएं उसका कार्यालय द्वारा तुरन्त निपटान किया जायेगा ।

9. उपरोक्त सुनवाई उपरान्त ज्ञात होता है कि मामले में दिव्यांगजन अधिकार अधिनियम, 2016 के किसी प्रावधान को कोई उल्लंघन प्रतीत नहीं होता है, मामले को इस आदेश के साथ बन्द किया जाता है कि प्रतिवादी भविष्य में दिव्यांगजन के प्रति संवेदनशील व्यवहार का प्रदर्शन करें तथा

नियमानुसार उन्हें सभी सुविधाएं प्रदान की जाएं । वादी को भी सलाह दी जाती है कि अपने वरिष्ठ अधिकारियों की आज्ञा का पालन करें और अनावश्यक गतिविधियों से दूर रहें ।

(डा. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त दिव्यांगजन



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

### COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No: 9189/1023/2018

Dated : 28.9.2018

Dispatch No. ....

In the matter of :

Shri Ajit Prasad,  
Anugrah,  
Pookkodu (PO),  
Thalassery,  
Dist. : Kannur,  
Kerala – 670 691  
Email<ajithprasadpk@gmail.com>  
Email<profhaymp@gmail.com>

..... Complainant

Versus

Southern Railway,  
(Through the General Manager),  
Park Town,  
Chennai,  
Tamil Nadu – 600 003

..... Respondent

Date of Hearing : 11.07.2018

Present :

1. Complainant – Absent.
2. Respondent – Absent.

### ORDER

The above named complainant, a person with 40% locomotor disability had filed a complaint dated 18.01.2018 under the Rights of Persons with Disabilities Act, 2016, against losing job and salary while serving under Palghat Division of Southern Railway.

2. The Complainant submitted that he was suffering from severe back pain and acquired permanent disability. He submitted that he obtained the permanent Disability Certificate on 08.11.2017 and submitted the same to his establishment on 21.11.2017. Despite submission of his Disability Certificate, he lost his salary and job for more than since two months.

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 19.01.2018.

4. The Dy. Chief Personnel Officer/Tfc vide letter no. P(S)676/II/SM/MP/MR/2017(Vol I) Pt. dated 28.03.2018 submitted that the Complainant had reported 'sick' in the Railway Hospital on 11.09.2017 and he was yet to be declared 'fit' by the Railway Medical authorities for duty. In the



absence of 'Fit' certificate, the complainant could not be taken for duty which involved public safety. The complainant was paid salary up to 06.11.2017 based on the availability of leave in his credit. As the leave balance was nil, salary cannot be claimed as per Rules. However, Palghat Division had advised the employee on 12.12.2017 on the procedure for making a request for sanction of 'Leave Not Due' so that atleast 50% of the pay can be claimed in respect of the Complainant, but the complainant has not responded till date with request as advised. The Respondent submitted that the complainant is neither a person with disability nor has been medically decategorised or holding safety category post with respect to vision acuity. The action taken by the Railway Administration is as per the laid down rules on the subject and there is no discrimination against the complainant as alleged especially with reference to the RPD Act.

5. The Complainant vide his letter dated 17.02.2018 submitted that after acquiring disability while in service, he obtained Permanent Disability Certificate on 08.11.2017 and submitted the same to his Medical superior on 21.11.2017, but he was kept on jobless and without salary until now by the Palghat Division of Railway management. He brought to the notice of DRM/PGT but his efforts went in vain. He was totally upset, mentally as well as physically. He submitted that the sick leave started from 11.09.2017. When he was sent to the S. Rly. HQ Hospital for thorough check up, he had been instructed to pick up light job for two months on two occasions, but this instruction was blindly refused by PGT Division Superiors quoting there was no place to accommodate him. He submitted that the Disability Certificate dated 08.11.2017 is a permanent one. He once again reiterated that he is without salary w.e.f. 07.11.2017. The Complainant vide his rejoinder dated 16.05.2018 has submitted that though he was on sick leave from 11.09.2017, but it was treated as leave after 11.10.2017 following the compulsion of Chief Medical Supdt/Palghat. He submitted that he had informed the management well in advance that he had no leave to his credit which had elapsed due to chronic back pain. The management gave a deaf ear to his version following which his salary for three months were withheld (from 07.11.2017). He submitted that his main grievance is regarding non acceptance of his Disability Certificate dated 08.11.2017 by the management of Southern Railway.

