



सत्यमेव जयते

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

Case No.: 1097/1021/2014

Dated: 29.08.2017
Dispatch No.....

In the matter of :

Shri N. Shanmugam,
General Secretary,
Defence Disabled Employee's Welfare Association,
HAPF-Tiruchirappalli,
1/822, Meha Illam,
Happy Nagar,
Palanganangudi Road,
HAPF Post, Trichy,
Tamil Nadu – 620 025

..... Complainant

Versus

Heavy Alloy Penetrator Project,
(Through General Manager)
HAPF Township,
P.O. Tiruchirappalli,
Tamil Nadu – 620 025

..... Respondent

Date of Hearing : 03.07.2017, 23.02.2017 & 23.11.2016.

Present :

1. Shri N. Shanmugam, complainant along with Shri N.D. Manian and Shri M. Raja.
2. Respondent – Absent.

ORDER

Shri N. Shanmugam, General Secretary, Defence Disabled Employee's Welfare Association filed a complaint dated 21.02.2014 before the Court of the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as Act regarding non implementation of 3% reservation in promotion for persons with disabilities in Heavy Alloy Penetrator Factory, Tiruchirappalli.

2. The Complainant submitted a complaint regarding 3% reservation in promotion for persons with disabilities in Central Govt. and its establishments. He submitted that Heavy Alloy Penetrator Factory, Tiruchirappalli has not implemented the DoP&T O.Ms in its establishment on the subject with respect to persons with disabilities which has caused stagnation in career despite being senior most employees with disabilities.

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)

3. The matter was taken up with the General Manager, Heavy Alloy Penetrator Project, Tiruchirappalli vide this Court's letter dated 13.06.2014. The Dy. General Manager/Admin vide his letter no. 1097/1021/2014/PH Court/2014 dated 22.07.2014 has stated that Heavy Alloy Penetrator Project (HAPP) has recruitment/promotion reservation roster registers for persons with disabilities since the year 1996 and reservation has been earmarked and is being implemented and 3% reservation in promotion for persons with disabilities was also earmarked and promotions were effected as per the instructions contained in the DoP&T O.M. dated 29.12.2005. Accordingly, persons with disabilities were considered and promoted against an unreserved vacancy.

4. The complainant vide his rejoinder dated 13.08.2014 has stated that HAPP is not implementing DoP&T's O.Ms dated 20.11.1989, 18.02.1997 and 04.07.1997. The complainant reiterated that employees with disabilities are being deprived of their due promotions in gross violation of 3% reservations for persons with disabilities. A copy of the rejoinder dated 13.09.2014 of the complainant was sent to the General Manager, HAPP for their further comments vide this Court's letter dated 15.01.2015. The Jt. General Manager/Admn vide letter no. 1097/1021/2014/PG Court/2014 dated 15.06.2015 has replied that HAPP is effecting and maintaining rosters for PwDs as per the instructions at para 15(a) to (i) of DoP&T O.M. dated 29.12.2005. They further submitted that HAPP is effecting reservation for PwDs as per the instructions of DoP&T O.M. dated 29.12.2005 and subsequent instructions issued in this regard from time to time.

5. Upon considering Respondent's replies dated 22.07.2014 & 15.06.2015 and Complainant's rejoinders dated 13.08.2014, 25.08.2014, 24.02.2016 and 20.05.2016, a personal hearing in the matter was scheduled on 23.11.2016 at 15:00 Hrs.

6. During the hearing, the Complainant stated that despite the DoP&T's OM No. 36035/1/89-Estt(SCT) dated 20.11.1989, OM No.36035/7/95-Estt (SCT) dated 18.02.1997 and OM No.36025/3/97-Estt (Res) dated 04.07.1997 regarding 3% reservation in promotion for persons with disabilities in Central Government department/establishments, the Heavy Alloy

...3/-

Penetrator Factory, Tiruchirappali administration has not implemented the OMs so far even after several representations made by the employees with disabilities working in Heavy Alloy Penetrator Factory. Due to this several senior employees with disabilities are deprived of their due promotion despite 3% reservation for persons with disabilities. All these employees with disabilities have got promotion on their own seniority instead of under PH quota. He further stated that had the 3% reservation were implemented right from the beginning, they would have been at least two steps ahead in the line of promotion in their career. Several junior employees have got their promotion overlooking the employees with disabilities and this situation has led to mental worries to the employees with disabilities. He further requested the Court that the promotion of deprived employees with disabilities working in Heavy Alloy Penetrator Factory may please be ordered from the ante-date and justice be rendered at the earliest.

