



न्यायालय मुख्य आयुक्त निःशक्तजन
Court of Chief Commissioner for Persons with Disabilities
सामाजिक न्याय एवं अधिकारिता मंत्रालय
Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No. 1/1015/13-14

Dated:- 20.08.2014

Shri Mahipal Kumar,
Son of Shri Ashok Prasad,
Village & P.O. – Sarmera,
District –Nalanda,
Bihar – 811 104

.... Complainant

Versus

Railway Recruitment Cell,
North-Western Railway,
(Through Personnel Officer (Rectt. & Station),
Durgapur Railway Station,
Jaipur (Rajasthan)

... Respondent No. 1

Office of the Civil Surgeon,
Through Medical Superintendent-
Cum-Chief Medical Officer,
Nalanda, Bihar Shariff (Bihar)

.... Respondent No. 2

Date of hearing :- 13.08.2014

Present :

1. Shri Mahipal Kumar, complainant.
2. Shri J.N. Meena, Asstt. Personnel Officer, on behalf of the respondent.

O R D E R

The above named complainant, a person with 45 percent locomotor disability filed a complaint dated nil which was received in this Court on 13.05.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding recruitment of Group 'D' staff in North-Western Railway.

2. The complainant inter-alia submitted that he was called by Railway Recruitment Cell, Jaipur on dated 24.09.2012 at Durgapur for verification of papers for the post of Group 'D' in North-Western Railway. The verification of all the papers was done according to law but after verification, he has not received any information in this connection so far.

3. The matter was taken up under section 59 of the Act with the respondent vide letter dated 16.05.2013.

.....2/-

4. In response, the respondent vide letter No.740E/RRC/GP1800/PH/3695/2013 dated 12.06.2013 submitted that the complainant Shri Mahipal Kumar, Control No.36004386 and Roll No.34300442 in locomotor disability category (OH) was called on 24.09.2012 for verification of documents. During the verification of documents, it was found that in the Disability Certificate attached with his application form, no designation and seal of the members of the Medical Board is available. Therefore, on the basis of non-availability of the legal Disability Certificate, the candidature of the candidate was cancelled.

5. Civil Surgeon, Office of the Civil Surgeon-cum-Chief Medical Officer, Nalanda, Bihar Shariff vide this Court's letter dated 31.07.2013 enclosing therewith a copy of the Disability Certificate of the complainant was requested to make available the verification report of the disability certificate within 20 days from the receipt of the letter.

6. Deputy Superintendent, Sadar Hospital, Bihar Shariff, Nalanda vide letter No.558 dated 19.08.2013 submitted that the Disability Certificate No.1055 dated 30.11.2006 issued to the complainant was compared with the record available in their office and was found correct.

7. A copy of the reply dated 19.08.2013 received from the Deputy Superintendent, Sadar Hospital, Bihar Shariff, Nalanda was forwarded to the complainant vide this Court's letter dated 15.11.2013 for his comments/rejoinder.

8. The complainant vide rejoinder dated 29.11.2013 submitted that he is fully satisfied with the reply given by the Deputy Superintendent, Sadar Hospital, Bihar Shariff Nalanad and prayed for issue of his appointment letter by the Railway Recruitment Cell.

9. Upon considering the reply dated 12.06.2013, 10.03.2014 and the reply dated 19.08.2013 of the Deputy Superintendent, Sadar Hospital Bihar Shariff, Nalanda and rejoinder dated 29.11.2013 of the complainant, a hearing was scheduled on 13.08.2014.

10. During the hearing on 13.08.2014, reiterating his written submissions the complainant highlighted the fact that he was not issued appointment letter despite being selected nor was any reason furnished to him for not issuing appointment letter to him until after he filed the instant complaint. He further added that initially, he was asked to appear before a Medical Board 5 days after the documents were verified. He stated that he went accordingly to appear before the Medical Board but he was told that it will take six months time for Medical Board to sit. The complainant contended that he waited for more than six months and yet no appointment letter was issued to him. He also clarified that he came to know about the objection the respondent had in respect of his Disability Certificate, only after he filed the complaint with this Court. This explains why the complainant prayed that appointment letter be issued to him.

11. Referring to their written submissions, the representative of the respondent No.1 stated that para 10 of the O.M. No.36035/3/2004-Estt (Res) dated 29.12.2005 of the Department of Personnel & Training clearly states that the Medical Board should comprise, among others, a Specialist belonging to the category of disability to which the candidate with disability belongs and that the certificate submitted by the complainant does not indicate this clearly. He also pointed out that the Disability Certificate submitted by the complainant does not carry the seal of said Specialist.

12. On examination of the Medical Certificate and other related and relevant documents available on record with this Court, it is found that the certificate bears the seal and signature of the Civil Surgeon, Nalanda, who chaired the Medical Board. It also bears the signatures of other two members though it does not bear their respective seals. It is also pertinent to mention here that in response to letter of even number dated 31.07.2013 of this Court, the Disability Certificate issuing authority vide their letter No..558 dated 19.08.2013 has stated as follows:-

“That the Disability Certificate No.1055 dated 30.11.2006 issued to the complainant was compared with the record available in their office and was found correct.”

13. After hearing out both the parties and after a careful perusal of the relevant available records, it is apparent that the candidature of the complainant was rejected on flimsy and untenable grounds. The respondent did not bother to cross-check with the Disability Certificate issuing authority in respect of the complainant regarding its authenticity. If the respondent had any doubt about its genuineness to reject the candidature of the candidate with disability on such flimsy ground it is palpably untenable and the respondent could have cross-checked the genuineness/authenticity of the Disability Certificate as stated above. Such cross-checking should have convinced the respondent that there has been no substantive violation of Para 10 of the O.M. No. 36035/3/2004-Estt (Res) dated 29.12.2005 of the Department of Personnel & Training and minor procedural gaps such as absence of seals of two member Doctors, and absence of explicit indication of the specialist belonging to the related category of disability could have been correct.

14.. In the above view of the matter, the respondent No.1 is hereby directed to issue appointment letter to the complainant subject to his fulfilling of other requisite eligibility criteria within 45 days from the date of receipt of this order. The respondent no.1 is further directed not to reject candidature of candidates with disability on such flimsy grounds and cross-check the authenticity/genuineness of the Disability Certificate in the event of any doubt before resorting to such blanket rejection of candidature. It would also be appropriate for this Court to further direct the respondent no.1 to treat other similar cases, if any, in the light of this; and, to compute the backlog of reserved vacancies for persons with disabilities w.e.f. 1996 and draw up and implement a time bound plan to fill up such reserved backlog of vacancies.

15. The matter is disposed off with the above directions.

Sd/-

(P.K. Pincha)
Chief Commissioner
for Persons with Disabilities