6. And whereas, after considering Respondent's reply dated 28.03.2018 and Complainant's letters dated 17.02.2018 and 16.05.2018 a personal hearing was scheduled on 11.07.2018.

7. Neither the Complainant nor any representative of Respondent was present during the hearing.

8. The Complainant vide his email dated 07.06.2018 submitted his written submissions dated 06.07.2018. He submitted that due to his physical fatigueness following his ongoing disease, Lumbar Spondylosis with Radiculopathy with other complications, he is unable to carry out a strenuous journey to New Delhi and back to appear before the Hon'ble Court for hearing scheduled on 11.07.2018. Hence he is submitting his written submissions. He submitted that despite submitting a copy of his Disability Certificate to the Divisional and Zonal Superiors like Sr. DPO, Sr. DOM, Chief Medical Supdt, DRM, Chief Medical Director/Chennai and GM/S. Rly six months ago, no action has been taken so far by any of them to accept his nationwide valid Disability Certificate and he was also not being given any Disability benefits till date. He submitted that the Palghat Railway Division authorities have neglected and violated the Disability Rules which is a great offence. Apart from this, the Respondent has been resorting to harassment, intimidation and discrimination of the Complainant in every possible manner. They have curtailed his source of livelihood for many months and has forced the employee and his family to suffer all types of hardship to lead an infernal life. They are even deliberately fabricating allegations against the Complainant. He was forced to appear before a Medical Board at Rly Hospital, Palghat on 28.02.2018. After the examination, he was advised to go for advanced treatment for early recovery including the option of surgical treatment at Perambur Hospital, but he preferred non surgical treatment outside the Railway Hospital. He has been undergoing treatment from Dr. Shantaram Shetty of Tejaswini Hospital, Mangalore since March 2018. He submitted that every treatment details have been informed to the DMO/Rly Health Unit/Kannur. He submitted that a permanent Disability Certificate holder need not be subjected to for further medical examination. The Complainant prayed that he may be declared to be eligible for all the rights and protection under the Disability Act and arrange to transfer all benefits attached thereon with retrospective effect, i.e. 08.11.2017.

9. The Respondent vide his email dated 10.07.2018 has submitted that the subject matter is sub-judice before the Hon'ble Central Administrative Tribunal in OA No. 81/2018 file by the Complainant. They further submitted that Section 14 of the Administrative Tribunal Act, 1985 stipulates that no other Court, except the Hon'ble Supreme Court of India, has jurisdiction over a service matter. They submitted that the Complainant was working as Station Superintendent, Mahe, Palakkad Division, Southern Railway. He had earlier requested to the Senior Divisional Personnel Officer vide his letter dated 12.09.2017 that he suffered from injury way back in 1993 and due to which the current health complication has arisen and sought to treat the excess number of leave days that goes beyond leave to his credit may be treated as Leave Not Due (LND) and salary may be paid to him. He was advised vide their Office letter No. J/P.721/S&WI/EDVR dated 12.12.2017 that he may submit LND application in proper format. The Complainant did not submit

any LND application instead filed OA No.81/2018 before the Hon'ble Central Administrative Tribunal, Ernakulam Bench seeking to declare that he is entitled to be treated as a 'Persons with Bench mark Disability' and placed on a Supernumerary post with all attendant benefits with effect from 11.09.2017 or 10.10.2017 or 08.11.2017 as deemed fit by the Hon'ble Tribunal and direct the respondents to consider the Complainant for an alternate appointment as Office Superintendent against ten posts notified under Annexure A-11. They submitted that the diagnosis of the present problem of the Complainant as Lumbar Disc disease by the Railway doctors as Lumbar IVDP with Bilateral Radiculopathy mentioned in the certificate vide Annexure A-1 to the OA is almost same condition. The Complainant reported to the Divisional Medical Officer/Health Unit/Kannur (DMO/HU/CAN) with a medical certificate issued by an outside Medical Board and based on the certificate produced by the applicant, DMO/RH/CAN had directed the applicant to Headquarters Railway Hospital, Perambur (RH/PER) where he was examined and was recommended for light duty. The Railway Administration has offered the Complainant/applicant, posting in stations between Palakkad Town and Pollachi, a branch line section where only 4 pair of trains is operated for a period of 24 hours, but he declined and chose to continue in sick list. The Respondent submitted that the Railway Administration cannot rely on a private medical certificate or any disability certificate to declare an employee as fit or not fit in a particular medical classification and recommend for alternate employment. The Complainant was recommended light job by the Railway Doctor for time being for the purpose of further evaluation of his medical condition after a time period. This period was intended for the purpose of recuperation/treatment and upon later evaluation, if necessary, his case would be recommended for a Medical Board for assessment and further recommendation for medical de-categorization for alternate employment. The Complainant was under sick list from 06.11.2017 and continues to be so and had exhausted the leave on Average Pay (LAP) and Leave on Half Average Pay (LHAP) to his credit and the period of absence from duty due to being kept on sick list was taken as Sick Extra Ordinary Leave for which salary is not admissible. The Railway Administration has advised the applicant to submit Leave Not Due (LND) application in proper format to allow him to draw salary to the extent admissible, but despite seeking to grant LND initially, the applicant refused to submit LND application. In view of the fact that he had not applied for Leave not Due despite advise to do so, salary could not have been paid to him for the period of non working as principle of 'no work no pay' is applicable in his case. There is no salary due towards the applicant as he had not worked for the wage period nor any leave credit to his account. However, in compliance of the directions of the Hon'ble Tribunal, the Railway Administration had paid salary to the Complainant for the month of February 2018 to April 2018. In compliance of the interim order dated 19.02.2018 of the Hon'ble Tribunal the Complainant was assessed for his physical fitness by the Railway Medical Board on 28.02.2018 and the standing Medical Board with Co-opted member Dr. R. Giridharlal Narayan, Senior Divisional Medical Officer,