7. The representatives of the Respondent reiterated what they had furnished in their written submissions dated 22.07.2014 and 15.06.2015 and stated that Heavy Alloy Penetrator Project has recruitment / promotion reservation roster for persons with disabilities since 1996 and reservation has been earmarked and is being implemented and 3% reservation in promotion for persons with disabilities were earmarked and promotions were effected as per the instructions contained in the DoP&T's OM No. 36035/3/2004-Estt (Res) dated 29.12.2005 and subsequent instructions issued in this regard from time to time.

8. After hearing both the parties, the Respondent was directed to submit the following information / documents to this Court within one week before the next date of hearing.

- (i) Copy of Reservation Roster w.e.f. 01/01/1996 in respect of Group A, B, C and D along with Certificate from the Liaison Officer certifying that the Reservation Roster is being maintained as DoP&T's instruction.
- (ii) Details of vacancies filled since 01.01.1996 (through direct recruitment as well as through promotion in respect of Group 'C' and 'D') in the enclosed format.
- (iii) Calculate the backlog of vacancies and submit along with action to be taken to fill up the backlog vacancies, such arisen.

....4/-

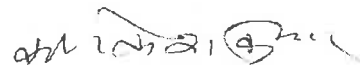
9. The case was re-scheduled for hearing on 23.02.2017 at 15:00 Hrs.
10. During the hearing on 23.02.2017, the complainant reiterated his earlier submission that promotion to persons with disabilities were being denied by his establishment due to non implementation of 3% reservation in promotion with respect to persons with disabilities.
11. The representative of respondent, in compliance of this Court's instructions communicated through Record of Proceedings dated 27.01.2017, submitted a letter no. 14036/HAPP/CONF/17 dated 17.02.2017 along with enclosures as mentioned below.
- i) Details of vacancies filled since 01.01.1996 (direct recruitment as well as promotion in respect of Group C and D) and
 - ii) Copy of Reservation Roster w.e.f. 01.01.1996 in respect of Group A, B, C & D along with certificate from Liaison Officer certifying that the Reservation Roster has been maintained as DoP&T instruction. Copy of Reservation Roster in respect of persons with disabilities for promotion and Recruitment alongwith Certificate from Liaison Officer.
12. The respondent has also submitted the details of the backlog vacancies as well as action to be taken to fill up the backlog vacancies, so arisen.
13. The complainant during the hearing requested for the copy of the letter dated 17.02.2017 alongwith enclosures for offering comments. The respondent was advised to give copy of letter dated 17.02.2017 alongwith relevant enclosures within one week to the complainant, who could file his comments, if any, within next 15 days before this Court, with a copy to the respondent.
14. The case was adjourned for hearing on 27.04.2017 at 11.00 Hrs. On the written request of the Complainant, the hearing was rescheduled to 03.07.2017 at 15:00 Hrs and accordingly communicated vide this Court's letter dated 19.04.2017.
15. During the hearing, the Complainant vide his written submissions dated 03.7.2017, furnished that 100 point horizontal reservation roster for persons with disabilities for promotion

...5/-

has not been maintained in HAPF till now. The Respondent is only keeping the register of roster while merely earmarking (adjusting points with) persons with disabilities by which none of persons with disabilities working in HAPF has actually being benefited. The Complainant further submitted that their sister concern, i.e. Ordnance Factory Tiruchirapalli has already implemented the direction of this Court in case no. 650/1011/11-12.

16. The Court directed the Respondent to follow the reservation policy in promotion as per extant provisions of DoP&T guidelines on the subject so that the provisions of the Rights of Persons with Disabilities Act, 2016 are not infringed/violated and to consider the promotion of the complainant to the next post with retrospective effect. The Court also directed the Respondent to submit a compliance report to this Court. It is relevant to mention that DoP&T OM No. 36035/8/89-Estt.(SCT) dated 20.11.1989 refers to reservation in promotion in Group C and D posts. DoP&T further vide its O.M. No. 36035/3/2004-Estt. (Res) dated 29.12.2005 had issued consolidated instructions regarding reservation in promotion for persons with disabilities. The Court also took cognizance of the case titled Defence Disabled Employees Welfare Association Ordnance Factory versus Ordnance Factory Tiruchirappalli, decided by this Court against Case No. 850/1022/11-12 wherein the Respondent, which also happened to be an organisation falling under the administrative control of Ministry of Defence, was directed to provide the similar relief as is sought by the complainant in the instant case. The Court advised the Respondent to consider the grievance/representation of the Complainant under the extant provisions of the statute and the DoP&T guidelines in vogue, so as to ensure that the bonafide rights of the persons with disabilities, as envisaged under the Rights of Persons with Disabilities, Act, 2016 are not infringed/violated.

17. The case is accordingly disposed off.



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