Railway Hospital, Perambur. The Standing Medical Board had observed that the applicant's neurological deficit is likely to progress further if not interfered surgically and the possible improvement with surgical treatment was offered to the Complainant. The Respondent submitted that the Complainant is not co-operating with the Railway Administration either to treat his condition or subject himself for medical evaluation to ascertain his medical fitness and further recommendation for suitable alternate employment. The Complainant was further advised vide letter dated 22.06.2018 to subject himself before the Medical Board on 04.07.2018 and the Complainant's fitness was assessed and a report on the same is awaited.

10. The case is disposed off under Section 38 (4) of the Rights of Persons with Disabilities Act, 2016.



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



सत्यमेव जयते

## न्यायालय मुख्य आयुक्त दिव्यांगजन

### COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

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

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

भारत सरकार/Government of India

Case No: 7429/1024/2017

Dated : 28.9.2018

Dispatch No. ....

In the matter of :

Ms. Geetaben Kantilal Lal,  
Padhariya Railway Colony,  
No.294-A,  
Padhariya,  
Anand - 388 001.

R-11362

.....Complainant

**Versus**

The General Manager,  
Western Railway Head Quarter,  
Old Building,  
Churchgate,  
Mumbai

R-11363

....Respondent

Date of Hearing : 18.07.2018

**Present : 1) Complainant - Absent  
2) Respondent - Absent**

### ORDER

The above named complainant, a person with 60% locomotor disability had filed a complaint under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, against not getting family pension after the death of her father Shri Kantilal Lal.

2. Smt. Geetabhen Kantilal Lal submitted that she is an unmarried daughter of Late Shri Kantilal Lal, a Railway Pensioner. She submitted all the required documents to the Divisional Manager, Western Railway for releasing family pension to her. But even after a lapse of one year, she was not sanctioned the pension.

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 13.12.2017.

4. The General Manager(E) Western Railway vide his reply dated E(S)1054/BRC/Chief Commissioner/2017 dated 08.01.2018 submitted that Late Shri Kantilal Lal, the father of the complainant retired on 30.09.2002. He submitted that a letter bringing out the discrepancies regarding surname of her father in various documents was intimated to her on 31.01.2017, but

....2/-

said letter was undelivered though it was sent at the address given by the complainant. He submitted that till dated the complainant has not submitted the requisite documents in the BRC Divisional Office. Therefore, he submitted for want of requisite documents and clearance about the discrepancies, grant of family pension to the complainant cannot be processed by them. However, they have deputed a Welfare Inspector to inquire the matter and submit the report. .

5. The complainant vide her rejoinder dated 29.03.2018 submitted she submitted all the required documents to the Divisional Office BRC on 18.01.2018, but the perhaps their office might have misplaced her documents.

6. After considering Respondent's reply dated 08.01.2018 and Complainant's rejoinder dated 29.03.2018 a personal hearing was scheduled on 18.07.2018.

7. During the hearing neither the Complainant nor any representative of Respondent were present.

8. The case is disposed off without any direction under Section 38 (4) of the Rights of Persons with Disabilities Act, 2016.



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